

# Submission to Royal Commission into Family Violence

29 May 2015



Peninsula Community  
Legal Centre INC

## Introduction

Peninsula Community Legal Centre (PCLC) welcomes the opportunity to contribute to the Royal Commission's inquiry into Family Violence.

We are acutely aware of the harm caused to individuals and the wider community by family violence, and the need for far-reaching and systemic change in how family violence is addressed. We accept the Commission's definition of family violence, which accords with that of the *Family Violence Protection Act 2008 (Vic)*, and includes physical assault, threats, sexual assault, stalking, harm to pets and property, emotional, psychological and financial abuse. We also note that in one third of cases reported to police, children witness family violence.

Whilst we are aware that family violence can affect any person, our experience accords with research that it is predominantly committed by men against women and other vulnerable persons such as children. Throughout this submission, in particular in relation to client stories, we refer to men as being perpetrators of family violence and women as experiencing it.

In this submission, we share some of our initiatives aimed at better informing our community about family violence, research into underlying causes of family violence and experiences of other jurisdictions with lower rates of family violence. In particular, we share our client's stories and experiences to highlight the challenges they have faced in navigating inadequate, complex and fragmented systems, which made it difficult for them to feel safe and compounded their distress.

### About Peninsula Community Legal Centre

PCLC is an independent, not-for-profit organisation that has been providing free legal services to Melbourne's south-eastern communities since 1977. PCLC is one of the largest community legal centres in Australia, spanning a catchment of over 2,600 square kilometres, six local government areas and almost one million people, with a larger catchment area for some programs. The Centre's Head Office is in Frankston, with branch offices in Bentleigh, Cranbourne, Rosebud and Pines (Frankston North), plus visiting outreach services in Hastings and Chelsea.

In addition to its general legal services, the Centre operates specialist programs in family law, child support, family violence intervention orders, tenant and consumer advocacy and rooming house outreach, which also frequently assist clients experiencing family violence. PCLC's clients overwhelmingly experience disadvantage, with around three-quarters reporting no or low income (less than \$26,000 per annum).

In 2013-14:

- PCLC provided 7,451 free legal advices and opened 2,659 cases;
- One in four clients reported family violence;
- Family violence intervention orders were the second most common legal issue for clients;
- Our Family Violence Intervention Order duty lawyers assisted more than 500 clients at Frankston Magistrates' Court (Specialist Family Violence Service).

Although intervention orders are the most common problem type for clients reporting family violence, this is by no means their sole legal problem. Family violence is also a recurring theme in PCLC's Family Law Program, which includes providing duty lawyer services at Dandenong Family Law Courts. Likewise, it is commonly experienced by separated parents seeking advice and assistance pursuant to PCLC's partnership with the Family Relationship Centre (Frankston & Mornington Peninsula).

Family violence also has implications for tenancies, with issues around changing names on leases after a perpetrator has been excluded from a property, landlords seeking compensation for damage to premises caused during episodes of violence and other associated issues. PCLC operates a Tenant Advice and Advocacy Program with funding from Consumer Affairs Victoria and assists vulnerable and disadvantaged tenants to assert and protect their rights, including representing clients in the Victorian Civil and Administrative Tribunal (Residential Tenancies List).

Infringements is an area of growing concern for PCLC, with a dramatic rise in the volume of clients with out-of-control debts, sometimes adding up to tens of thousands of dollars. We are increasingly seeing women present with large fines that were incurred by a violent partner, for example driving her car on toll roads. One such client preferred to face imprisonment for non-payment rather than name her violent partner as the driver.

Anecdotally, we have observed not only an increase in the numbers of clients reporting family violence, but also an increase in the severity of violence reported, including risk of death. We have also seen an escalation in the number of matters in which the abuse of drugs and alcohol appear to be an aggravating factor.

Recently, the Centre has undertaken work in relation to a coronial inquest into a family violence death.

Responding to the increased need for free legal help with family violence, plus the challenges of assisting clients with complex needs, has placed great pressure on PCLC and other legal assistance providers, particularly in the absence of increased resources to meet those needs. This is a particular concern for PCLC, with Frankston Magistrates' Court (Specialist Family Violence Service) now increasing family violence listings from three to four days per week, to cope with the dramatic increase in demand. PCLC is unlikely to be able to provide an additional day of duty lawyer services in the absence of additional resources. We are also concerned that possible reforms to the legal assistance sector may see the introduction of stringent eligibility requirements for clients, which could exclude women experiencing family violence at a time when they are most in need of help.

Additionally, the increasing volume and severity of family violence matters places workers at greater risk of themselves being harmed through experiencing conditions such as vicarious trauma, burnout and depression.

## Scope of Submission

We congratulate the Commission on identifying so many of the key themes underpinning family violence in its Issues Paper. This submission seeks to address the following aspects:

1. We share some of our experiences in community legal education initiatives aimed at reducing family violence, and their effectiveness (Questions 4 and 5).
2. We consider some of the possible underlying causes for family violence, and refer to research in overseas jurisdictions which have significantly lower rates of family violence than Australia (Questions 6 and 7).
3. Given PCLC's experience in relation to the legal system's response to family violence, our major focus is on systemic issues, particularly in relation to intervention orders, family law proceedings concerning children and the impact of family violence on other legal issues (Questions 8-11).

## Community Legal Education on Family Violence

Family violence is also a priority area in PCLC's community legal education work. The Centre participates in the Frankston and Mornington Peninsula Family Violence Network, Outer South Peninsula Integrated Family Violence Partnership, Frankston and Mornington Peninsula Family Violence Community Advisory Group and Critical Linkages (Casey / Cardinia Family Violence Network).

Through its community connections, the Centre is aware of the high need for quality, targeted community education about family violence. We continue to hear stories of community workers and members of the public saying that "intervention orders aren't worth the paper they are written on", "it was only a technical breach" and a variety of other myths.

The Centre also works regularly with other community agencies on community projects promoting the safety and wellbeing of women and children. A recent example is the Family Violence "Heart Shield" card, which was developed by the Centre together with the Frankston and Mornington Family Violence Network. This card contains referral information for women experiencing family violence in Frankston and on the Mornington Peninsula. The card will be distributed by maternal and child health nurses and builds on an initiative developed by St Kilda Legal Service and other community agencies with a Legal Services Board grant.

Last year, we worked with the Outer South Peninsula Integrated Family Violence (OSPIFV) Partnership to develop two 'Family Violence in Our Community' posters, which were developed to raise awareness that family violence is happening in our local communities and not "somewhere else". A copy of those posters is attached (Appendix A). Also through its participation in the OSPIFV Partnership, the Centre has participated in the review and updating of the 'Ask Someone' website ([www.asksomeone.org.au](http://www.asksomeone.org.au)) and free smart phone app, which contains professional support and information 24/7 as well as information about Victorian laws and local support services.

Another initiative the Centre was involved in was the 'Family Violence Help Card' developed by the Frankston & Mornington Family Violence Network. The card, launched in 2010, had tear off sections for men and women with useful local referral information, and was distributed by police at family violence call-outs, as well as being available through a variety of community organisations.

With the support of Peninsula Health Community Health, the Centre has delivered a legal information workshop to six groups of men undertaking Men's Behaviour Change Programs, and hopes to continue to do so in the future. Topics covered include intervention orders, consequences of breaches and arrangements for children. There is also opportunity for questions to be asked. A short survey is conducted at the end of each session, which has revealed that almost all participants found the information helpful, felt they had gained a better understanding of perpetrator rights and responsibilities and knew where to get legal help. A couple of men made comments like: "It would have been useful to have been shown these laws prior to my mistake," and "It would be great to find a way to inform men and women about this before it happened."

The Centre has responded to numerous requests of community workers for training about family violence laws. Topics of interest have included intervention orders (including a mock court), and family violence and tenancy. We have also spoken at family violence forums, including the recent 'Domestic Violence Forum: A Call to Action!' in Frankston, which attracted more than 600 attendees. Family violence is also a key topic in our 'Legal Information for Separated Parents' workshops, delivered fortnightly at Family Relationship Centre (Frankston & Mornington Peninsula).

## Combatting Family Violence – A World View

Family Violence is regarded worldwide as a fundamental violation of human rights. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. It recognises that family violence is a form of discrimination and that violence perpetrated against women undermines a woman's fundamental rights of dignity, access to justice and gender equality. Countries that have ratified or acceded to the Convention (including Australia) are bound to put its provisions into practice.

It is incumbent upon governments to address and investigate family violence and do whatever is necessary to intervene and prevent it from happening. In the preamble to the Victorian *Family Violence Protection Act 2008*, the Victorian Parliament recognises the following principles:

- a) that non-violence is a fundamental social value that must be promoted;
- b) that family violence is a fundamental violation of human rights and is unacceptable in any form;
- c) that family violence is not acceptable in any community or culture;
- d) that, in responding to family violence and promoting the safety of persons who have experienced family violence, the justice system should treat the views of victims of family violence with respect.

The Victorian Parliament also recognises that family violence

- a) affects the entire community; and
- b) occurs in all areas of society, regardless of location, socioeconomic and health status, age, culture, gender, sexual identity, ability, ethnicity or religion;

- c) that family violence extends beyond physical and sexual violence and may involve emotional or psychological abuse and economic abuse;
- d) that family violence may involve overt or subtle exploitation of power imbalances and may consist of isolated incidents or patterns of abuse over a period of time.

The preamble matches our experience of over the past four decades – that family violence can affect anybody – regardless of where you live, how much money you have, what country you were born in, what religion you believe in and whether or not you use alcohol or drugs. There is much work that remains to be done to achieve the purposes of the *Family Violence Protection Act 2008*, being to maximise safety for women and children, to prevent and reduce family violence, and promote the accountability of perpetrators. Although more Australians are now aware of the many different forms violence against women can take, there is still more work to do to emphasise that it can be more than physical violence.

Perhaps much could be learnt from countries with lower rates of family violence than in Australia. A recent study in the Netherlands, for example, revealed that only 11% of women experienced partner perpetrated violence in 2014.<sup>1</sup> This statistic echoes a study into violence against women across 28 Member States of the European Union which was recorded in an EU survey in 2014<sup>2</sup>.

The detailed findings in that survey highlight that domestic violence is sometimes related to other social ills, such as alcoholism and drug abuse as well as poverty and social exclusion. We are sure the Commission appreciates that, in order to reduce family violence, any underlying social problems must also be addressed.

The World Health Organisation's first international study<sup>3</sup> on intimate partner violence also found that overall one in four women in high-income countries have been abused by their partners, compared with a third of women worldwide. Estimates of intimate partner violence against women shows Australia as being above the global average of high income countries. Partner-perpetrated violence in high-income countries amounted to 23.2 percent, the countries in this study comprising of Australia, New Zealand, the US, Canada, members of the European Union, Israel, South Korea and Japan.

The international recognition of violence against women as a human rights violation is the result of years of dedicated campaigning by NGOs, feminist organisations, women's rights activists and survivors of violence. Since 1990 in most EU countries, violence against women gained prominence in national policy agendas and political commitment to combat violence against women in Europe increased in the last decade.

From the late 1990s onwards, progress was made in the EU in recognising violence against women as a specific gender-related form of violence, with its roots in a long existing discrimination of women,

---

<sup>1</sup> <http://www.huiselijkgeweld.nl/feiten/landelijk/geweld-tegen-vrouwen-europese-onderzoeksgegevens-in-nederlandse-context>

<sup>2</sup> *Violence against women: an EU-wide survey. Main results report*, FRA: European Union Agency for Fundamental Rights, 2014.

<sup>3</sup> *Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence*, WHO, Department of Reproductive Health and Research, London School of Hygiene and Tropical Medicine, South African Medical Research Council, 2013

socioeconomic gender inequalities and cultural prejudices regarding gender roles. Since then, mention must be made of a strong link between increased public awareness of violence against women and changing attitudes to reporting violence in Europe. There is evidence that the media played an important part in raising the awareness and sensitivity of European societies to the issue of violence, including combatting negative gender stereotypes that are degrading to the image of women.

Below is a brief summary of the European initiatives over the last decade in combatting violence against women. These are detailed in a report by the European Commission<sup>4</sup> which may hopefully provide the Royal Commission with some guidance as to what has been successful in other parts of the world:

1. National action plans were developed in most countries to address different types of violence against women, which led to the production of several recommendations and declarations addressing violence and the promotion of more effective EU-wide and national strategies;
2. Legally binding instruments were adopted in the EU member states to promote gender equality and non-discrimination in employment;
3. The European Parliament played a crucial role in supporting activities to reduce violence against women and called upon the European Commission and member states to consider violence against women as a human rights violation and to introduce specific legislation to protect victims in criminal proceedings and in the family and 'to include concrete measures to prevent all forms of violence, protect victims and prosecute perpetrators';
4. Special training programs have been carried out in all member states for workers operating in family and social services providing tools for the identification of victims of violence and potential victims of violence and providing access to the network of services available to victims;
5. The police have been involved in further educational activities on violence against women in almost all the countries;
6. Specialised training and awareness raising programs were implemented for healthcare workers such as nurses, midwives and psychologists. Programs aimed at pre-school teachers were also introduced. As a result, healthcare workers and school workers have played important roles in early detection and immediate treatment of forms of family violence;
7. In many countries, specialised training was provided to general practitioners and emergency room personnel in order to increase their awareness of gender related violence.
8. According to evaluation studies by the European Commission, programs for young people which explicitly addressed abuse in intimate relationships have been considered effective in changing attitudes.
9. Furthermore, the involvement of other women, especially in the health sector, in schools and in local communities, has also proved to be effective in reaching the victims and potential victims who would ordinarily not report to police or social services workers;

---

<sup>4</sup> *Violence against women and the role of gender equality, social inclusion and health strategies*, European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, September 2010

10. Relevant treatment programs to overcome the multiple consequences of violence and be able to rebuild the lives of women and children have received considerable support.

The report also highlights that in recent years increasing attention has been paid in many countries to measures for 'treating' violent men and perpetrators as a way to prevent further violence. Men's counselling centres are increasingly widespread and are in most cases attended on a voluntary basis.

In Austria, programs focusing on the simultaneous treatment of perpetrators and support of victims have been carried out and have been considered an effective practice.

In some countries (Belgium, the Netherlands and Spain) certain municipalities equip women at risk of family violence with special electronic devices which guarantee immediate help and protection in case of need.

The Netherlands' action plan on domestic violence, which was published in 2008, describes three causes of domestic violence: 'intergenerational transmission of the use of violence, invisibility of the use of violence, and gender-related power differences between perpetrators and victims'. Consequently, their policies towards combating the intergenerational transmission included promoting openness on the issue. As regards tackling the power differences, the policies were linked directly to emancipation policies. Furthermore, the central objective in effectively preventing and combatting family violence has been achieved in the Netherlands by applying an ongoing, comprehensive approach which ensures that criminal justice measures and assistance to victims are 'mutually reinforcing', that is, the criminal justice system and the social services work closely together.

The international studies also provide insight into the government initiatives in various countries over the past decade which saw a tightening of the laws concerning sexual violence and the initiation of a range of regional projects targeting violence against women. Positive changes in awareness of the legal repercussions of family violence in Italy, for example, demonstrates that government projects do translate to improved public awareness.

In many countries, there is evidence of very stringent sentencing laws where violence is perpetrated on a member of the family. In the Netherlands for example, spousal abuse carries a penalty that is one-third more severe than battery committed against a non-family member.

Family values also play a large role. Studies have indicated that the vast majority of people in the EU believe that family and friends have a responsibility to help women and children who are victims, with near unanimity on this in all member states.

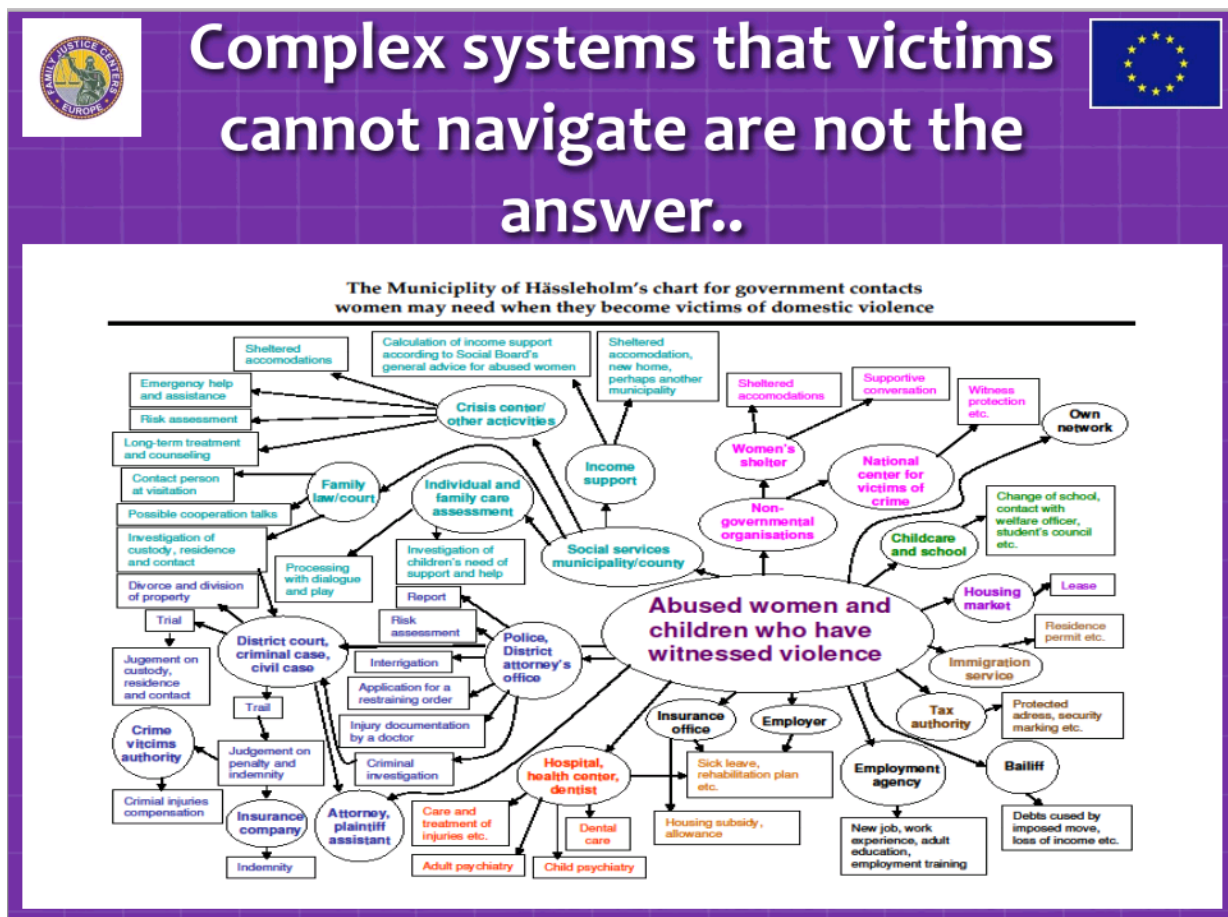
The socio-demographic data in the studies also reveal that levels of education play a significant role in promoting awareness of EU policy with a larger number of people who had completed educational studies indicating that they are aware of EU measures in combatting family violence as compared to people who left education at age 15 or under.

Tackling violence against women was the purpose of a community action program known as 'The Daphne Initiative', which was launched almost 20 years ago (in May 1997) by the Council of Europe, as an one-year funding line to fund NGO projects that support victims of violence and that combat violence against women, children and young people in the EU. It was created as a response to the events of 1996 that had shaken Europe and shocked public and political opinion, being the discovery



of the bodies of a number of missing girls on a premises in Belgium in late summer 1996. This raised questions about what European nations could do to better protect children and women from those who abused or exploited them for profit. The initiative was renewed over the years and the program is now in its third phase and has funding until 2020. It plays an integral part in raising public awareness of the causes and consequences of family violence. The project supports multi-disciplinary networks; it aims to expand the knowledge base and exchange, identify and disseminate information and good practice, design and test awareness raising and educational materials, study phenomena related to violence and its impact, and develop and implement support programs for victims and people at risk as well as intervention programs for perpetrators.

We would like to draw the Commission's attention to one of the leading EU 'Daphne III' projects - the Family Justice Centre Europe Initiative, led by two men, which involves the establishment of Family Justice Centres (FJC) in five European countries: the Netherlands, Germany, Italy, Poland and Belgium. The main purpose of the FJCs is to better serve victims of violence by means of a demand driven approach so that they do not need to navigate complex systems as illustrated in the slide below<sup>5</sup>.



The concept of FJCs was developed in the US in 2002, where there are currently 90 operating centres. FJCs work according to the principle of everything-under-one-roof; it is a place where victims of family violence have access to a wide range of services provided by a multi-disciplinary team of professionals

<sup>5</sup> [www.familyjusticecenterseurope.org/doc/presentation-family-justice-centers-brussels.pdf](http://www.familyjusticecenterseurope.org/doc/presentation-family-justice-centers-brussels.pdf)

who work together to provide the required coordinated services. In this 'one-stop shop' centre, the entire chain of people and organisations involved in dealing with family violence, that is, the police and justice, rehabilitation, shelter and care, are situated collectively in one building. This client focussed, multi-disciplinary approach simplifies the process for victims when they are navigating the system for help, making it easier to move between the various organisations and services to receive support and care.

The objectives of FJCs are to meet the needs of victims and their families and develop a coherent approach to family violence, with a view to stopping the violence, preventing repeated incidents, reducing family violence deaths, holding perpetrators accountable and healing family life.

## Legal System Response to Family Violence

### Navigating the System : Our Clients' Stories

From the experiences of our duty lawyers' clients, we have created 'Hannah', a victim of family violence, who we present below. This submission will recount her journey of the system, the obstacles and problems she experiences along the way. We have commented on specific issues and illustrated these with additional case studies. At the end of her journey, we provide a summary of the issues and our recommendations which we believe address some of the systemic problems identified during her journey.

### Experiences Pre-Court

[Hannah and Jake]

'Hannah' and 'Jake' were in a relationship for some time, had one child and another on the way. Jake's behaviour changed in recent times; he became far more controlling with his level of aggression escalating. This cumulated one evening with him throwing a beer bottle at the wall, narrowly missing her. Hannah went to the police who suggested that she make an application for a Family Violence Intervention Order (FVIO) at the local Magistrates' Court.

Hannah attended an appointment at the court to make the application. She found the 12 PAGE APPLICATION FORM long and confusing and had no idea how much information she should write down about the incident and which parts she should focus on. She felt rushed as she was only given 15 minutes with the Registrar. She started to worry about Jake's reaction and decided that it was 'all too much' and walked out.

A few months later a more serious incident occurred culminating in Jake killing the family dog in front of their 5 year old daughter. A neighbour called the police. The police attended the home and a Safety Notice was issued. Hannah told the police that Jake owned a gun collection. Jake was excluded from the home and the police advised Hannah that they would be making a notification to the Department of Human Services (DHS). The guns were not confiscated as Jake told police he had sold them to a family member.

*Our Comments:*

- We have noted a trend indicating that police often FAIL TO ASSESS THE RISK comprehensively at the incident. Hannah's safety was compromised when the guns were not seized by the police.
- We have also come across matters where the failure to assess risk on the part of the police has resulted in the primary victim being forced to leave the home.

[Sue & Mike]

'Sue' was the subject of a police IVO application, which had removed her from her home. She had spent the night on a friend's couch. Her two small children had remained at the home with her partner. Sue was undergoing medical treatment for a life threatening condition and was stressed when she met with a PCLC lawyer. She seemed slow in taking in advice.

She indicated that she had told police that she was the real victim and that there had been frequent violence in the past. She had obtained FVIOs against her partner before. There was a history of heavy drug use.

The police made no attempts to ascertain the true situation at the incident, relying on the partner's blood nose as evidence. They were insistent that their guidelines required them to take action.

*Our Comments:*

- On many occasions the woman, who has acted in self-defence, is asked to leave the home despite being the primary victim.
- This indicates problems with the required police action. It appears the policy is to remove the perceived aggressor, regardless of whether it was a situation requiring self-defence or where the primary victim was acting in despair after repeated behaviour by the other party, resulting in a risk that children are left in a dangerous situation.

## Experiences at the Magistrates' Court

[Sue & Mike]

Sue's partner, Mike, who was a large man, asked for a full order excluding Sue from the family home, which would have left her homeless. The police, after the Centre's intervention, refused to support this and Sue consented to a limited order allowing her to return home. She felt, due to her illness, unable to cope with homelessness, and preferred to return home, with advice to call police if there were any incidents.

The matter was at our request adjourned to a date 4 weeks later to allow police and DHS to conduct risk assessments. Sue was not able to access the Applicant Worker for safety planning, as she was the Respondent in the proceedings.

*Our Comments:*

- A risk assessment over the succeeding weeks is far from ideal and may not be speedy enough to ameliorate any such risk.
- Options for victims are very limited, as illustrated by Sue's wish to return home in the face of some level of risk, which may have been heightened by the incident, leaving the primary aggressor emboldened by police support.

[Evie & Joshua]

Our client, Joshua, was a respondent to a *Family Violence Protection Act 2008* police application. The Affected Family Member (AFM) was his former partner, Evie, of six years with whom he had two small children. Evie also had an older child and the Family Court had made orders preventing that child from having any contact with the respondent.

Approximately 4 days before the police made the application, Evie had ended her relationship with Joshua due to his use of ice and constant threats to harm himself. In court Evie disclosed that he had been using a tracking device to keep her under constant surveillance and that he more recently had sent threatening texts.

The police made the application due to Joshua's violent history. They were concerned that a pattern of behavior was repeating itself and escalating and gave examples of previous disturbingly violent incidents involving an ex-partner for which he was jailed.

Joshua stated that he would consent without admission to an order provided Evie wanted the order as he believed she was being 'bullied' by the police to obtain the order.

The only way this could be facilitated was by bringing the matter before the Magistrate where Evie could explain why she wanted the order. Evie minimised Joshua's behaviour, informing the Magistrate that she thought he 'just meant that he would make life very difficult for her'. She said she had never been physically assaulted by Joshua and that he was a good father. She said she was aware of his previous criminal behavior but had not realised the extent of it.

An order was made allowing Joshua to continue having contact with the children due to lack of evidence of violence towards them. A full order was made by consent without admission with an amendment enabling the respondent to contact the two children.

#### *Our Comments:*

- Notwithstanding that our duty lawyer represented Joshua, it was obvious that this was a very high risk matter. It seemed clear that Evie was threatened by the fact that Joshua was in the court room and accordingly minimised his behaviour.
- We also see women MINIMISING THE RISK to themselves, preferring to take part of the blame for the incident for fear of retaliation, not wanting to cause shame to her family or because of the manipulation of the perpetrator and the woman's reduced capacity to assert her interests.

- Often the men make CROSS APPLICATIONS in these instances in an attempt to harass the women into withdrawing her application or consenting to an order without admission. Cross applications made on spurious grounds are a way to intimidate the victim further especially if the man has legal representation and the victim does not.
- There appeared to be a lack of understanding of the dynamics of family violence on the part of the Magistrate. The order enabled Joshua to continue to have daily contact with Evie and the children and thus to maintain control.
- It was apparent to the police, the family violence applicant worker, the respondent worker and PCLC that this was a case that demanded the highest level of protection for Evie and her children.

[Hannah & Jake]

At first mention, Hannah attended court alone and could see Jake talking to his lawyer in the waiting area and smirking at her. Jake's lawyer advised the court that he would be making a CROSS APPLICATION. DHS did not attend and had not made it clear to Hannah what their position was in relation to the notification. Jake indicated that he wished to contest the matter. It was adjourned to Directions with a full interim in order and with s.92 of the *Family Violence Protection Act 2008* conditions relating to arrangements for contact with their daughter.

Jake was represented again at the directions hearing and his lawyer provided Hannah with a draft parenting plan. Hannah was at this stage heavily pregnant and feeling very pressured by the process. She was concerned about DHS and the welfare of her child/ren. Hannah reluctantly agreed to an interim parenting plan providing for supervised contact. Jake's lawyer also requested FURTHER AND BETTER PARTICULARS and the Magistrate accommodated this request. REPRESENTATION ORDERS were made.

#### *Our Comments:*

- Although a Representation Order provides a party with an opportunity to receive a grant of legal assistance, we have come across the following problems with these orders:
  - The lawyer has turned up unprepared;
  - There have been occasions when the lawyer has not arrived at the hearing;
  - Sometimes the legal assistance is not provided quickly enough as explained in the case study below.
- We have observed requests for Further and Better Particulars being made by Respondents as a strategy for placing enormous pressure on (further bullying) the AFM, as any grants of assistance from VLA will not usually cover this procedure. Whilst, in our experience, Magistrates do not commonly make orders for Further and Better Particulars, we have known it to occur occasionally, to the detriment of the AFM. It would be preferable for supports and procedures to be in place to ensure that the original Application contains sufficient detail to render Further and Better Particulars unnecessary.

[Jessica & Will]

Jessica approached our Centre with a request for assistance despite the fact that a representation order had been made. She was traumatised by her recent directions hearing as she had been pressured into accepting a less than suitable contact arrangement by Will's solicitor, who threatened her with 'costs' if she did not agree to the parenting proposals. Jessica was unaware that he could not do so. Furthermore, the time frame within which she had to provide these particulars, being a month from the date of the order, meant that she had to draft them herself. Jessica had no idea where to start, nor what particulars she was required to mention given that she thought she had already described the violence in detail in her application form. The Centre however established that she had left out some crucial points.

*Our Comments:*

- Had we not had a duty lawyer at the court, these details would not have been made available to the Magistrate and Jessica would have been left in a less than ideal position.

## Experiences of Child Protection (Department of Human Services)

[Hannah & Jake]

Hannah's second baby was born. DHS had by this stage verbally indicated that if Hannah did not obtain an exclusionary FVIO, they would consider removing the children from the home. Jake's contest was unsuccessful and the court made a full FVIO with conditions about arrangements for contact with their child for a period of 2 years.

*Our Comments:*

- Many of the Centre's clients who seek support from DHS, or who have come to the attention of DHS in order to keep their child/ren safe, are not only left with unclear verbal requirements, but are also expected to deal with the perpetrator, who may constantly be drug or alcohol affected or mentally ill, on their own. They frequently present with no written indication of what DHS expects of them, yet are at risk of losing their child/ren if they do not comply, or are unable to ensure that the perpetrator does not have contact with the child/ren as they have had no assistance from DHS to negotiate an appropriate order at the court.

[Sara & Adam]

One of the Centre's clients, Sara, explained that she had an informal arrangement with Adam, her ex-partner and the father of her young child, for regular overnight contact. Sara was approached for help by his new partner, Peta, who had left after a family violence incident. Peta told Sara that it was unsafe to send her child for his usual overnight contact because Adam had re-commenced serious drug use.

Sara contacted DHS to obtain support for her position and was advised over the phone not to send the child or she would be considered a 'negligent parent'. Sara however received no follow-up from DHS

and despite three calls to DHS, she was unable to ascertain what they would allow. She proposed to move back to supervised contact only, but was worried that she may encounter hostility from DHS.

In PCLC's opinion, the only route Sara could take was to persevere with DHS seeking clarity (preferably in writing) around their requirements to help her negotiate with Adam and not be left to deal with him unsupported. Once she had this clarity, she could then attend mediation with Adam to negotiate a suitable supervised arrangement, knowing that she would not fall foul of DHS requirements.

#### *Our Comments:*

- Our concerns with DHS' inaction include the following:
  - That DHS would possibly instruct Sara to apply for a FVIO without her having any grounds at that point given the family violence was directed by Adam at his new partner;
  - That unless DHS can be contacted and persuaded to put their direction in writing, Sara could face an unnecessary contest, wasting her own and the court's time, causing trauma to her and risking increased aggression from Adam.

## Experiences of Family Law Proceedings

[Ana & Leo]

Ana, who was pregnant at the time, had taken out a FVIO against her ex-partner, Leo, after he punched her in the stomach. Leo however made a cross application and she consented without admission on legal advice. Leo was subsequently jailed after numerous breaches and on release, he commenced Family Law proceedings for contact orders in respect of their young child. He mentioned to Ana that he had withdrawn the FVIO against her. Not long after, he called Ana and threatened suicide. As a result of the number of calls made by her at this point to put him in contact with a crisis telephone line, thinking his life was at risk, she was charged with committing a breach of the FVIO, which she believed was no longer in existence. She pleaded guilty on legal advice provided by her lawyer that she would be dealt with leniently by the court and that it would not affect her Family Law grant of aid. However VLA immediately cancelled the grant. Ana was left to navigate the Family Court system on her own while Leo had legal representation.

#### *Our Comments:*

- Victoria Legal Aid (VLA)'s guidelines are rigid, specifically due to lack of funding, and the organisation is under pressure to limit their grants. As the case study below highlights, withdrawing a grant because of a simple technical issue may have drastic and unintentional consequences on a victim of family violence.

[Hannah & Jake]

Jake initiated mediation to obtain parenting orders. Hannah attended a few sessions but the process was terminated as a result of Jake's aggressive and controlling behavior. A Section 601 certificate was issued allowing the parties to commence proceedings in the Family Court.



Hannah attended the first hearing unrepresented. A Family Report was ordered and an Independent Children's Lawyer was appointed.

Hannah was distressed to see that the report writer did not focus much on the family violence issues, and had little or no information to hand about the FVIO proceedings. DHS had also deemed Hannah to be the protective parent, making it incumbent on her to protect her children, and closed their file.

At the next court hearing, Hannah was still unrepresented. She attended on the duty lawyer, but unfortunately, there was a queue of people, resulting in almost two hours' wait. In the meantime, Jake's lawyer had put forward a detailed proposal for Jake to spend time with the children, in terms far more liberal than she was comfortable with. It appeared not to have taken any account of the family violence perpetrated by Jake, nor DHS' previous advice that if she failed to act protectively for the children, they may remove the children from her. Further, Jake had mouthed threats to her and gestured aggressively across the waiting room. Hannah wondered if this breached her FVIO but she felt that the system was against her and did not know what to do about it. There were no witnesses.

The duty lawyer was able to negotiate on Hannah's behalf and orders were made by consent.

#### *Our Comments:*

- At this stage, if Hannah was unable to see a duty lawyer, things could have turned out very differently for her. Duty lawyer services are under resourced and the Family Courts are very busy. Parties are often forced to navigate the system on their own.
- It appeared to Hannah that Jake might be breaching the FVIO but she was unsure whether this was the case. One of the problems with FVIOs is that often, the conditions are not clear to the parties. As regards breaches of FVIOs, we have noted that
  - The courts are struggling to process the record number of breaches;
  - The legal system is taking too long to process cases, which means that serial abusers are being left free to harass victims while awaiting trial for earlier breaches.
  - The system appears not to be able to cope with the growing threat posed by hard-core repeat offenders;
  - Magistrates are still too reluctant to impose jail sentences on repeat offenders.
- Here, the duty lawyer was able to advise that Jake's lawyer's proposal would be unlikely to be accepted in court given the history of the matter. They would recommend counter proposals which would include an order pursuant to section 69ZW of the Family Law Act 1975, which requests that DHS provide a report to the court about their involvement with the family to date, and any other information relevant to the matter. The duty lawyer would also recommend that orders be sought that Jake attend a Men's Behaviour Change course.
- There may also be a concern that the ICL had placed too heavy a reliance on the Family Report, and that neither had properly appreciated the extent of the family violence, its effect on the children and the possible risks to Hannah and the children.



- If Jake agreed with the proposals, Hannah would be spared having to argue the matter in court, a good result since the duty lawyer may not be able to provide further representation, dependent on demand for duty services on the day. This is an obstacle faced by many women. While duty lawyers prioritise those matters where there is family violence, or children at risk, the assistance of duty lawyers can never be guaranteed at hearings due to heavy demand.

## Experiences with Additional Legal Issues

We have not included in the above case studies some of the additional legal issues which clients commonly encounter, which are briefly noted below.

In our introduction, we mentioned that we are seeing women encumbered with fines who, for example, are afraid to nominate their violent partner as the driver on the toll road. We have seen examples of this where fines have run into tens of thousands of dollars and the Sheriff has become involved. Given the wide-reaching powers of the Sheriff, consequences can include suspension of licence and vehicle registration, wheel clamping, seizure of property and even imprisonment.

This may be in addition to other “sexually transmitted debts”, such as loans a woman may have been compelled to take out or guarantee that have not been repaid. Such financial burdens not only exacerbate current problems, but can have long-term consequences, including for example a poor credit rating or inability to rent privately.

Any clients who are tenants experiencing family violence might need to apply to VCAT for their name to be added or removed from a lease (depending on whether they remain in the property or need to flee); their partner’s name added or removed from a lease (depending on whether he is to remain in or be excluded from the property); and potentially may need to respond to a compensation application from a landlord for damage to the premises, such as holes kicked or punched in walls. Although there are provisions in the *Residential Tenancies Act 1997* enabling such applications to be made, and family violence can be considered as an unforeseen change in circumstances causing severe hardship, a landlord may still be entitled to compensation (eg for ending a lease early or damage to property). Failure to deal with tenancy issues can have serious repercussions, but addressing them involves navigating an additional ‘system’ and re-telling painful experiences.

Likewise, where the family violence constitutes a crime, a victim may be able to recover expenses such as medical fees, counselling and installation of a security system through the Victims of Crime Compensation Assistance Tribunal (VOCAT). However, this is not automatic, and involves navigating yet another system.

## Key Issues Raised by Stories

The above experiences highlight the following issues, many of which have previously been identified in various policy reviews, national plans and research, and by PCLC in our daily practice:

### General Issues relating to Family Violence

1. Many women do not recognise that they are in a violent relationship until it reaches breaking point. A pattern of victim blaming has emerged over time with society sending the message that

women are responsible for themselves. There is still ambivalence about violence towards women evidenced in the degrading way women are portrayed in media and the rise of internet pornography which is shaping the way young women and men are thinking. Men are therefore not encouraged to be accountable.

2. There is a lack of alternate housing options, forcing women to return home. Immediate, effective family violence response means that at the outset, there needs to be adequate crisis housing as well as adequate long-term affordable housing for women and children. Lack of this may be a contributing factor to women staying with the perpetrator, or returning to the family home. Conversely, the lack of housing options for men excluded from their homes causes a myriad of problems, potentially escalating anger and aggression and /or resulting in a victim failing to report family violence or a breach of FVIO, for fear her partner will become homeless.
3. We are seeing a significant increase in the number of high risk matters.
4. Relevant legal and other support services are not always readily available to enable victims to manage their lives and their legal matters.
5. There is a lack of overall co-ordination of family violence support services which are fragmented and siloed. For example, Hannah's matter identifies the lack of a co-ordinated multi-government agency response, even when children were involved. DHS can make matters harder for an applicant who is trying to protect her children by offering little or no assistance at a time when she needs support. At times DHS' verbal instructions are inconsistent with the court orders leaving an applicant at risk of losing her children. DHS workers are generally not required to show up at court and therefore provide no assistance with negotiating an appropriate order.
6. There is still evidence of confusion in our society about the difference between family violence and relationship conflict. There is a lack of offender accountability. A strong shift in community attitude to violence and community education needs to occur.
7. Access to legal assistance is vital for those trying navigating the system. Too often safety is compromised where a person has not had access to legal help, or where legal aid has been refused or withdrawn. It is vital that legal assistance providers, including community legal centres, are adequately resourced to meet the needs of clients affected by family violence.

### Navigating the 'System'

On the limited story provided for 'Hannah' above, she had to navigate several "systems", including dealing with police, DHS, mediation providers and two different courts, sometimes alone and sometimes with assistance from a duty lawyer. Not including any additional services with which she may have come in contact, Hannah would have:

- Dealt with police at least twice;
- Attended courts (Magistrates' and Family) six times;
- Liaised with / met with DHS at least twice;
- Attended mediation and any pre-mediation meetings; and
- Told her story at least 10 times.

## The Courts

1. Although PCLC has seen some improvement over time, the court system is still complex and confusing. The confusion for the applicant potentially starts when she walks through the door for her short interview with the Registrar. She is also immediately confronted with a 12 page complex document which is the application form and which is not presented in a user friendly format.
2. The wording on a FVIO is regularly inconsistent and the orders are often unclear. This means the parties are left unsure about what they can and cannot do, leaving the applicant potentially more vulnerable.
3. An order for 'Further and Better Particulars' can put the applicant at more risk if she does not receive assistance with the drafting of these particulars.
4. Magistrates do not seem to universally have adequate appropriate training about family violence, some harbouring out-dated views, failing to identify minimising dynamics and notice potential abuses of the courts' processes which are used to seek advantages in Family Law proceedings. It is imperative that Magistrates are fully aware of these issues to ensure they can fulfil their roles of properly safeguarding vulnerable family members.
5. Orders can also be dependent on which Magistrate is on duty. Often parties have different Magistrates hear their matters throughout the process which may naturally lead to inconsistencies based on different views. Practitioners need to be specially trained in family violence and related issues, and only those who want to be there should be doing the job.
6. Unrepresented applicants are more vulnerable to being 'bullied' or pushed into parenting orders by the lawyers for the opposite party, or even by the Magistrate, in a context where the opposite should be happening. We have serious concerns about the appropriateness of negotiating family law arrangements simultaneously with family violence intervention orders, where the focus should be on safety. Our duty lawyers have noted on many occasions that client fear has resulted in less than ideal settlements/arrangements, despite the likelihood that the women would succeed at contest. Many were also put off by the possibility of Family Law proceedings if the ex-partner did not have some contact with the children. In our experience, this apprehension of family law proceedings is justified, as we have repeatedly seen an over-emphasis in the Family Law Courts on a parent's "right" to spend time with their child, notwithstanding legislative changes that stipulate that, in determining a child's best interests, their safety is paramount.
7. At certain court venues, the physical surroundings are inappropriate for conducting family violence proceedings. Many court locations only have one entrance/exit and shared waiting areas. Applicants often experience a lack of privacy while filling out the application form and may be in close proximity to the perpetrator whilst waiting for their case to be called.
8. We note the above denotes an issue which is also peculiar to many regional and rural justice systems, where there are issues with lack of anonymity, accessibility to courts and court privacy and safety.
9. We are of the opinion that many Independent Children's Lawyers (ICLs) rely solely on views of the Family Consultant (FC) in matters concerning unusual histories of violence and abuse, which may not always provide the complete picture of a matter and/or may be a subjective value judgement

on the part of the consultant as to what is best for a child. ICLs are appointed to conduct independent investigations, although these may be hampered by limited funding.

10. Therefore, in cases with a history of alleged serious family violence and child risk factors, the courts should be required to implement processes to ascertain the veracity of the facts independently and more thoroughly. The courts in our experience also rely too heavily on the reports by the FC, especially those who frequent a particular court often and who are well known at the court.
11. Litigation funding is not always made a priority by VLA in matters where there are allegations of family violence and/or child abuse. VLA's role in assessing grants and the termination of grants in these matters needs to be clearer as Meg's case study demonstrates.
12. Duty lawyer services are clearly under resourced. As a result, orders may vary, even when the circumstances might be similar. Lawyers have an important role in acting for victims in the presentation of evidence and ensuring that procedural safeguards provided by law are enforced. An example of this is the prevention of cross-examination by an alleged perpetrator of violence. Alleged perpetrators have been allowed by the courts at times to cross examine the applicant, who may have given her permission for this to occur without realising the consequences.

The above draws attention to the justice response to family violence as a whole- that is, that there are inconsistent responses from justice practitioners towards victims of family violence and an inadequate addressing of the needs of children. There is an overall lack of understanding of, and a failure to, recognise the different forms and continuum of family violence by many justice practitioners.

Furthermore, the justice system has for too long been reactive, placing the onus on the victim to bring a matter before the court or back to the court. Courts have adopted a 'hands off' approach until there is a breach. A more proactive approach is required.

### The Police

1. Hannah's story and the case studies in this submission allude to the potential for inconsistent and even inappropriate responses by some police officers in the family violence intervention order application process. Some of the experiences demonstrate a lack of understanding of the dynamics of family violence on the part of some police, especially in situations of self-defence.
2. While the police do receive training on family violence response, there are still instances in which there are deficiencies in risk assessment. The policy of removing the perceived aggressor, without assessing who the main victim is and regardless of whether it was a situation requiring self-defence, needs to be addressed. Sue's matter is a good example of this.
3. Furthermore, we have seen matters where applicant safety has been compromised in situations when guns are neither tracked nor properly seized by the police, despite being ordered to do so by the court. We have also witnessed poor police liaison with victims, who were unaware of the status of gun confiscation, and who had received no explanation of what the police were intending to do about the missing guns. In the context of a high-risk case, the victim experiences even more anguish. Moreover, it becomes a public safety issue if a purported 'sale' of guns to friends or family mean that the guns are still accessible to the perpetrator. In one such case, when

our duty lawyer raised this concern with a police officer, she was told, “If he was going to shoot her, he would have done it already.”

4. Although the police force has in recent times taken a tougher approach on alleged breaches of FVIOs, we have experienced occasions when individual police members have trivialised alleged breaches and failed to fully investigate the alleged contraventions of the FVIO.

## Recommendations

### Endorsements

1. PCLC supported the *No More Deaths* campaign which called for family violence to be at the top of the 2014 Victorian Election agenda. The campaign was supported by the Federation of Community Legal Centres (Vic), Domestic Violence Resource Centre Victoria, Domestic Violence Victoria, Women’s Domestic Violence Crisis Service, Women’s Legal Service Victoria, No to Violence and Women with Disabilities Victoria. Together, they represented most state wide and local organisations working with women and children, community legal services and men’s behaviour change programs across Victoria. *No More Deaths* called on politicians to support 25 key asks (a copy of which is in Appendix B), aimed at keeping women and children safe and housed; making the justice system safe and supportive; holding violent perpetrators to account; breaking down the system silos that endanger women and children and preventing violence against women and children.
2. PCLC is an active participant in the Infringements Working Group, a joint working group of the Federation of Community Legal Centres (Vic) and the Financial and Consumer Rights Council, supported also by Victoria Legal Aid. We endorse the submission of the Infringements Working Group to this Royal Commission.
3. PCLC also supports the joint one-page submission of Justice Connect Homeless Law and other organisations (as listed in their submission), which highlights the links between family violence, affordable housing and homelessness.

### Further Recommendations

In addition to the recommendations contained in the above documents that we have endorsed, we recommend the Royal Commission consider the following strategies for reducing and responding to family violence in Victoria:

#### Integrated Family Violence System

1. **Take a whole of government approach to family violence.**
2. A universal **common risk assessment framework** (CRAF) should be used by all agencies which work with those affected by family violence, including Victoria Police, DHS, Magistrates’ Court staff and family violence services.

3. Where possible and appropriate, **risk assessment should be shared** between agencies.
4. **Risk Assessment Management Panels (RAMPs)** should be appropriately resourced and introduced across Victoria as soon as possible.
5. **Improved information and education** to be supplied to Magistrates, Police Prosecutors and affected family members about the interaction between Family Court orders and s68R of the *Family Violence Protection Act 2008*.
6. **Further research and investigation** into creating an integrated system, including considering models in other jurisdictions, such as overseas Family Justice Centres and whether part or all of that model may be appropriate in Victoria.

### Legal Assistance

7. **Adequate, long-term and secure Australian Government and State/Territory Government funding of legal assistance providers, including community legal centres**, so all regions are funded to provide sufficient legal advice, ongoing assistance and duty lawyer services to assist in family violence matters.
8. **Expand resourcing for duty lawyer services** so that they are available pre-application, to advise and assist Affected Family Members (AFMs) to complete the Application Form.

### Magistrates' Courts

9. **Include vulnerable witness protections** in the *Family Violence Protection Act 2008* to prevent AFMs being cross-examined by a perpetrator of family violence.
10. **Reform of the *Bail Act 1977*** by re-enacting the former section 4(2)(c) of the *Bail Act* (as it appeared prior to the 2004 amendments to the *Bail Act*) to require bail to be refused where an accused person is in custody for failing to answer bail unless the accused person satisfies the court that the failure was due to causes beyond his control [or enact an amendment to apply in relation to bail applications concerning accused persons charged with family violence offences].
11. **Extend the existing "fast track" docket system** introduced in the Dandenong Magistrates' Court in 2014 ("the Fast Tracking of Criminal Offences Arising Out of Family Violence Incidents") to all Magistrates' Courts in Victoria.
  - a. Extend the "fast tracking" scheme to incorporate FVIO applications.
  - b. Extend the "fast tracking" scheme to incorporate all bail and remand applications in respect for accused persons who are also facing criminal prosecutions in relation to family violence offences.
  - c. Ensure the fast track system includes:
    - i. Benchmark periods for listing of FVIO matters, listing of prosecutions of family violence offences, including breaches of FVIOs and listing of remand and bail applications.
    - ii. Docket rostering system for Magistrates' Courts to promote continuity in family violence cases; where practicable same Magistrate to deal with return of orders, variations, revocation applications, family violence offences and bail applications relating to the same affected person and/or perpetrator.

- iii. Development of an aide memoire for Magistrates' Court staff who assist applicants to prepare FVIO documentation to apply Common Risk Assessment Framework (CRAF) in Family Violence cases, as an aid to obtaining information for inclusion in court documents.
  - iv. Magistrates' Court staff who act as Applicant and Respondent Support Workers to apply CRAF in Family Violence cases, and to supply completed risk assessments to Victoria Police.
12. **Consider taking a more proactive, case management approach**, which may include:
- a. Impose immediate, swift sanctions for breaches.
  - b. Ensure frequent reviews take place to ensure the perpetrator remains accountable: by bringing him back in front of the same judge to see whether he has made changes. Research has shown that the earlier a perpetrator experiences intervention, the more likely the intervention will be successful.
  - c. Share information with other courts so that other jurisdictions are aware of orders made by a particular court.
  - d. Appoint one Judge/Magistrate to manage case and make all orders in all areas – child protection, family law orders, criminal sanctions.

### Family Violence Intervention Orders

- 13. **Simplify (language and length)** the *Information for Application for an Intervention Order Form* (FVIO1) (Application Form).
- 14. **Revise the form and content** of FVIOs to make the orders and conditions clearer and easier for all parties to understand. In particular, simplify and clarify conditions in relation to section 92 *Family Law Act 1975* (child contact) matters and mediation. Require text of any s68R order made in full to be included in the text of the FVIO to which it applies.

### Victoria Police

- 15. **Share information with families to enhance safety.** Amend the Police Code to require police to inform a parent of any charges which have been laid against another parent which may pose a risk to the child's safety.
- 16. **Introduce a requirement that police** ensure that AFMs are kept informed in relation to the progress and outcomes of all relevant proceedings, warrants, bail applications and criminal proceedings which relate to them and their family.

### Victorian Department of Human Services (DHS)

- 17. **DHS adopt compulsory use of Common Risk Assessment Framework (CRAF)** when dealing with children at risk of family violence or exposure to family violence.
- 18. **Introduce a requirement that Client Relationship Information System** for Service Providers (CRISSP) notes include the full text of all CRAF risk assessments undertaken in relation to children for whom files are opened.



19. Introduce a requirement that prior to undertaking a CRAF risk assessment, **DHS obtain from Victoria Police all L17 Risk Assessment and Risk Management Reports** relating to the child and their parents and any CRAF assessment undertaken by a specialist FV service.
20. Introduce a requirement that **DHS supply a copy of all CRAF risk assessments** which generate a result of high risk to Victoria Police.
21. **Discontinue the practice of asking women at risk of family violence to enter into undertakings** which require the women to supervise or manage the behaviour of the perpetrator of the family violence.
22. Introduce a requirement to **exhaust all best efforts** to interview the perpetrator of family violence where possible prior to finalising CRAF risk assessment and making a determination in relation to whether harm has been substantiated.
23. Where DHS assesses that one parent is “protective” but the other is not, **that DHS support the protective parent**, including in court proceedings, to manage the risk posed by the other parent, including, where relevant and appropriate, by recommending in writing that the other non-protective parent not have contact with the child.

### Family Law

24. **Include vulnerable witness protections in the *Family Law Act 1975*** to prevent AFMs being cross-examined by an abusive partner.
25. **Introduce training and accreditation for family report writers** to ensure they understand the nature and dynamics of family violence and its effects, so improve the quality of family reports.
26. **Reform of s68R of the *Family Law Act 1975*** to provide that where a parenting order is suspended, revoked or varied pursuant to s90 of the *Family Violence Protection Act 2008*, that such suspension, revocation or variation operate until further order of a court.

### Research

27. **Conduct a national study to improve current knowledge and understanding of family violence** (including family violence risk assessment and family violence related filicide), to be undertaken by an entity such as the Australian Institute of Criminology or the Australian National Research Organisation for Women’s Safety (ANROWS).
28. **Develop a comprehensive and consistent measure of family violence** so that we can better understand its prevalence, detect patterns and trends and measure the impact of new initiatives. The most comprehensive study of which we are aware is the *Victorian Family Violence Database Volume 5: Eleven-year Trend Report*, prepared by the Victims Support Agency of the Department of Justice in 2012<sup>6</sup>. This study includes data from 1999-2010 from a variety of sources, such as: police, courts, hospitals, victims of crime, DHS funded agencies, VCAT and VLA. Whilst this is not a complete list of the possible data, it is a very useful starting point. However, to our knowledge, this database has not been updated.

<sup>6</sup><http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/victorian+family+violence+database+volume+5+eleven+year+trend+analysis+1999-2010>



## Early Intervention

### 29. Improved community education:

- a. Funding and developing community legal education initiatives;
- b. Family violence education, including providing training to services that come into contact with women and children, including schools, health professionals, disability services and aged care services, to understand and take action on family violence concerns;

30. Ensure that there is adequate resourcing for **Men's Behaviour Change Programs** and that minimum standards are enforced for their establishment, conduct and evaluation.

### Other

31. Allow Family Violence Intervention Orders to be accepted as prima facie evidence for Victims of Crime Assistance Tribunal (**VOCAT**) applications so that AFMs may access financial assistance quickly for expenses, particularly counselling, medical and safety-related costs.
32. We also refer the Commission to the **Inquest into the Death of Luke Batty** in the Coroner's Court of Victoria and ask that the Commission closely examine the recommendations from the Inquest when they are finalised.

## Conclusion

Family violence causes immeasurable harm to individuals and our community as a whole, including causing and contributing to a range of legal issues. As mentioned throughout this submission, our experience is that both the prevalence and severity of family violence have increased dramatically. Reform is needed so that the legal system appropriately identifies and responds to risks, without victims having the additional burden of navigating an overly complex and siloed system at a time when they are in crisis. It is also vital that underlying causes of family violence be recognised and addressed. It is imperative that those navigating the family violence 'system' have access to timely, free legal help and that the legal assistance sector is adequately resourced to meet growing demand.

PCLC would be pleased to provide further information to the Commission.

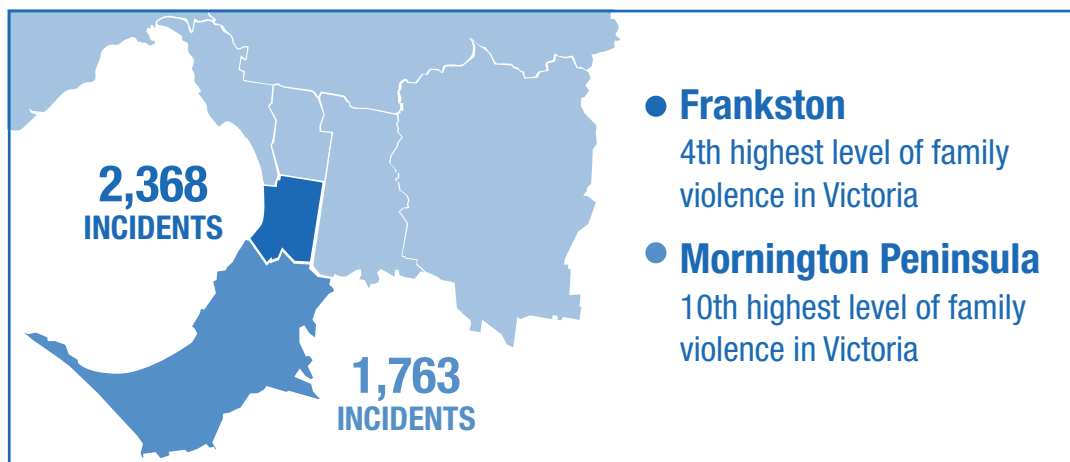
## Attachments

- A. *Family Violence in Our Community* posters;
- B. *No More Deaths 25 Key Asks*.

Produced by

**OUTER SOUTH PENINSULA***Integrated Family Violence Partnership*

## Family Violence in our Community



In the city of Frankston and Mornington Peninsula Shire  
an average of **11 family violence incidents**

were reported to police **each day** in 2013-14.

**Children were present in 4 of them.**



**It is ok** to ask  
**someone for help.**

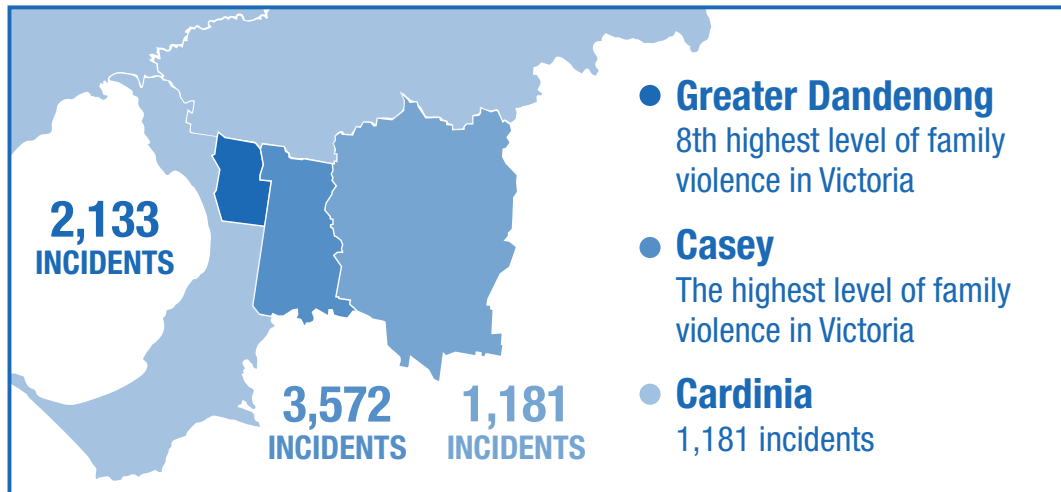


**Call 000** if you are in immediate danger.

**[www.asksomeone.org.au](http://www.asksomeone.org.au)**

for information and support.

Produced by

**OUTER SOUTH PENINSULA***Integrated Family Violence Partnership***Family Violence in our Community** 

In Greater Dandenong, Casey and Cardinia  
an average of **19 family violence incidents**  
were reported to police **each day** in 2013-14.  
**Children were present at 7 of them.**



**It is ok** to ask  
**someone for help.**



**ASK  
SOMEONE**

**Call 000** if you are in immediate danger.

**[www.asksomeone.org.au](http://www.asksomeone.org.au)**

for information and support.

2014 Victorian Election

# NO MORE DEATHS

Keep women and children safe from family violence.



## KEY ASKS

### Keep women and children safe and housed

- 1. Urgently fund specialist and targeted services so they can meet demand, including processing and responding to police referrals, case management, counselling, and therapeutic programs for both women and children.**
- 2. Implement consistent 'safe at home' programs across the state so women and children can remain in their homes where it is safe to do so and have the violent perpetrator removed.**
- 3. Renegotiate the National Partnership agreement on homelessness which in part funds programs to address homelessness precipitated by family violence.**
- 4. Act earlier to stop family violence by providing training to services that come into contact with women and children, including schools, health professionals, disability services and aged care services, to understand and take action on family violence concerns.**
- 5. Fund access for women to safe online information and resources such as through *The Lookout* website.**

### Make the justice system safe and supportive

- 6. Establish specialist family violence units in every court across Victoria staffed by victim support and respondent workers and specialist advocates for women from groups at particularly high risk.**
- 7. Create safe waiting spaces for victims and access to remote witness facilities in all courts that hear family violence Intervention Order cases.**
- 8. Roll out court-based training for magistrates, court staff, lawyers and other justice workers on risk assessment and management, the dynamics of family violence and victims' experiences.**
- 9. Stop the federal/state blame game on the funding of community legal centres so all regions are funded to provide sufficient legal clinics and duty lawyer services to assist all family violence victims to obtain Intervention Orders.**
- 10. Provide dedicated funding for Victoria's systemic Review of Family Violence Deaths so it can continue to lead the way internationally around the causes of family violence deaths and prevent further deaths.**





---

## Hold violent perpetrators to account

11. **Extend community corrections Orders** for men convicted of a family violence related offence from one year to up to 24 months.
12. **Deliver statewide specialised family violence training** for Community Corrections Officers, all Victoria police attending family violence incidents, and child protection workers.
13. **Support Victoria Police to undertake data collection, analysis and review** of their 30 Family Violence Units to track success and ongoing challenges.
14. **Map different points of intervention with family violence perpetrators** across a range of different service contexts, including child protection, courts, Corrections, police and health services to identify where early intervention could better occur.
15. **Overhaul the way child protection and family violence services work together** so that comprehensive support is wrapped around those at highest risk.

## Break down the system silos that endanger women and children

16. **Appoint a Minister for Preventing Violence against Women and children** to drive the next Victorian Government's agenda on ending family violence.
17. **Shift the Office of Women's Affairs to the Department of Premier and cabinet** and bring other Ministers to the table to break down policy, service and funding silos.
18. **Develop a new and comprehensive Victorian action Plan to address violence against women and children** with a strong primary prevention focus to align with the National Action Plan.
19. **Require shared understandings, language and practices across the family violence response**, including in community legal services, police, courts and child protection, with clear accountability.
20. **Make sure we know what works and where systems fail** through accurate, timely and thorough data collection and independent evaluation.

## Preventing violence against women and children

21. **Invest in a long-term strategy of proven programs to prevent sexism, discrimination and violence**, and promote respectful relationships in schools, sporting clubs, workplaces and the media.
22. **Evaluate** primary prevention programs to build the evidence-base on what works.
23. **Invest in the Gender and Disability Workforce Development Program** and specific education programs for women with disabilities about the nature of violence.
24. **Securely fund specialist services to support aboriginal and torres strait Islander women and children** that are culturally safe and Aboriginal community controlled.
25. **Require all candidates seeking office in the 2014 Victorian election to publicly condemn sexism and discrimination against women** and commit to doing all they can to keep Victorian women and children safe from family violence.

---

Media can access the full election platform at <http://www.dvrcv.org.au/>. For information or to arrange an interview with Fiona McCormack, contact Marie McInerney [REDACTED]



© Copyright 2015



Peninsula Community  
Legal Centre Inc