

**SUBMISSION TO THE ROYAL COMMISSION
INTO FAMILY VIOLENCE**

BY

**THE FORGOTTEN VICTIMS OF FAMILY
VIOLENCE**

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ROYAL COMMISSION INTO FAMILY VIOLENCE

SUBMISSION BY “THE FORGOTTEN VICTIMS OF FAMILY VIOLENCE”.

1 INTRODUCTION

As part of our submission to the Royal Commission into Family Violence, we submit that the commissioners should and need to consider:¹

1. The role of female perpetrators particularly with respect to violence against children.
2. The effect of current processes on the falsely accused (men and women), and the children of the falsely accused.
3. Support for male victims of family violence.

In particular the commission should seek to understand these issues and make recommendations in the context of all 10 of the Royal Commission’s terms of reference. These issues are particularly relevant with respect to understanding the culture of gender inequality against men in the context of family violence and the fifth term of reference; specifically the need to establish a culture of non-violence and gender equality.

So as not to obscure the important information contained in this submission, this document will firstly describe the problems identified in this submission. Rather than describing problems encountered by female victims or victims of male perpetrators in a separate section, this paper will make reference to those issues in the second part of this submission where changes to family violence processes will be recommended, both in general terms and in specific detail. In the fourth section of this submission we answer some additional question specifically asked by the Royal Commission in its issues paper. We bring these issues and recommendations to your attention in the sincere hope that they will be given genuine consideration. It is a false dilemma to consider the options before the Royal Commission and the government as being a choice between women’s issues and men’s issues or between making legal remedies harder or easier to obtain. We believe that by understanding the needs of all parties affected by family violence, appropriate responses can be established.

2 QUESTION 1. AREAS OF CONCERN

Question 1 of the issues paper issued by the Royal Commission asks “Are there other goals the Royal Commission should consider?” In response we submit that the Commission should address the issues of

1. The role of female perpetrators particularly with respect to violence against children
2. The effect of current processes on the falsely accused (men and women), and the children of the falsely accused, and
3. Support for male victims of family violence.

These specific issues fall within the terms of reference of the commission and don’t appear to be adequately addressed in the commission’s issues paper. False accusations of abuse falls within the scope of the terms of reference because false accusations of abuse are a form of abuse in their own right, and because examining policies and processes necessarily involves examining the impact upon

¹ Victoria, Royal Commission into Family Violence , *Issues `Paper* (31 March 2015)

the falsely accused. We submit that the commission needs to consider how these laws (or future legislative changes) may be used by an abusive person to use the state as an agent of abuse against their partner.

It has been reported in the Australian Bureau of Statistics (ABS) personal safety survey that one third of all sufferers of domestic violence are male victims of female perpetrators of violence². The 2012 Coroner's Court Victorian Systemic Review Of Family Violence Deaths shows that men and women are approximately equally represented as victims of family violence homicide although women are more likely to be victims of intimate partner homicide. One female dies from family violence every 24 days in Victoria and one male dies every 26 days.³

The commission is subject to the requirements of procedural fairness,⁴ gender equality⁵ and human rights.⁶ Men are largely, if not completely, dismissed as victims of family violence, and not offered the same level of support as a female victim solely based upon their gender

2.1 FEMALE PERPETRATORS OF FAMILY VIOLENCE

National and international studies have shown that there are “relatively equal proportions of mothers and fathers killing children”.⁷ When step fathers are considered separately to natural fathers it appears that more children are murdered by their natural mothers than by their natural fathers.⁸ If we ignore these statistics, violence perpetrated by some women will ultimately result in children lives being placed at risk.

National statistics from the National Homicide Monitoring Program (NHMP) (1997-2008) reveal that of the 176 child homicides committed by a single parent, 106 (**60%**) were undertaken **by the mother alone**, and 70 (**40%**) **by the father alone**. There were a further 23 fatalities involving both parents and a further 40 incidents involving a stepfather.⁹

A 2012 study on children who die in the context of separation by the Domestic Violence Resource Centre (DVRC), reported infanticide statistics by combining murders by step fathers with murders by natural fathers, resulting in an overall figure of 44% of children being killed by their mother and 48% by their father. A recent Victorian Coroners Report on the Victorian Systemic Review of Family Violence Deaths¹⁰ is also consistent with the DVRC report. It shows parents deliberately killing children (also known as filicide) being committed by 16 males; 12 females, and one incident involving both parents. The coroner's report similarly doesn't make a distinction between fathers and stepfathers. From a public policy viewpoint we should keep this statistic separate because step fathers murder children while they are in the custody of their mother. When the statistics of mothers and step

² Australian Bureau of Statistics, Personal Safety Survey Table 21 Experience of Partner Violence in the last twelve months

³ Judge Jennifer Coate, *Victorian Systemic Review Of Family Violence Deaths* (Coroners Court of Victoria, November 2012) < <http://www.coronerscourt.vic.gov.au/resources/54bbc2f9-bb23-45c0-9672-16c6bd1a0e0f/vsrfvd+first+report+-+final+version.pdf>>, Table 9; 150 female deaths over ten years (3650÷150=24.33); 138 male deaths over ten years (3650÷138=26.45)

⁴ *Inquiries Act 2014* (Vic) s 12(a)

⁵ *Equal Opportunity Act 2010* (Vic)

⁶ *Charter Of Human Rights And Responsibilities Act 2006* (Vic)

⁷ Dr Debbie Kirkwood, *Just Say Goodbye: Parents who kill their children in the context of separation* (Domestic Violence Resource Centre, January 2013) < <http://www.dvrcv.org.au/knowledge-centre/our-publications/discussion-papers/just-say-goodbye>> 16

⁸ Debbie Kirkwood above n 7, Table 1

⁹ Debbie Kirkwood above n 7, Table 1

¹⁰ Judge Jennifer Coate above n 3, 26

fathers are combined they form the highest risk category for the murder of children by parents (filicide).

Where a mother is both abusive and makes false allegations of abuse, then children are being placed at risk by not having their biological father being able to monitor and report on the child's safety.¹¹ In light of the statistics from the NHMP and DVRC, with reference to terms 1 and 5 of the commission's terms of reference, specifically to "protecting children" and establishing a culture of non-violence and gender equality, it is essential that the commission acknowledge and take action in response to family violence perpetrated by women, particularly against children.

In the DVRC report, it is stated that when mothers murder their children they do so out of altruism (page 26). They say that mothers who murder their children "are generally devoted to their children and strongly invested in being good mothers"¹².

It is difficult to reconcile being a good mother with murdering your children. Consider the brutal murder by Kylie Fowler of her three children in Heidelberg Heights in 2011. Ms Fowler locked her children in their house, stabbed her eldest daughter 23 times to the back of the head, and her youngest son 20 times. Upon murdering her third child, Ms Fowler committed suicide by setting fire to the house. The young boyfriend of the eldest child, watched the burning of the house, however he was not able to render assistance to any of the victims due to the ferocity of the fire. The father of two of the children Dominic Maher had been prevented from seeing his children for three years before the murder. Like Luke Batty's father, Kylie Fowler had long-term mental health problems. Ms Fowler had an 18-year history of episodic schizophrenia and prior to her acts of murder, it was concluded by the coroner that Ms Fowler had most likely had a prolonged psychotic episode. Coroner Ian Grey stated in his final report that "Her symptomatology was severe enough to require involuntary admission to an acute psychiatric unit on five occasions and to have periods of extended community based case management". Additionally, all three children were the subject of no fewer than 20 reports to Child Protection Services. Despite this significant litany of events, Ms Fowler continued to retain custody of her children until their murders.

Similar circumstances were recorded in the case of two year old Duke Hadley, who was murdered in 2009 by his mother (who was suffering from acute psychotic episodes). Additionally, 22-month old Oliver Garcia was murdered in 2008 when his mother strapped him to her chest in a Baby Bjorn carrier, put a bandage on his eyes, climbed on the railing of the West Gate Bridge and then jumped to their deaths. The coroner investigating Oliver Garcia's death concluded "Ms Garcia's mental state was deteriorating in her final weeks of life". Ms Garcia was seeking to prevent the biological father of Oliver from gaining custody of their child.

The 2012 DVRC report is right to be concerned about violence against women, but the gender blindness, puts children's lives at risk. We submit the reason why the DVRC's is not able to accurately identify mothers who murder their children as abuse is because they use self-professed "feminist research principles".¹³

The radical-feminist paradigm of family violence is described in section 4.5.3 of this document. Ordinary scientific research principles do not support the radical-feminist paradigm of family violence.

¹¹ For example see the case of Susan Wong <http://www.theage.com.au/victoria/suspected-murdersuicide-harrowing-20120814-2460r.html>; Davids testimony of domestic violence against him was not included in the coroners report;

¹² Dr Debbie Kirkwood above n 7 page 26

¹³ <http://www.dvrcv.org.au/knowledge-centre/our-research>

Drug and alcohol abuse, mental health issues, cultures of violence and attitudes of ownership over partners and children are simply not restricted to one gender as evidenced by the cases of Ms Fowler, Ms Hadley, Ms Garcia and numerous other mothers who have murdered their children.

Similarly for intimate partner homicides there is a significant portion of perpetrators who are female. In the recent Victorian Coroners Report On Victorian Systemic Review Of Family Violence Deaths¹⁴, of the 133 intimate partner homicide incidents, 73% (N=97) of offenders were male while 23% (N=31) were female. There were 33 intimate partner homicides against men, showing that the majority of intimate partner homicides against men (94%) are committed by women. Feminist organizations like the DVRC often explain the large portion of female perpetrators as being the result of defensive response to male violence¹⁵

However, this view is not reflected in the large body of social science literature that indicates gender neutrality.¹⁶ More than 200 studies published in peer review journals over the last thirty years have found gender symmetry in perpetration and in risk factors and motives for physical violence in martial and dating relationships.¹⁷ Many of these studies show that self defence is not the predominant reason why women inflict violence against men.

For example, in a 1994 a study of 1,978 people was undertaken in England to determine the prevalence, reasons and gender differences in aggression between heterosexual couples. The study was administered to a representative sample of 1,978 heterosexual men and women in Great Britain. Sampling quotas were chosen so as to ensure that the sample was representative of sex, age, socio economic group, relationship status and geographical region. The study considered the following forms of violence

- Being pushed or grabbed
- Being slapped
- Being punched or kicked
- Being thrown or hit with an object and
- Being struck with sharp an object

Men and women were asked to identify conflict tactics sustained or inflicted in all past and present relationships and those sustained in current relationships.¹⁸ The study found that both sexes reported having experienced physical victimization with a higher percentage of men sustaining victimization, mainly as a result of minor acts of assault. Almost equal percentages of men and women reported inflicting victimization against partners (11% versus 10%). Table 1 below shows the reasons why the perpetrators inflicted the violence against their partner. The shaded rows correspond to acts done in self defence according to the researchers. Note the interviewees could give more than one reason. Note only 21% of women who admitted to committing intimate partner violence gave self-defense as a reason. This was similar to men of which 27% had cited self defence as a reason.

¹⁴ Judge Jennifer Coate above n 3, 25

¹⁵ Dr Debbie Kirkwood above n 7, 26

¹⁶ Straus, Murray A.. "Thirty Years of Denying the Evidence on Gender Symmetry in Partner Violence: Implications for Prevention and Treatment" (2010) 1 (3) *Partner Abuse* 332–362

¹⁷ Ibid , 332

¹⁸ Michelle Carrado, M.J. George, Elizabeth Loxam, L. Jones and Dale Templar, Aggression in British Heterosexual Relationships, *Aggressive Behavior*, Nov-Dec, 1996, Vol.22(6), p.401(15)

Table 1 Reasons for Inflicting Physical Violence Against Intimate Partners

	Women (11%)	Men (10%)
I thought it was the only way to get through to him	53%	64%
I was getting back at him for something nasty he said or threatened to do to me.	52%	53%
To stop him doing something.	33%	43%
To make him do what I wanted	26%	26%
I was getting back at him for some physical action he had used against me.	21%	27%
I was "under the influence" of, for instance, alcohol at the time.	13%	35%
It is my character, that's the way I am.	16%	27%
I thought he was about to use a physical action against me.	17%	21%
For some other reason	12%	2%

In 2006, a study conducted by Medeiros and Straus using 854 students (312 men and 542 women) from two American universities, identified fourteen specific risk factors common amongst both males and females who had committed intimate partner violence. These included poor anger management, antisocial personality disorders, borderline personality disorders, tendency to dominate relationships, substance abuse, criminal history, post-traumatic stress disorders, depression, communication problems, jealousy, sexual abuse as a child, stress, and a general attitudinal approval of partner violence.¹⁹

The experiences of the (male) members of our group are consistent with these findings. At the hands of previous female partners we have personally experienced being stabbed, having permanent disabilities to knee caps, lacerations to the head, black eyes, assaults with weapons, bruising, scratches, successful parental alienation and false accusations of abuse that have been proven to be unfounded by the courts. These acts were not done in response to violence from us, nor have our members inflicted violence in response to the violence perpetrated upon us.

The presumption that female violence against men is a response to male violence is a presumption made without any basis. The false perception that women predominantly or exclusively commit violence in response to male violence against makes it easier for a woman to defend a charge of murder against a partner by claiming they are victims of abuse themselves. Consider the case of *R v Black*²⁰ in which the killer claimed that the victim "was never physically violent towards" them, but the court held that she met the criteria anyhow, and she was found guilty of the lesser charge of defensive homicide.

Our recommendations relating to female perpetrators of violence is given in section 2.1 of this document.

2.2 FALSE ACCUSATIONS OF FAMILY VIOLENCE AND INTERVENTION ORDERS (IVO)S

¹⁹ Medeiros, Rose A.; Straus, Murray A. (2006). "Risk Factors for Physical Violence Between Dating Partners: Implications for Gender-Inclusive Prevention and Treatment of Family Violence". In Hamel, John; Nicholls, Tonia. *Family Approaches to Domestic Violence: A Practitioner's Guide to Gender-Inclusive Research and Treatment*. New York: Springer. pp. 59–87. Retrieved June 24, 2014.

²⁰ [2011] VSC 152,

In this section we will discuss the impact of false accusations of family violence in the context of intervention orders. Falsely accusing an individual of family violence without a proper basis or for an ulterior motive is another form of family violence against both men and children that should be recognized as such.

Although intervention orders are an important tool in dealing with family violence, the procedure by which they are granted makes them open to abuse. It is easy to obtain an interim intervention order against a domestic partner without a trial, or the respondent having an opportunity to defend themselves solely on the basis of an allegation without any corroborating evidence.²¹ This gives the opportunity for abusive partners to use the state as agent of control against their partners. It also exposes the child to potential abuse.

In the 2013/2014 financial year there were 65,737 intervention orders issued in Victoria (including 20,152 interim orders).²² The number of interim intervention orders issued has increased every year since 2008.²³ In response to perceived abuse of the intervention order system there have been some minor changes to the process, but the core problem of the potential to abuse the system still remains. We believe that it is not simply a matter of determining if the system is too strict or too lenient, but rather that the system should be adapted to address the concerns of both those in need of protection while minimizing the effects of abusing intervention orders as discussed in the second part of this submission.

2.2.1 Application Orders Made Without a Trial 42% of the Time

Approximately 45% of intervention orders initiated in 2013/14 were initiated by private application. This involved the applicant going to the Magistrates Court and making a complaint. The applicant needs only to give a verbal or written statement to the court, but no corroborating evidence is required.²⁴

Prof. Rosemary Hunter found that in Victoria in 1996–97 the median hearing time for each uncontested application is three minutes.²⁵ Cross examination of the applicant is usually limited to confirming the content of written applications. Almost no exploration of the grounds for the application takes place.²⁶ This is consistent with what we have observed.

After the allegation is made, then court then makes an order on the spot in 42% of applications,²⁷ without the respondent being made aware of the allegation or having a right of reply, that is without a trial of any kind. Since changes to the law in 2014 this has dropped to 30%.²⁸

This interim order is meant to be interim. A proper trial is meant to follow, but there is no guarantee that the respondent will get a trial.²⁹ Of the cases that we are aware of, a contested hearing takes many

²¹ Family Violence Protection Act 2008 (Vic) s 55(2); Nothing in subsection (1)(a) or (3) obliges the affected family member to give evidence before the interim order is made

²² The Magistrates Court of Victoria, Annual Report 2013/14 (18 September 2014), 90

²³ Ibid p 6

²⁴ Family Violence Protection Act 2008 (Vic) s 43

²⁵ Rosemary Hunter, Domestic Violence Law Reform and Women's Experience in Court: the Implementation of Feminist Reforms in Civil Proceedings (2008), at 77, 81–2.

²⁶ Hunter, *ibid* 84–8.

²⁷ The Magistrates Court of Victoria, Annual Report 2012/13 (18 September 2014), 83

²⁸ The Magistrates Court of Victoria, Annual Report 2013/14 (22 October 2013), 90

²⁹ They may have no option other than to consent to the order (see below)

months.

At the final trial the court does not need to apply any of the long held methods of examining evidence. It can inform itself in any way it sees fit.³⁰ For instance it can rely upon hearsay.

The respondent to an intervention order cannot be self-represented. This is because the applicant becomes a protected witness, and therefore they cannot cross examine the applicant. Due to a legal technicality if they are self-represented they cannot give any relevant evidence at all.³¹ Although the court must issue them with a legal aide lawyer if they request, they can be charged for that lawyer.

In addition, the threshold of what determines family violence is very low and can be highly subjective.³² It includes all of those things that most people would identify as violence, including physical assaults and threats to kill, but it also includes anything that harasses a person or something that they find offensive.³³

In the case of *McShane v Tanner (No 2)*³⁴ sole custody was granted to the mother on the basis of family violence due to three facts.³⁵ Firstly the court held that when the father convinced the mother to relocate the family from Tasmania to South Australia so that he could obtain work, this was a form of family violence because it socially isolated the mother.³⁶ Secondly when the father suggested that the mother attend art classes in the evening so that she could meet people her own age who were working during the day, it was considered family violence because it was controlling behaviour.³⁷ Thirdly the mother had told the father that she was going to take their child from their home in South Australia and relocate to Tasmania. The court held that when the father responded by saying that he would seek an order in the Family Law Courts that the child remain in South Australia so that both parents could be involved in their upbringing, he was committing family violence. This is despite the fact that such orders are sought from time to time and the courts do (depending upon the facts) grant orders of the type he was seeking. In fact in the very same case the judge had ordered the mother to return to South Australia for the purposes of the trial.³⁸

We are also aware of a magistrate ruling that a father sending a regular email to the mother of their children requesting an overnight stay with their child, can be considered to be family violence. Violence can also include emotional abuse including derogatory taunts,³⁹ for instance calling someone stupid. Doing so in front of a child can be considered to be inflicting violence upon the child and is grounds for an order preventing contact between the respondent and the child.⁴⁰

Where an application has been made for an improper purpose, for instance to evict someone from a house or to prevent them having contact with their children, if the respondent wins their case in reality they cannot re-enter their house nor resume contact with their children, without court orders or consent of the prior applicant. This is because to do so would be grounds for a new order being made.

³⁰ Family Violence Protection Act 2008 (Vic) s 55

³¹ *Ibid* s 71(4)

³² Family Violence Protection Act 2008 (Vic) s 7

³³ Family Violence Protection Act 2008 (Vic) s 7

³⁴ [2011] FMCAfam 508

³⁵ *Ibid* [112]

³⁶ *Ibid* [112]

³⁷ *Ibid* [182]

³⁸ *Tanner v McShane* [2010] FamCAFC 110

³⁹ Family Violence Protection Act 2008 (Vic) s 7

⁴⁰ Family Violence Protection Act 2008 (Vic) s 5(1)(b)

Also the state courts cannot make orders regarding contact with children or the division of marital property unless an order is made by consent. This is because such matters are the exclusive reserve of the family law courts.⁴¹

There is also no right to appeal if the applicant objects.⁴²

The effects of the law being as they are, the most logical approach for a respondent that has been issued an vexatious intervention order is to consent without admission, and to initiate proceedings in the family law courts for parenting and property matters. Failure to do so ties the respondent up in long expensive court proceedings that cannot give the respondent what they need. We are not aware of the exact percentage of orders that are settled by consent, but believe that the majority of orders are issued by the respondent consenting without admission, as had been reported elsewhere.⁴³

We are also aware of circumstances where the courts will not remove orders made by consent on the basis that the applicant had admitted in court proceeding that they were made vexatiously in Family Law proceedings and where the applicant themselves have asked for them to be removed.

2.2.2 *The Routine Abuse of IVOs*

The view that some family violence order applications are unjustified appears to be shared by magistrates in New South Wales and Queensland. In a survey of 68 NSW magistrates concerning apprehended violence orders (AVOs) found that 90% agreed that some AVOs were sought as a tactic to aid their case in order to deprive a former partner of contact with the children.⁴⁴ About a third of those who thought AVOs were used tactically indicated that it did not occur ‘often’, but one in six believed it occurred ‘all the time’.

A similar survey of 38 Queensland magistrates found that 74% agreed with the proposition that protection orders are used in Family Court proceedings as a tactic to aid a parent’s case and to deprive their partner of contact with their children.⁴⁵

Expressions of concerns over the prevalence of false accusations have also been made publicly by retiring family court judges⁴⁶ and professors in the area of child protection.⁴⁷ There has also been some criticism of intervention order laws from lawyers. In 2011 the Law Institute of Victoria (LIV) expressed concern that the courts were being clogged up with frivolous intervention orders, and called upon the government to tighten up the definition of stalking so as to prevent the law from abused in

⁴¹ Family Law Act 1975 (Cmth)

⁴² Family Violence Protection Act 2008 (Vic) s 118

⁴³ Prof. Patrick Parkinson, University of Sydney, Family Law Legislation Amendment (Family Violence) Bill 2011, Submission to Senate Committee on Legal and Constitutional Affairs (April 2011)

⁴⁴ J Hickey and S Cumines, Apprehended Violence Orders: A Survey of Magistrates, Judicial Commission of New South Wales, Sydney, 1999, p 37.

⁴⁵ B Carpenter, S Currie and R Field, ‘Domestic Violence: Views of Queensland Magistrates’ (2001) 3 Nuance 17 at 21.

⁴⁶ Harriet Alexandra ‘False abuse claims are the new court weapon’ *The Sydney Morning Herald* (Sydney) July 6 2013 <<http://www.smh.com.au/national/false-abuse-claims-are-the-new-court-weapon-retiring-judge-says-20130705-2phao.html>>

⁴⁷ Prof. Patrick Parkinson, University of Sydney, Family Law Legislation Amendment (Family Violence) Bill 2011, Submission to Senate Committee on Legal and Constitutional Affairs (April 2011)

trivial disputes.⁴⁸ It has been noted by some Victorian legal professionals that “having an intervention order in place is a tactical advantage in both children’s and property family matters”⁴⁹, and that some legal professionals recommend instigating them to gain tactical advantage.⁵⁰

While there is some disagreement over how to tackle the issue of false accusations at the same time as responding appropriately to genuine issues of family violence, there is agreement that the issue is a real and widespread issue. The Royal Commission needs to understand false accusation of family violence and also sexual abuse is a form of abuse and controlling behavior in of itself. It can also be a powerful tool in alienating children from parents by providing external validation to children of false allegations.

The view was shown to be shared in the general community in a national survey conducted in 2009, with over 12,500 respondents.. The survey found that 49% of respondents agreed with the proposition that ‘women going through custody battles often make up or exaggerate claims of domestic violence in order to improve their case’, and only 28% disagreed.⁵¹ While it might be expected that men would be inclined to believe this, 42% of women did so as well. It should be noted that women can be the victims of false accusations⁵² and victims of parental alienation in the same way that men can be. Despite criticism from organizations such as the LIV, since 2008 family violence laws have been broadened. The scope of and ease of obtaining intervention orders have been increased, motivated by a desire to reduce violence against women and children. There have been no noticeable changes to the law regarding family violence intervention orders to prevent their abuse.

The most recent changes to the Act include the removal of the restriction that prevented victims from talking about their experiences and making the respondents details known publicly. The changes also enabled interim intervention orders to become final orders without a final trial if the matter is not contested within 28 days of the respondent being served.

Where IVOs are made as the result of bonafide accusations they strengthen the right to the protection of families and children, and the right to the security of the person. However where allegations are made without a proper basis or with an ulterior purpose and where the response is disproportional to the alleged and/or proven action, the laws detrimentally impinge upon other known human rights.

For instance

- The ex-parte nature of interim orders and the new automatic finalisation condition is relevant to the right to a fair hearing (or a hearing at all)
- The right to not to have privacy of the home unlawfully or arbitrarily interfered with as the respondent may be excluded from their family home;
- The right to not to be deprived of property other than in accordance with law, because the respondent may be directed to hand in personal property;

⁴⁸ Mark Russell, Intervention Orders are Clogging our Courts, *The Age* (Victoria) June 26 2011
<<http://www.theage.com.au/victoria/intervention-orders-clogging-our-courts-20110625-1gkwp.html>>

⁴⁹ Nicholas Kanarev, *Intervention orders in Victoria: Their use and potential for misuse*?<[http://www.gordonandjackson.com.au/uploads/documents/seminar-papers/Kanarev_Intervention_orders_15th_March_2013_\(2\).pdf](http://www.gordonandjackson.com.au/uploads/documents/seminar-papers/Kanarev_Intervention_orders_15th_March_2013_(2).pdf)>

⁵⁰ Ibid 6

⁵¹ Prof. Patrick Parkinson, University of Sydney, Family Law Legislation Amendment (Family Violence) Bill 2011, Submission to Senate Committee on Legal and Constitutional Affairs (April 2011)

⁵² Jane Wangmann, ‘She said...’ ‘He said...’: Cross Applications in NSW Apprehended Domestic Violence Order Proceedings, PhD thesis, University of Sydney, (2009), at 98–100.

- The right to freedom of movement as the respondent may be prohibited from being within a certain distance of the affected family member or a specified place;
- The right to freedom of expression as the respondent may be prohibited from contacting the affected family member or other protected persons
- The right to freedom from attacks on ones reputation.⁵³

There also needs to be greater investigation as to whether an interim order should be granted. For instance where a party is engaging in excessive emails or SMS to another party although there may be grounds for an intervention preventing them from doing so. However there are no grounds for granting an ex-parte order on this basis, particularly one that prevents contact between a parent and a child. This is because there is no urgency in the application, and the response is disproportionate to the allegation.

Our suggested responses to the issues of false allegations and intervention order reform is described in section 3.2 of this document.

2.2.3 Intervention Orders are The Most Commonly Used Method of Resolving Parenting Matters

Intervention orders are the most commonly used method of resolving conflict between parents of children involving residence and contact with children in Victoria.

In 1975 the Federal Government created the family court with the purpose of administering national laws regarding divorce. The new laws would make decisions in the best interests of children and would no longer consider which partner was at fault for the divorce. But this court and its sister court the Federal Circuit Court is no longer the court of choice by lawyers and their clients.

In 2012 there were 26% less cases regarding children going to the family law courts than in 2004.⁵⁴ A large portion of this reduction coincided with the introduction of compulsory mediation and the allocation of federal funding to Family Relationship Centres to offer subsidised compulsory mediation in 2006. This gives the false impression that mediation is gradually replacing litigation in the family law courts as the preferred method of resolving conflict between parents that resolve residence and contact with children. This is not the case. Between 2007 and 2012 there was a 24% decline in family law mediation and a 35% decline in regional family law mediation at family relationship centres.⁵⁵ However between 2008 and 2013 there was a 47% increase in the use of intervention orders.⁵⁶ The Magistrates Court of Victoria does not publish what percentage of intervention orders are made between parents with resident children. However if we assume that 25% of family law matters occur in Victoria⁵⁷ and that 45% of intervention orders involve parents of children,⁵⁸ then it can be seen that intervention orders are most likely the dominant method for settling conflict between parents of

⁵³ Charter of Human Rights and Responsibility 2006 (Vic) s 13

⁵⁴ Rae Kaspiew, Lawrie Moloney, Jessie Dunstan and John De Maio, *Family law court filings 2004–05 to 2012–13* (Research Report No. 30, Australian Institute of Family Studies, 2015), 8-9

⁵⁵ The Allen Consulting Group, *Research on Family Support Program family law services* (May 2013)

<<http://www.ag.gov.au/Publications/Documents/ResearchOnFamilySupportProgramFamilyLawServices/research-on-family-support-program-family-law-services-may2013>>, 24

⁵⁶ The Magistrates Court of Victoria, *Annual Report 2013/14* (22 October 2013), 3

⁵⁷ Population of Australia in 2011 was 21,507,717; Population of Victoria was 5,354,040; Australian Bureau of Statistics, 2011 Population of Australia (May 17 2015)

<<http://www.abs.gov.au/websitedbs/censushome.nsf/home/data?opendocument&navpos=200>>

⁵⁸ 45 % of households in 2011 had children under 18 living in them; Australian Bureau of Statistics, *Table 65. Family Households With Own Children Under Age 18 by Type of Family, 2000 and 2010, and by Age of Householder, 2010* <<http://www.census.gov/compendia/statab/2012/tables/12s0064.pdf>>

children in Victoria, with outcomes that affect residence and contact with children. There are most likely six times as many interventions order made as there are parenting orders made in the family law courts.

Dispute Resolution Method	Year	Estimated # Cases
Intervention Orders (Households with Children, Victoria) ⁵⁹	2011/2012	24,892
FRCs (Victoria) ⁶⁰	2011/2012	21,585
Family Court & Federal Circuit Court (Victoria) ⁶¹	2011/2012	4,260

We submit that there are three likely reasons why intervention orders are used as opposed to applications in the family law courts.

Firstly there will be some cases in which there is a genuine need for an intervention order to protect parents and children.

Secondly there will be some cases in which an abusive parent seeks to control the other parent by making false allegations via an intervention order. As described above the order will initially be granted ex-parte without evidence in a 3 minute trial. The effect will be immediate, and the ability of the respondent to defend it is difficult.

The third reason is best illustrated in a statement by Caroline Counsel, a practicing family lawyer who leads the family violence portfolio at the Law Institute of Victoria when she said, in respect to intervention orders, that “coercive and controlling behaviour, such as dictating what someone wears or who they can see is as unacceptable as breaking a bone or blackening an eye”.⁶² However controlling behaviour is abusive not by what is controlled but how it is controlled. For instance if the perpetrator uses threats of or actual physical violence then it is abusive. Similarly exercising unilateral control over money or contact with children without a valid reason is abusive. If an intervention order application was made on the basis that the respondent had used physical threats to control what their partner wore, then the issue should be the physical threat not that they told their partner what to wear. Even if the respondent had controlled their partners clothing by throwing out all of their clothes and replacing them with clothes that the respondent preferred then this is not relevant to the risk of future violence that might be perpetrated upon them, because the respondent is unlikely to even know what they are wearing, let alone be able to control what they wear.

But a man telling a woman what to wear is a trigger point for many advocates of a woman’s right to be safe on the streets. This is because some sexual assault apologists argue that women who dress provocatively invite sexual assault. This legitimate condemnation of telling women what to wear has morphed into a general crime that has spread into conversations about religious head wear and now is being argued as a form of violence as unacceptable as “breaking a bone or blackening an eye” and worthy of an ex-parte order removing a person from their home and contact with their children. It is a well-intentioned over reaction on the part of family lawyers and others in the community. This is a possible third reason for the preferences by lawyers for initiating intervention order proceedings as opposed to proceedings in a family law court. Such over-reactions are only possible in a climate of moral panic in which men are dehumanised and seen as violent predators not worthy of the human right to a trial based upon evidence. As Caroline Counsel says in respect to intervention orders “If

⁵⁹ The Magistrates Court of Victoria, *Annual Report 2013/14* (22 October 2013), 90

⁶⁰ The Allen Consulting Group above n 55, 24

⁶¹ Rae Kaspiew, Lawrie Moloney, Jessie Dunstan and John De Maio, *Family law court filings 2004–05 to 2012–13* (Research Report No. 30, Australian Institute of Family Studies, 2015), Figure 2.3 & Figure 2.4; 14452 children’s matters and 2662 combined children and property matters

⁶² Lucinda Schmidt, ‘Applications for intervention orders are soaring in Victoria. While they are crucial tools for preventing family violence, are they sometimes being misused?’ , *The Sydney Morning Herald* (Sydney) December 16, 2013 < <http://www.smh.com.au/national/out-of-order-20131216-2zh5e.html>>

they're needed, give them. If there's any doubt about the need, give them. But we need to support the court system to do it.”

This is a view shared by many men, until one day they find themselves separated from their partner and discover that they are a member of one of the most marginalised parts of the community – separated men.

2.3 MALE VICTIMS OF FAMILY VIOLENCE

There are roughly an equal number of male and female victims of family violence homicide in Victoria. The recent Victorian Coroners Report On Victorian Systemic Review Of Family Violence Deaths⁶³ shows that 288 family violence homicides in Victoria between 2000 and 2010 of which 150 (52.1%) of the victims were female and 138 (47.9%) were male.

That amounts to 1 female every 24 days and 1 male every 26 days.

There are however gender differences between the kinds of relationships between victim and perpetrator. The coroners report states that for instance 71% of intimate partner and sexual relationship victims were female, while in all other categories males were the predominant victim.

It should be noted that the parent-child relationship statistic includes 37 incidents (57%) where parents killed their child (or children), and 28 incidents (43%) where a child killed their parent (including adult children).

Table 2 VSRFVD-relevant homicides by sex of deceased and nature of relationship⁶⁴

	Female	Male
Intimate partner or Sexual Relationship	193	45
Parent-child	26	49
Other familial	12	22
Non-familial (bystander)	0	22
Total	150	138

Due to a lack of familiarity with these other forms of family violence, this submission will focus on intimate partner violence and sexual relationship. The proportion of intimate partner homicide victims being male is similar to other statistics relating to family violence against men by intimate partners, that is family violence where no homicide occurs.

With respect to family violence that does not result in the death of a person, the majority of studies over the last 30 years have found gender symmetry in the perpetration of family violence, risk factors and motives.⁶⁵ The 2012 Australian Bureau of Statistics Personal Safety Study⁶⁶, showed that one in three people experiencing partner violence with their current partners are male. The vast majority (94%) of perpetrators of intimate partner violence against males are female, reflecting the fact that the

⁶³ Judge Jennifer Coate above n 3, 20

⁶⁴ Ibid Table 9.

⁶⁵ Straus, Murray A above n 16

⁶⁶ Australian Bureau of Statistics, Personal Safety Survey (2012) Experience of Partner Violence
<<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/27A479CFBC2EA6CCCA257C3D000D84D6?opendocument>>

vast majority of intimate relationships are heterosexual (men in same-sex relationships are just as likely as straight men to experience IPV). Other family members who perpetrate violence against males are just as likely to be male as female.

The fact that two in three family violence victims are female is often used to justify why family violence is a gendered problem. However the safety and well being of a human being is not diminished just because they are male. The life of Luke Batty was not diminished because he was male, neither should the life of grown men be either. In addition when family violence processes make presumptions about who is the victim and who is the perpetrator based upon gender, the process not only fails to provide support for victims, it can also increase the trauma that male victims experience, as well as enabling perpetrators to use the state as agent for abuse against men.

There are many myths propagated about family violence against men by women.

- The first myth is that the kind of violence that women inflict upon men is different, has different effects and elicits different responses.⁶⁷ Sometimes this is stated that women inflict emotional rather than physical violence.
- The second myth is that when a woman inflicts violence upon a man it is the man's fault.⁶⁸

These myths are a restatement of the radical feminist paradigm of family violence, and are propagated by organisations that are foremost self-professed feminist organisations, rather than foremost domestic violence organisations such as the Domestic Violence Resource Centre.⁶⁹ It is a noble aim to end violence against women, but by making family violence a gendered issue we are putting men and children's lives at risk.

2.3.1 Examples of Extreme Family Violence Against Men

Consider the case of Katherine Knight.⁷⁰ She was convicted of murdering her partner in February 2000 and was the first Australian woman to be sentenced to life imprisonment without parole. She had a long history of violent abuse against numerous partners. She tried to strangle her husband David Kellett on their wedding night because he fell asleep after only having sex with her three times. She fractured his skull with a frying pan. When he left her because of her violent behaviour she went into town with an axe and tried to kill several people, and threw their baby onto the railway track in an attempt to kill it. She hijacked a car and slashed the face of a woman in an attempt to follow her husband to Queensland. She stabbed another intimate partner David Saunders, with a pair of scissors and tried to knock him unconscious with a frying pan. She eventually murdered her intimate partner John Price in February 2000. Prior to the murder she stabbed Price in the chest. In response he kicked her out of his house and took out a restraining order to keep her away from him and his children. That night he went home believing that she would kill his children if he did not. When he arrived home Knight was not there. Knight later arrived at Price's house after 11pm while he was sleeping. She then woke him and they had sex, after which he fell asleep. While he was asleep she stabbed him at least

⁶⁷ Dale Bagshaw, Thea Brown, Sarah Wendt, Alan Campbell, Elspeth McInnes, Beth Tinning, Becky Batagol, Adiva Sifris, Danielle Tyson, Joanne Baker and Paula Fernandez Arias, The effect of family violence on postseparation parenting arrangements The experiences and views of children and adults from families who separated post-1995 and post-2006 (2011) 86 *Family Matters* 53

⁶⁸ Dr Debbie Kirkwood above n 7 DVRC p 26; Walker 1989, Browne et al. 1998, Victorian Law Reform Commission 2004, Jones 2009, van Wormer & Roberts 2009

⁶⁹ See <http://www.dvrcv.org.au/knowledge-centre/our-research>

⁷⁰ See http://en.wikipedia.org/wiki/Katherine_Knight

37 times. She then decapitated him, skinned him and cooked parts of his body with vegetables and placed them in two settings at the dinner table, along with notes beside each plate, each having the name of one of Price's children on it.

2.3.2 *Victim Blaming of Male Victims*

The second myth is that when women inflict violence against men it should be presumed to be in self defence or "an act of frustration or dignity in response to his violence and controlling behaviour against her over many years." This perpetuated myth makes it an easy defence for a female perpetrator of violence to make because the accumulated effect of numerous incidents that in of themselves would be of no consequence can be added together to justify or mitigate murderous acts. The propagation of this gender vilification makes it difficult for men to obtain support. For instance documents from the organization that runs 1800 RESPECT (1800 737 732) states that it trains its staff to "identify who is the primary aggressor in situations where men present as victims". This suggests that men will not get the support that they need from this service, and there is a good chance that they will not be believed.⁷¹ While men and women have the right to defend themselves, domestic violence victims need to be empowered and encouraged to obtain support to free themselves from cycles of violence, whether it is one-sided or mutual violence.

There is a perception that because men are often physically stronger than women, they should be able to prevent any kind of violence against them from a woman. While this may explain the higher proportion of female intimate partner family violence homicide victims, the presumption that men can protect themselves from violent female partners disregards the fact that in non life threatening situations not every man is willing to use force against a person that they love, even when faced with physical violence. It also ignores the fact that violent women tend to use objects during intimate partner violence at a higher rate than violent men.⁷²

2.3.3 *Under Reporting and Social Acceptance*

Determining the rate of IPV against males can be difficult, as men are often more reluctant than women to report their abuse or seek help.⁷³ One of the reasons for this is that IPV against men is generally less recognized by society than IPV against women.⁷⁴

Another reason men are often reluctant to report victimisation concerns socio-cultural stereotypes of masculinity⁷⁵. For some men, the fear of being ridiculed by peers and/or (non-violent) women is

⁷¹ See

https://www.1800respect.org.au/static/media/uploads/focusing_on_male_family__domestic_violence_20_feb_2014_webinar.pdf

⁷² Dutton, Donald G.; Nicholls, Tonia L. (September 2005). "The gender paradigm in domestic violence research and theory: Part 1 — The conflict of theory and data" (PDF). *Aggression and Violent Behavior* 10 (6): 680–714.

⁷³ Watson, Dorothy; Parsons, Sara (2005). *Domestic Abuse of Women and Men in Ireland: Report on the National Study of Domestic Abuse*. Dublin: National Crime Council of Ireland. p. 169.; Robertson, Kristen; Murachver, Tamar (July 2009). "Attitudes and Attributions Associated With Female and Male Partner Violence". *Journal of Applied Social Psychology* 39 (7): 1481–1512.; Sullivan, Vince (July 10, 2013). "Help domestic abuse victims for 35 years". *The Delco Times*.

⁷⁴ Das Dasgupta, Shamita (November 2002). "A Framework for Understanding Women's Use of Nonlethal Violence in Intimate Heterosexual Relationships". *Violence Against Women* 8 (11): 1364–1389.; Lupri, Eugene; Grandin, Elaine (2004). "Intimate partner abuse against men". *National Clearinghouse on Family Violence*..

considerable. Equally, the fear of people saying that the female perpetrator is the real victim, and she must have been acting in self-defense in a considerable and tangible concern.⁷⁶ Some researchers have also demonstrated a degree of cultural acceptance of aggression by women against men, whereas there is a general condemnation of aggression by men against women. This can lead to men not considering themselves as victims, and/or not realizing the IPV they are experiencing is a crime.⁷⁷

Furthermore, some studies have shown that women who assault their male partners are more likely to avoid arrest than men who attack their female partners⁷⁸ and that female perpetrators of IPV are often viewed by law enforcement agencies and the courts as victims rather than offenders.⁷⁹ As such, men fear that if they do report to the police, they will be assumed to be the aggressor, and placed under arrest.⁸⁰ The 1985 U.S. National Family Violence Survey, carried out by Murray A. Straus and Richard J. Gelles on a nationally representative sample of 6,002 couples, found that when a woman called the police to report IPV, the man was ordered out of the house in 41.4% of cases. However, when a man called, the woman was ordered out of the house in 0% of cases. When a woman called, the man was threatened with immediate arrest in 28.2% of cases; when a man called, the woman was threatened with arrest in 0% of cases. When a woman called, the man was threatened with arrest at a later date in 10.7% of cases; when a man called, the woman was threatened with arrest at a later date in 0% of cases. When a woman called, the man was arrested in 15.2% of cases; when a man called, the woman was arrested in 0% of cases. In fact, in 12.1% of cases when the man called, the man himself was arrested.⁸¹

A multitude of factors contribute to very low levels of male reported IPV. A 1997 report by the United States Department of Justice on violence-related injuries treated in emergency departments identified that significantly fewer men than women disclose the identity of their attacker.⁸² Statistics indicate that under-reporting is an inherent problem with IPV irrespective of gender. For example, in England and Wales, the 1995 "Home Office Research Study 191", carried out as a supplementary study to the British Crime Survey, reported 6.6 million incidents of IPV in the previous twelve months, compared with the 987,000 incidents found by the Crime Survey. The difference in the two reports was that Study 191 was a questionnaire of a random representative sample of people, while the Crime Survey

⁷⁵ Lupri, Eugene; Grandin, Elaine (2004). "Intimate partner abuse against men". National Clearinghouse on Family Violence..

⁷⁶ Migliaccio, Todd A. (Winter 2001). "Marginalizing the Battered Male". *The Journal of Men's Studies* **9** (2): 1–18.; Migliaccio, Todd A. (July 2002). "Abused Husbands: A Narrative Analysis". *Journal of Family Issues* **23** (1): 26–52.

⁷⁷ Robertson, Kristen; Murachver, Tamar (July 2009). "Attitudes and Attributions Associated With Female and Male Partner Violence". *Journal of Applied Social Psychology* **39** (7): 1481–1512.; Straus, Murray A.; Kantor, Glenda Kaufman; Moore, David W. (1997). "Change in Cultural Norms Approving Marital Violence from 1968-1994". In Kantor, Glenda Kaufman; Jasinski, Jana L. *Out of the Darkness: Contemporary Perspectives on Family Violence* Thousand Oaks, CA.: Sage. pp. 3–16. ISBN 9780761907756.

⁷⁸ Felson, Richard B.; Pare, Paul-Philippe (September 2007). "Does the Criminal Justice System Treat Domestic Violence and Sexual Assault Offenders Leniently?". *Justice Quarterly* **24** (3): 440; 447.

⁷⁹ Kingsnorth, Rodney F.; MacIntosh, Randall C. (September 2007). "Intimate Partner Violence: The Role of Suspect Gender in Prosecutorial Decision-Making". *Justice Quarterly* **24** (3): 460–494.

⁸⁰ Cook, Phillip W. (1997). *Abused Men: The Hidden Side of Domestic Violence*. Westport, CT: Praeger. pp. 43–91. ISBN 9780313356711.; Grady, Ann (2002). "Female-on-Male Domestic Violence: Uncommon or Ignored?". In Hoyle, Carolyn; Young, Richard. *New Visions of Crime Victims*. Portland, Oregon: Hart Publishing. pp. 93–95. ISBN 9781841132808.

⁸¹ Gelles, Richard J.; Straus, Murray A. (1988). *Intimate Violence: The Causes and Consequences of Abuse in the American Family* (PDF). New York: Simon & Schuster. p. 262. ISBN 9780671682965. Retrieved July 5, 2014.

⁸² Rand, Michael R. (August 1997). "Violence-Related Injuries Treated in Hospital Emergency Departments". Bureau of Justice Statistics: 1–11.

attained its figures from crime records, i.e. actual reported cases of IPV.⁸³ Supplementary studies carried out in 2001 and from 2004 onwards have consistently recorded significantly higher rates of IPV (committed against both men and women) than the standard crime surveys.⁸⁴ The 2010-2011 report found that whilst 27% of women who experienced IPV reported it to the police, only 10% of men did so, and whilst 44% of women reported to some professional organisation, only 19% of men did so.⁸⁵ In a 2005 report carried out by the National Crime Council in the Republic of Ireland, it was estimated that 5% of men who had experienced IPV had reported it to the authorities, compared to 29% of women.⁸⁶

2.3.4 *The Risk to Children of Ignoring Violence Against Men*

The failure to support male victims and the presumption that men are at fault also puts children's lives at risk. Consider the death of Sue Wong⁸⁷ who homicide detectives believed was murdered by her mother Li Zhen Gao. The husband of Li Zhen Gao stated that his wife would smash crockery and had threatened and tried to kill him. She had placed a knife close to his neck, but he was able to keep her from cutting his throat by keeping her at arms length, before moving away.⁸⁸ Homicide detectives believed that Gao eventually strangled her daughter Sue with an electrical cord at their Balwyn townhouse before hanging herself in the garage. The coroner stated there was insufficient evidence to conclude that Gao had murdered her daughter, but it is difficult to arrive at that conclusion when you read the coroners report.⁸⁹ The coroner ignored the evidence of Sue's father and relied upon the fact that Gao had not made any contact with the Women's Domestic Violence Crisis Service to conclude that there was no family violence.

2.3.5 *Foreign Governments Recognition of Male Victims of Domestic Violence*

The current lack of recognition and support of male victims of domestic violence in Australia is in contrast to the situation in many other countries. Currently in the UK there is a major advertisement campaign to encourage men to come forward but also to change community attitudes towards male victims. One of these adverts has a male actor acting in an abusive manner towards a female actress. People in the street appropriately intervene. When the roles were reversed and the female performed the exact same physical abuse, the general public sniggered and laughed at the male actor being beaten by the female actress. The advertisement ends with a message stating that 40% of victims of domestic violence are male. This awareness campaign has led to a change of societal values. This campaign has also encouraged men to report abuse and protect their children from an abusive person.

⁸³ Mirrlees-Black, Catriona (1999). *Domestic Violence: Findings from a new British Crime Survey self-completion questionnaire*. London: Home Office. pp. 17–26. ISBN 9781840821932. Retrieved July 4, 2014

⁸⁴ Government Statistics on Domestic Violence" (PDF). Dewar Research. February 2014. Retrieved July 4, 2014.

⁸⁵ Britton, Andrew (2011). "Intimate violence: 2010/11 BCS". In Smith, Kevin. *Homicides, Firearm Offences and Intimate Violence, 2010/2011: Supplementary Volume 2 to Crime in England and Wales, 2010/2011*. London: Home Office. p. 96. Retrieved July 1, 2014.

⁸⁶ Watson, Dorothy; Parsons, Sara (2005). *Domestic Abuse of Women and Men in Ireland: Report on the National Study of Domestic Abuse*. Dublin: National Crime Council of Ireland. p. 169. Retrieved June 28, 2014

⁸⁷ <http://www.theage.com.au/victoria/suspected-murdersuicide-harrowing-20120814-2460r.html>

⁸⁸ See <http://www.theage.com.au/victoria/suspected-murdersuicide-harrowing-20120814-2460r.html>

⁸⁹ See http://www.coronerscourt.vic.gov.au/resources/6485bbe0-c774-4b0d-84c3-881c0c21c278/lizhengo_364919.pdf

In the UK, police services in several locations have expanded their domestic violence programs and response units in an effort to deal with IPV against men. For example, the total number of women prosecuted for IPV in the United Kingdom rose from 1,575 in 2004-05 to 4,266 in 2008-09. Additionally, shelters specifically for men have been set up in the UK, although relatively few in comparison to the number of shelters for female victims; as of 2010, there are 60 refuge places available to men throughout England and Wales, compared to 7,500 places for women.⁹⁰

The Police Service of Northern Ireland has also campaigned to spread awareness of the problem of male victimisation and to promote reporting of incidents. The country's first shelter for male abuse victims, Men's Aid NI, opened in early 2013. Chairman Peter Morris has remarked, "Domestic violence against men can take many forms, including emotional, sexual and physical abuse and threats of abuse. It can happen in heterosexual and same-sex relationships and, as with domestic abuse against females, can go largely unreported."⁹¹

In the United States, the Domestic Abuse Project (DAP) of Delaware County has campaigned to assist victims of both sexes for many years. DAP Executive Director Rita Connolly has remarked, "Its a tough thing for a guy to come in. They usually come in to get a female abuser out of the home for the sake of children." Roughly three percent of DAP supported individuals have been men.⁹²

Our recommendations for supporting male victims of family violence are given in section 14 of this submission.

3 QUESTION 21 PROPOSED RECOMMENDATIONS

Question Twenty-one of the issues paper invites submissions on changes to family violence and procedure. This section of our submission deals with our recommendations.

3.1 FEMALE PERPETRATORS OF FAMILY VIOLENCE

Recommendation 1 - The Commission needs to make a statement that although the majority of intimate partner domestic violence perpetrators are male between one quarter and one third of intimate partner domestic violence perpetrators are female.

Recommendation 2 - Public awareness programs against family violence should include advertisements stating that violence against men by women is unacceptable as well as violence against women by men. These ads should be run in addition to (rather than in place of) campaigns against

⁹⁰ Campbell, Denis (September 5, 2010). "More than 40% of domestic violence victims are male, report reveals". *The Guardian*. Retrieved June 30, 2014.

⁹¹ McNeilly, Claire (October 29, 2013). "Domestic violence against men at its highest level in Northern Ireland since police began recording statistics". *Belfast Telegraph*. Retrieved June 30, 2014

⁹² Sullivan, Vince (July 10, 2013). "Help domestic abuse victims for 35 years". *The Delco Times*. Retrieved June 30, 2014.

violence against women.
Recommendation 3 - Diversion Programs: There needs to institutionalised behavioural change programs for women as well as men ⁹³ , particularly in relation to granted IVO's. These behavioural change programs should work in an identical fashion to men's behavioural programs
Recommendation 4 - There should be greater funding for research into family violence against men where the perpetrator is a woman. ⁹⁴ The aim of this research should be to gain greater clarity of the scale of this societal problem.
Recommendation 5 - The state government should collect and publish the same statistics of violence against men by women as for violence against women by men.
Recommendation 6 – Defensive Homicide laws should not be reintroduced.

3.2 FALSE ACCUSATIONS OF FAMILY VIOLENCE AND IVO'S

It is a false dilemma⁹⁵ to consider the options before the Royal Commission and the government is to choose between making orders easier or harder to obtain. Instead the ideal solution would involve:

- Giving maximum protection to those in need,
- Removing any advantage to those who seek to use IVO's for improper purposes.

To meet these aims we propose:

- Limiting the use of IVO's to protecting those at risk,
- Reducing their usefulness for improper purposes.

3.2.1 *Limiting the use of IVO's to Protecting Those at Risk*

The law has many aims, including:

- Protecting individuals (and society generally)
- Deterring undesirable conduct
- Imposing punishment
 - To the demands for retribution
 - Rehabilitation and deterrence
- Vindication of the wronged.

The law has evolved over many centuries and has developed numerous legal concepts such as 'innocent until proven guilty', the right to a trial and the rules of evidence.

These principles are not applied in the issuing of intervention orders because interim orders are issued ex-parte (without the respondent being present).

According to legislation these orders "can only be made if the he court is satisfied, on the balance of probabilities, that an interim order is necessary".⁹⁶

Evidence of recent or similar circumstance physical violence would be such a case.

The definition of family violence is very broad and not all acts of family violence meet this criteria for an ex-parte order.

⁹³ Magistrate's Court Annual Report (2013/14, page 68)

⁹⁴ Royal Commission into Family Violence, above n 1, Q 1

⁹⁵ See http://en.wikipedia.org/wiki/False_dilemma

⁹⁶ Family Violence Protection Act 2008 (Vic) s 53

Recommendation 7 - We propose that family violence be classified as one of the following classes

1. Trespasses against the person (e.g. assault, sexual violence, battery & threats)
2. Financial Abuse (where the applicant is unable to meet their basic needs)
3. Emotional, Psychological and other Financial Abuse
4. Harassment

With the exception of financial abuse where the applicant is unable to meet their basic necessities (and the respondent owes a financial duty to the applicant), only the first class of family violence is likely to warrant the issuing of an interim order.

3.2.2 Reducing IVOs Usefulness for Collateral Purposes

Intervention orders should not be used for any other purpose other than protecting those at risk, particularly where they are issued as interim orders, or consented to without admission.

They should not have any weight in family law proceedings,⁹⁷ they should have no impact on criminal checks nor should they be taken as evidence of an increase in family violence. They should not in any way affect the reputation of the respondent in the absence of a trial. They should be recognised as an untested allegation.

Recommendation 8 - The Victorian Government should refer the power to make and administer laws regarding family violence to the Commonwealth under section 52(xxxvii) of the Constitution,⁹⁸ similar to way in which defacto property settlements in Victoria are now handled in the Family Law Courts.

Recommendation 9 – Cross vesting laws should be modified to allow the simple transfer of proceedings to the Family Law Courts where IVO applications are made that involve children. Respondents should also be made aware of their right to transfer the matter to the Family Law Courts.

We make this recommendation because IVOs are issued in state courts, which cannot rule on matters covered by the Family Law Act and are therefore commonly used strategically in family law disputes.⁹⁹

This would eliminate the incentive to misuse the intervention order process because at the end of the intervention order process, the court will be able to make an interim ruling on children's matters and property on the basis of the legal presumption of equality of the domestic partners involved in the absence of evidence of any risk of family violence.

Similarly where the allegations are bone fide, it will most likely reduce unmeritorious applications to the Family Law Courts because an unsuccessful applicant will have an interim ruling on the basis of a trial which shows that the respondent is a bone fide perpetrator of family violence under the Family Law Act.

Recommendation 10 - The Victorian Government should allocate additional funds for placements at

⁹⁷ Prof. Patrick Parkinson, University of Sydney, Family Law Legislation Amendment (Family Violence) Bill 2011, Submission to Senate Committee on Legal and Constitutional Affairs (April 2011)

⁹⁸ Constitution (Cmth)

⁹⁹ Prof. Patrick Parkinson, University of Sydney, Family Law Legislation Amendment (Family Violence) Bill 2011, Submission to Senate Committee on Legal and Constitutional Affairs (April 2011)

supervised contact placements making them available to suitable respondents in IVO cases.

3.3 MALE VICTIMS OF FAMILY VIOLENCE

Recommendation 11 - At least 15% of government funding to gender specific aspects of family violence should be directed to male victims of family violence in the near future in line with the fact that male victims are between one quarter and one half of victims

Recommendation 12 -Support services for victims and programs for perpetrators should be gender neutral. The same services should be available for both genders.

Recommendation 13 -There should be greater coordination between government and government funded organisations that deal with female victims of family violence with groups that deal with male victims of family violence.

4 MISCELLANEOUS QUESTIONS RAISED IN THE COMMISSIONS ISSUES PAPER

Question Three. Which of the reforms to the family violence system introduced in the last ten years do you consider most effective? Why? How could they be improved?

4.1 QUESTION SIX - FAMILY VIOLENCE AND LIVING SEPARATED UNDER ONE ROOF.

What circumstances, conditions, situations or events, within relationships, families, institutions and whole communities, are associated with the occurrence or persistence of family violence?

Those members of our organization who have been involved in support services for male victims note that when people are living separated under one roof and both parties refuse to leave, an intervention order based upon emotional (verbal) abuse or false allegations of physical violence usually follows. This is because it is the easiest legal path to take to evict a person from their home. The living environment in such households is not conducive to good mental health outcomes for adults and children.

Recommendation 14 - There should be a simple no-fault eviction process based upon equal division of property and parenting were ex-partners are separated but living under one roof. We are aware that such a process would necessarily fall under the scope of the Family Law Act.

4.2 QUESTION SEVEN REDUCING CONFLICT THROUGH PEER SUPPORT GROUPS

In the context of separation peer support groups can reduce conflict (as opposed to violence) which can damage the mental health of separating families. In addition to providing an opportunity for venting emotions in a non-judgmental arena (reducing the possibility of venting emotions on the other party) it provides an opportunity for guidance to be given to participants. Guidance can include self-reflection, critical thinking and reality testing, awareness of family violence laws, the need to maintain a relationship with children and be child focussed and successful avenues to resolving the existing conflict, such as mediation, family law courts and non-legal actions such as changes in behaviour and outlook. Where guidance is required that may be unwelcome, peers can deliver the appropriate message in a manner that other health professionals cannot because they have the credibility of having been through the process themselves and having a genuine understanding of the participant's

perspective. Peer support groups also can provide better mental health outcomes to separated parents resulting in better outcomes for parents and children.

Recommendation 15 – the State government should provide additional funding to separated parent peer support programs. Government agencies and courts should provide more referrals to these groups.

4.3 QUESTION 9 & 10 COORDINATION BETWEEN VARIOUS BODIES

Government programs and funding is almost exclusively directed towards violence against women and support for male victims is almost non-existent. As a result most organisations that deal with family violence deal exclusively with female victims and are based upon feminist philosophies rather than philosophies of non-violence and gender equality. This results in outcomes such as calls to 1800-respect by male victims of violence being screened and treated as abusers rather than victims. Similarly police are just as likely to refer men to the men’s referral service when they are victims of family violence rather than to an appropriate service such as men’s line.

Recommendation 16 – Government funding to 1800-respect should be on the condition that they transfer calls by male victims to Men’s line.

Recommendation 17 – People should be provided with information on where male victims of family violence can get support

4.4 QUESTION 12 MEN’S BEHAVIOURAL CHANGE PROGRAMS

In response to question twelve of the issues paper. Those members of our organisation who have been involved in support services for male victims note that some marriage counsellors will routinely send men to behavioural change programs whether they are appropriate or not. As demonstrated by the examples below, the inappropriate use of men’s behavioural change programs can result in poor outcomes for men who are the victims of controlling behaviour and false accusations themselves and who lack self-esteem. Upon arrival at the behavioural change programs, men are told that they must come to terms with their behaviour and admit their wrong doings even if they have not committed any wrong doing.

Example 1

The mother issued an intervention order against her 15 year old daughter because the daughter slammed a door during an argument that caused the glass to be smashed. The daughter was forced to live at her paternal grandparents home. The father was conflict avoidant and quiet. At the expiration of the IVO the mother refused to allow her daughter to return home. The 16 year daughter went and lived with her boyfriend. During subsequent marriage counselling the father was referred to a men’s behavioural change program. Ultimately the father left and now has full custody of the girl and shared custody of his 3 other children. This man needed encouragement and assertiveness training to enable him to leave his wife and become a full time parent for his children not a behavioural change program.

Example 2.

The father had alcohol abuse issues, suffered from low self-esteem and depression but loved and idealised his children and wife and treated them well. He was sent to a behavioural program during marriage counselling, where he was convinced that by insisting that his children place coloureds and whites in separate washing baskets and by teaching his young son survival skills in the bush he was exhibiting controlling behaviour. When the mother left with his children, he lacked the self-esteem to go 50 metres from his home to his children's school because he did not want to go against the wishes of his ex-wife. His depression turned to suicide idealisation and he was ultimately sectioned. The behavioural change program was detrimental to his mental health, and contributed to his feelings of low self-esteem.

Recommendation 18 – Where a person has

- voluntarily enrolled in behaviour change program, such as the result of a referral from a marriage counsellor and
- does not make an admission of controlling or violent behaviour they

should be dismissed from the program. Government funding to the program should be conditional on this.

4.5 TERM 5 ESTABLISHING A CULTURE OF NON-VIOLENCE AND GENDER EQUALITY

Term 5 of the upcoming Victorian Royal Commission on family violence states that the commission is at liberty to make recommendations regarding "the need to establish a culture of non-violence and gender equality, and to shape appropriate attitudes towards women and children;" These aims are worthy. Part of this debate needs to be reserved to focus on the cultural acceptance of intimate partner violence against men, particularly in the context of separation.

We submit that community standards for violence against women and violence against men differ, in that it more acceptable for violence to be committed by a woman against a man than vice versa. We submit that the current attitude against violence against women is correct and proper, but that the same community standard should be held for men.

There is currently no empirical evidence to support the assertion that there is an acceptance in the community of violence against women. On the contrary studies show that "The majority of Australians have a good knowledge of violence against women and do not endorse most attitudes supportive of this violence."¹⁰⁰

4.5.1 In Popular Culture

Whether its pink riding her motorcycle through her ex boyfriends window in a video clip, the audience laughing at Charlies murder by his ex girlfriend on Two and Half Men, or Sharon Osborne laughing at a real life incident in which a woman cut off her partners penis and put it in a blender acceptance of intimate violence against men is prolific in our culture, and appears in circumstances where if the roles were reversed there would be an outrage. It's often seen as empowering or funny.

Take for instance the video for the GRL hit Ugly Heart in which 5 women lynch a man and tattoo the words "Ugly" on his face. At the end of the video Simone Battle states "now your face is just like your

¹⁰⁰ VicHealth, Australians' attitudes to violence against women, 2013 National Community Attitudes Towards Violence Against Women Survey – Research Summary
<<https://www.vichealth.vic.gov.au/~media/ProgramsandProjects/DiscriminationandViolence/PreventingViolence/NCAS%20Summary%20Final.pdf?la=en>>

heart, ugly." If the roles were reversed there would be an outrage. However because it was women lynching a man there was, as far as I am aware, no public discussion of how the video promoted intimate partner violence. Instead it was branded a cute video in which "even bad girls just want to have fun". The song reached number 1 in Australia so the video was well known. While it was number 1 the band toured Australia. There was no discussion about the video promoting intimate partner violence during radio interviews.

Group member Paula Van Oppen explained that "Ugly Heart" was about ending a relationship with a guy who initially appeared to be nice on the outside, but once you got to know him well, the ugly side to his personality came out. Van Oppen said the inspiration for the song "was giving that message of strength and confidence and being a good person, inside and out. Not just having the exterior surface be all that you are." Natasha Slayton hoped the track would inspire people to date someone who treated them well, instead of dating someone because of their beauty. Simone Battle commented that the track felt personal to her, as it reminded her of a time when she had crush on a guy in high school, who pretended to like her back and embarrassed her. Battle also thought there would be a lot of women who could relate to the song. While Van Oppen added that the group's songs were empowering.

4.5.2 the Royal Commission's Potential to Further Marginalise Men

It is clear from the Royal Commission's terms of reference that it is directed to addressing violence against women and children but not men. It states that the commission is at liberty to consider the needs and experiences of women, children, seniors, Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse communities, gay, lesbian, bisexual, transgender and intersex communities, regional and rural communities and people with a disability and complex needs. While it is essential for the commission to investigate the needs and experience of these people, the omission of men from this list is telling. It suggests that in the context of family violence and other family law circumstances men are marginalised more than other sections of the community that in recent times were so marginalised that their activities were illegal such as gay men. The omission of men from this list whilst intersex individuals are to be considered is difficult to comprehend given that the Victorian Coroners Report on Victorian systemic review of family violence deaths¹⁰¹ does not list any intersex family violence homicides, but does show that 47.9% of family violence homicide victims were male. The mentioning of 44 family violence deaths in the commission's terms of reference, while failing to mention how many of them are men, gives the impression that these victims are all female. It would have been clear to the department providing this statistic that a significant proportion of these victims were male.

The issues paper produced by the commission makes almost no reference to male victims and no reference to female perpetrators and the falsely accused. A fair-minded lay observer might reasonably apprehend that the Commission might not bring an impartial mind to its activities.

There is a real risk that the findings of the royal commission will be used as another tool to further marginalise both men and the falsely accused.

4.5.3 The Radical Feminist Paradigm

¹⁰¹ Judge Jennifer Coate, *Victorian Systemic Review Of Family Violence Deaths* (Coroners Court of Victoria, November 2012) < <http://www.coronerscourt.vic.gov.au/resources/54bbc2f9-bb23-45c0-9672-16c6bd1a0e0f/vsrfvd+first+report+-+final+version.pdf>>

Radical feminism is a perspective within feminism that focuses on the hypothesis of patriarchy as a system of power that organizes society into a complex of relationships based on the assertion that male supremacy oppresses women.¹⁰² Radical feminism is but one of many feminist ideologies, such as cultural and sex positive feminism. The radical feminist view of family violence is that men hold power advantages over women in patriarchal societies and that all domestic violence is either male physical abuse to maintain that power advantage or female defensive violence, used for self protection.”¹⁰³ We submit that the radical feminist view has become the mainstream view. It is the initial position taken by the Royal Commission,¹⁰⁴ It is the position of the Victorian Government,¹⁰⁵ the Victorian Police,¹⁰⁶ and government funded domestic violence agencies such as Domestic Violence Victoria, the Men’s referral service, the Domestic Violence Resource Centre and 1800 RESPECT.

Although mainstream feminism is committed to gender equality it does so through the prism of only achieving equal rights for women. It does not have the aim of achieving equality for men in areas considered to be the domain of women such as child rearing. The stereotyping of males, as being part of an oppressive patriarchy ignores the reality of the nurturing roles that most men can and do perform in families.

Our organization is committed to gender equality and a culture of non violence to the fullest extent possible. We reject the radical feminist view of family violence because

- It is inconsistent with the empirical evidence,¹⁰⁷
- By declaring family violence to be a gendered issue society ignores the real causes of family violence, putting peoples lives at risk and
- It is sexist, because it vilifies men, ignores male victims, apologizes for female violence and
- Because it is based upon a premise of inequality in modern Australia which is inconsistent with reality.

The Emperical Evidence

As described previously in this document, the assertion that all domestic violence is either male physical abuse to maintain that power advantage or female defensive violence, used for self protection is not supported by the statistics. The radical feminist view cannot explain the high proportion of female perpetrators of family violence against children.¹⁰⁸ Children do not form part of the patriarchy, and they cannot be protected by being killed.

¹⁰² Ellen Willis, “Radical Feminism and Feminist Radicalism” (1984) *Social Text* 9 91-118, 117

¹⁰³ Dutton, Donald G.; Nicholls, Tonia L. (September 2005). "The gender paradigm in domestic violence research and theory: Part 1 — The conflict of theory and data". *Aggression and Violent Behavior* **10** (6): 680–714.;Dutton, D. G. (1994). Patriarchy and wife assault: The ecological fallacy. *Violence and Victims*, 9(2), 125–140

¹⁰⁴ Royal Commission into Family Violence *Issues Paper* (31st March) [14]

¹⁰⁵ Extract of Terms of Reference to be presented to His Excellency the Honourable Alex Chernov AC QC, Governor of Victoria Page Royal Commission into Family Violence < <https://4a5b508b5f92124e39ff-ccd8d0b92a93a9c1ab1bc91ad6c9bfdb.ssl.cf4.rackcdn.com/2015/01/150119-Proposed-Terms-of-Reference2.pdf>>

¹⁰⁶ <http://www.vicpolice.com.au/blogs/93-oursay/1704-ccp-lay-we-need-to-change-our-thinking-around-domestic-violence.html>

¹⁰⁷ Dutton, Donald G.; Nicholls, Tonia L. (September 2005). "The gender paradigm in domestic violence research and theory: Part 1 — The conflict of theory and data". *Aggression and Violent Behavior* **10** (6): 683

¹⁰⁸ Debbie Kirkwood above n 7, Table 1

We acknowledge that intimate partner violence is more likely to occur to women. We submit that the proper conclusion that should be drawn from gender differences in intimate partner violence statistics¹⁰⁹ is that programs should be made available to both men and women in proportions relative to which they are needed. The nature of these programs should be the same for both men and women. There should be twice as many public awareness advertisements for violence against women than advertisements for violence against men. This is a far cry from the status quo.

The alternative position to the radical feminist hypothesis, which is supported by empirical evidence is that intimate violence has psychological causes common to both genders.¹¹⁰ Such causes can include psychopathology, attachment, anger, arousal, alcohol abuse, skills deficits, head injuries, biochemical correlates, attitudes, feelings of powerlessness, lack of resources, stress, and family of origin sources.¹¹¹

The fact that empirical studies do not support the radical feminist philosophy has had little impact upon supporters of the philosophy. There have been more than 200 studies over 30 years that have found gender symmetry in the perpetration of family violence, risk factors and motives.¹¹² Despite the empirical evidence, there continues to be the propagation of the radical feminist view. Proponents of this view use seven known methods to deny and suppress evidence of the mismatch between the radical feminist paradigm and reality. These include failing to mention the statistics relating to men, failing to collect statistics relating to male victims or female perpetrators and stating conclusions that contradict the data.

Gender Inequality in Australia (The Existence of a Patriarchy)

Gender equality is enshrined in statute in Australia.¹¹³ A woman is not considered in to be the property of a man in either the law nor in general community attitudes. Studies show that “The majority of Australians have a good knowledge of violence against women and do not endorse most attitudes supportive of this violence.”¹¹⁴

The introduction of no fault divorce in 1975¹¹⁵ means that today all individuals can freely divorce.¹¹⁶ The common law rules that previously stated that a husband could not be charged for the rape of his wife has been abolished. Sexual offence laws have been rewritten to provide greater protection for women. The current Chief Justice of the Family Court is a woman.¹¹⁷

Although women are under represented in positions of authority, the proportion and frequency of women in these roles is increasing. The highest positions of power in Australia are or have been filled

¹⁰⁹ That two out of three intimate partner family violence victims are women

¹¹⁰ D.G. Dutton, T.L. Nicholls / *Aggression and Violent Behavior* 10 (2005) 685

¹¹¹ *Ibid*

¹¹² Straus, Murray A. (June 2010). "Thirty Years of Denying the Evidence on Gender Symmetry in Partner Violence: Implications for Prevention and Treatment" *Partner Abuse* 1 (3): 332–362..

¹¹³ Sex Discrimination Act 1984 (Cmth); Equal Opportunity Act 2010 (Vic)

¹¹⁴ VicHealth, Australians’ attitudes to violence against women, 2013 National Community Attitudes Towards Violence Against Women Survey – Research Summary

<<https://www.vichealth.vic.gov.au/~media/ProgramsandProjects/DiscriminationandViolence/PreventingViolence/NCAS%20Summary%20Final.pdf?la=en>>

¹¹⁵ Family Law Act 1975 (Cmth)

¹¹⁶ Family Law Act 1975 (Cmth) s 48

¹¹⁷ The Honourable Diana Bryant AO

by women including the Governor General,¹¹⁸ the Prime Minister,¹¹⁹ the Monarch,¹²⁰ the Attorney General,¹²¹ State Premiers,¹²² and Justices of the High Court.¹²³

Regarding the legal and long term implication of domestic abuse against men, Professor of Law at the Indiana University School of Law Linda Kelly has argued that the

*“fundamental feminist understanding of domestic violence has far-reaching implications. By dismissing the possibility of female violence, the framework of legal programs and social norms is narrowly shaped to respond only to the male abuse of women. Female batterers cannot be recognized. Male victims cannot be treated. If we are to truly address the phenomenon of domestic violence, the legal response to domestic violence and the biases which underlie it must be challenged [...] Female violence presents both a threat to feminist theory as well as to the practice of domestic violence law. Notwithstanding such concerns, today's myopic understanding of domestic violence has serious implications [...] the feminist definition of domestic violence has skewed arrest and prosecution philosophies, resulting primarily in having only male batterers criminally pursued [...] rehabilitative programs are geared toward treating domestic violence as the byproduct of a patriarchal society, thereby only producing programs which address male violence. Similarly, the services for domestic violence victims, in particular, the availability of shelters, have also been shaped by the feminist definition of domestic violence.”*¹²⁴

Recommendation 19 That when the Royal Commission consults with and seeks input from academic experts on family violence that it seek advice from academics, such as Linda Kelly, who are critical of legal responses to family violence based upon radical feminist ideology, in line with the Commission’s legal obligations towards gender equality¹²⁵ and procedural fairness.¹²⁶

Recommendation 20 That when the Royal Commission consults with and seeks input from experts on family violence that it seek advice and experiences from professionals from jurisdictions that have adopted a more gender neutral policy such as the United Kingdom.

5 WHO WE ARE

The Forgotten Victims of Family Violence is an association made of people who are either

- Male victims of family violence,
- Those who have suffered family violence at the hands of women and/or
- Those who have suffered false accusations of family violence.

¹¹⁸ The Honourable Dame Quentin Bryce AD CVO

¹¹⁹ Julia Gillard

¹²⁰ Queen Elizabeth II

¹²¹ Nicola Roxon

¹²² Carmen Lawrence; Joan Kirner, Anna Bligh, Kristina Keneally, Lara Gidings

¹²³ Susan Crennan, Susan Kiefel, Virginia Bell

¹²⁴ Kelly, Linda (2003). "Disabusing the Definition of Domestic Abuse: How Women Batter Men and the Role of the Feminist State" Florida State University Law Review 30: 793–794. Retrieved June 23, 2014.

¹²⁵ *Equal Opportunity Act 2010* (Vic)

¹²⁶ *Inquiries Act 2014* (Vic) s 12(a)

We're comprised primarily of separated fathers. Five of our members helped draft this document. Some of our members have been involved in providing support services for parents and have been involved with hundreds of cases, but the views represented in this document are the views of the individuals and do not necessarily represent the views of any other organisation.

We humbly seek that the commission keep our names confidential, as we expect that we and our children will suffer personal and professional consequences if our names were associated with a group that campaigns on the matters listed herein. We have however provided a contact email for anybody wishing to correspond with us.

It is for this reason we make this submission in our personal capacity (legal entity), with our names provided, rather than as an unincorporated association. We have not incorporated so as to maintain our anonymity. As separated men we are a much-marginalised portion of the community and routinely suffer discrimination.

The purposes of the association "The Forgotten Victims of Family Violence" are—

1. To publicly participate in discussion surrounding family violence, so that the discussion includes issues faced by:

- Male victims (where the perpetrator is male or female),
- Victims of violence perpetrated by females (whether the victim is male or female)
- Victims of false accusations of family violence (whether male or female)

2. Public participation includes raising awareness, participating in royal commissions or other public inquiries, lobbying, consulting with other interest groups, taking legal action including administrative or judicial review or any other similar act.

3. The association is committed to the prevention of family violence and support for victims.

4. The association is committed to human rights, but in particular

- a. the right to security of person and a culture of non violence,
- b. the right to a trial and proper legal process, and
- c. gender equality including the absence of gender vilification.

7. Membership is limited to any person who supports the purposes of the association provided they

- (1) Have not been convicted of a crime of violence or dishonesty. Individuals who have been falsely accused of a crime of violence or dishonesty and have
- i. been acquitted, or
 - ii. have had charges dropped, or
 - iii. have consented to an order without admission

are eligible to be a member provided they not have made a prior admission of such an act.

(2) Agree to be bound by the rules of the association.

(3) Do not act and have not acted in such a way as to bring the association into disrepute.

(4) Respect the confidence of the organisation and do not speak on behalf of the organisation without the authority of the committee.