

# Eastern Domestic Violence Service Inc. (EDVOS)

Submission to the Royal Commission into Family Violence

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Eastern Domestic Violence Service

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## About Us

The Eastern Domestic Violence Service Inc (EDVOS) was established in 1994 following the amalgamation of two small outreach services to form an innovative new entity providing outreach support to women and children living with domestic violence.

EDVOS services women and children living in seven municipalities in the inner and outer Eastern Melbourne Metropolitan area namely, Boorondara, Monash, Whitehorse, Knox, Manningham, Maroondah and the Yarra Ranges. The combined population of these municipalities is approximately 1 million.

Our main office is in Ringwood with an additional office in Holmesglen.

EDVOS was developed initially to provide a response to women and children who were not eligible or didn't want to go to refuge and for women who had just realised their experience is family violence. Over time, EDVOS has been unable to continue all of these services due to the exponentially increasing work load generated as a result of increased reporting of family violence and has had to adapt to a more crisis focused response.

EDVOS currently has a staff of 34 full time equivalents (FTE). Our staff have a broad range of tertiary qualifications including social work, criminology, law and psychology. Staff are drawn from diverse cultural and social backgrounds and wide ranging work experience.

EDVOS has an annual budget of approximately three million dollars and is totally funded by State and Federal Governments. We are governed by a volunteer Board of Governance consisting of eight non-executive directors drawn from the community. The Executive Officer is Maryclare Machen. Our patron is Christine Nixon.



## Executive Summary

EDVOS is involved in the development of two other submissions to the Commission broadly examining the family violence sector within an integrated system and making overarching recommendations.

EDVOS is the sole author of this submission which seeks to answer in practical terms question eight of the Commission's Issues paper released on 31 March 2015.

Question Eight:

**Tell us about any gaps or deficiencies in current responses to family violence, including legal responses. Tell us about what improvements you would make to overcome these gaps and deficiencies, or otherwise improve current responses.**

This submission has five main sections.

Each section describes a service we provide, lists the gaps and deficiencies with the service and recommends improvements to overcome these gaps and deficiencies or otherwise improve current responses.

A prioritized short list of our recommended improvements is provided below.

This submission is the voice of our staff.

It was prepared by members of the EDVOS Board of Governance, namely Fay Daniel and Paula Piccinini with input from our Executive Officer after conducting staff focus groups, followed by individual interviews with our staff from key areas of the organisation.

We thank our staff for their time and input into the preparation of this, *their* submission.



## Shortlisted Recommended Improvements

### 1. EDVOS to receive funding to employ four qualified practicing lawyers full time.

The lawyers would work as a team providing women with immediate legal advice during intake and on-going whilst the client is being supported by EDVOS. They will prepare and represent our clients at both interim and contested intervention order hearings. They will prepare and make urgent applications for recovery orders in the Family Court and appear on their behalf in children's and property matters in the same court and the Children's Court. As well as acting for them at VOCAT and the Immigration Review Board. It is anticipated that EDVOS's legal services will be established as a social enterprise providing some services for free and others charged on a sliding scale according to capacity to pay. It is intended that our lawyers will do all their own appearance work significantly reducing costs and making access to the law more affordable and less stressful for our clients.

### 2. That the Judicial Commission of Victoria Bill 2010 be re-introduced to Parliament and enacted.

The implementation of effective, open and accountable procedures for investigating complaints against the judiciary will increase the confidence of the community in the courts and the legal process. Magistrates who fail to uphold the principles of the Family Violence Protection Act 2008 can be held to account for their failure to protect victims from ongoing violence and to hold the perpetrators of that violence to account.

### 3. EDVOS to receive funding to employ an additional eight full time equivalents (FTEs) to be placed in our intake team and Domestic Violence Advocate Service.

Demand for EDVOS services always outweighs resources (police referrals have increased 275% over five years). The additional staff will enable EDVOS to provide a response to more women and children reducing the numbers of women at risk of ongoing family violence and trauma, and homelessness. It is more cost effective to keep women and children in their own home. Working with women to develop safety plans, as well as address other needs, to prevent further violence reduces demand on police and other community support services.

### 4. Require Magistrates to issue legal process to bring all respondents before the court to be held accountable for their behaviour in line with the provisions of the Family Violence Protection Act 2008. Magistrates be required to invoke the provisions of the Bail Act in all incidences where the respondent fails to appear.

Perpetrators who are present at court are more likely to comply with the conditions of the intervention order reducing incidents of further violence against the affected family member and children. Increased compliance with court processes and intervention orders will reduce the amount of police and court time in responding to, investigating and prosecuting perpetrators for contraventions of intervention orders.



5. **That the Family Violence Protection Act 2008 be amended to prevent the practice of non bona fide cross applications for intervention orders.**

This will prevent perpetrators from using court procedures to manipulate and maintain control over the victim.



## EDVOS Services

### 1. Intake

#### 1.1 Women's Intake

Our primary response is to women and children who are unable to remain safely in their home and/or have experienced severe physical or sexual violence.

Unlike when EDVOS was first established, more than 50% of clients now come to EDVOS via the Victoria Police referral agreement.

Each 24 hour period EDVOS will receive at least 10 police referrals overnight and an additional five police referrals during working hours.

**Police referrals to EDVOS have increased from an average of 130 per month in 2010/11 to 485 per month in 2014/15; an increase of 275%.**

An intake team consisting of a team leader and experienced workers are allocated to respond to the police referrals, known as L17's, which are received by EDVOS via email.

The L17s emails detail the name and contact details of each party, provide a narrative of the most recent incident, the number and ages of children present and indicate referrals to ChildFIRST and/or DHHS Child Protection. The L17 also includes the police assessment of current risk and on-going risk factors, identifies any criminal offences, pending court dates and actions (civil or criminal) taken by police to protect the affected family member(s).

The L17s are assessed and allocated to a risk category.

EDVOS has developed three risk categories; extremely high, high, and low risk.

These categories have evolved at EDVOS from our knowledge of the Common Risk Assessment Framework (CRAF), listening to women and children who are responding to family violence along with practice wisdom and assessing the L17s with a critical eye.

**Extremely High Risk:** are clients who are experiencing significant immediate risk coupled with other vulnerabilities. They may be unable to stay safely at home, and often they have experienced serious physical violence and/or sexual assault. The women may also have other vulnerabilities such as pregnancy or new birth, come from culturally and linguistically diverse backgrounds with limited English, are new arrivals to Australia and increasingly, elderly women over 75 years of age. Women may need to leave the home because the police have been unable to arrest the perpetrator or have been unable to serve him with the intervention order; or in order to protect children who are affected by the violence.

**High Risk:** are women, and women with children at risk of further violence.

**Low Risk:** when the police referral indicates non-criminal abuse and the narrative



indicates there are few other vulnerabilities present at the time of police attendance.

The intake team has a list of high priority referrals that must be responded to by telephone that day. There are always at least two team members who are tasked to respond to clients on this list.

EDVOS policy is that intake workers will make six attempts by telephone to contact all high risk clients (including extremely high risk), and low risk clients receive two attempts.

The primary task of Intake is risk assessment and safety planning. The average intake call takes one hour.

The intake workers will ask the woman a series of open ended questions to assess the level of risk for her and her children, explore her understanding of the impact of the violence on her and her children and affirm her right to live free from violence and abuse. Staff may also contact police to clarify the risk assessment and information contained in the narrative provided in the L17s, particularly in relation to the whereabouts of the perpetrator or the outcome of any court hearings.

The intake workers prepare a comprehensive safety plan in consultation with the woman. As part of the safety plan, women may also be placed on the Repeat Police Attendance High Risk Response list or the EDVOS Risk Alert Register ([see section 4](#)). If a perpetrator is on remand, EDVOS will liaise with Melbourne Remand Centre in an attempt to ascertain the perpetrator's projected release date on bail and any conditions, often unsuccessfully.

If the woman requests to go into a refuge, intake workers will explain the process to her, provide her with the phone number for Safe Steps and encourage her to make contact. EDVOS believes in a woman's right to self-determination and works to empower women to take control of decision making around their own lives. The intake worker will monitor the progress of the woman's application for refuge and will advocate on her behalf if required. If the woman does not have the capacity to make an application on her own behalf, the intake worker will take responsibility and make contact with the relevant services.

EDVOS respects and encourages a woman's right to make her own decisions. However, if children are at risk of violence and the woman is unable or unwilling to protect the child, EDVOS will make contact with DHHS Child Protection.

Intake will also refer women to Community Legal Services, Counselling Services, Children's Services and other community supports as needed.

If the women have more complex needs, the intake worker will refer her to an EDVOS Domestic Violence Advocate (DVA). ([see section 2](#))

EDVOS continues to receive referrals from other agencies and from women directly. These referrals are also on the rise. Agency referrals are classified into extremely high, high and low risk and responded to accordingly. Risk assessments are conducted immediately with women who self-refer.





### **1.1.1 Gaps and Deficiencies with EDVOS's Women's intake**

- Funding has not increased adequately to employ sufficient staff to respond effectively to the current workload.
- From time to time, women categorized as low risk have not received a timely response given the need to prioritise responses to high risk police referrals and self-referrals.
- Working with women at low risk provides opportunities to develop safety planning preventative strategies and longer term planning, for them and children. This has the potential to reduce the numbers of women who will require a crisis response and is a more cost effective use of EDVOS's resources.

### **1.1.2 Recommended improvements to EDVOS's Women's intake**

- The intake team currently comprises of 4.8 FTE experienced workers with 1.8 FTEs in training. To effectively respond to the current workload EDVOS requires 8 FTEs to respond to intake. EDVOS to receive additional funding for 1.4 FTE positions in Women's intake.

### **1.1.3 Recommendations to improve current women's intake systems**

- That funding for secure and emergency accommodation be increased to ensure that there is sufficient appropriate accommodation available to house women and children who are unable to remain safely in their home.

There has always been a chronic shortage of refuge accommodation. This situation has worsened with the increased reporting of family violence. The increased stress on the refuge services has resulted in women being accommodated in motels with limited support. This type of accommodation can be totally unsuitable for some women, particularly for women with children, and women with limited English.



## 1.2 Men's Intake

EDVOS's Victoria Police referral agreement includes the Men's Enhanced Intake (MEI) program.

This program provides funding for 0.5 FTE (19 hours per week). The MEI worker's role is to make contact with all male perpetrators detailed on the L17s.

Due to the high volume of referrals and the limited resources, EDVOS now categorises Male perpetrators into high priority and low priority based on the police assessment. High Priority offenders receive a call from the MEI worker informing them that the community does not accept their behaviour, a Men's Behavioural Change Program is available to them and we can facilitate a referral for them into one of these programs. The average time of each call is ten minutes.

Male perpetrators categorized as low priority receive a letter stating that their behavior is not accepted by the community and enclosing a brochure for the Men's Referral Service and the Eastern regions Men's Behaviour Change Programs.

**The male perpetrator is not contacted until EDVOS has made contact with the female victim and completed safety planning with her.**

An aim of the program is to provide the man with the opportunity to take responsibility, respond differently and make changes in his life. It is a useful initial intervention and another mechanism to assess the safety of the women and children.

The uptake by high priority male perpetrators to the offer of a referral to their local Men's Behaviour Program is very low. The MEI worker offers to contact their local MBCP on their behalf and provide the program with their details with the understanding that the program workers will then contact the male to complete intake into the program.

In 2012/13, the MEI worker made 1174 calls and only 55 accepted the offer, an uptake of 4.6%

In 2014/15 up to the end of April 15, the MEI worker has made 2080 calls and only 57 have accepted the offer, an uptake of 2.7%.

Due to resource constraints and prioritizing the calls, EDVOS does not collect data on how many of these men enroll and complete the program. Anecdotally, it appears a significant number do not complete the program.

### 1.2.1 Gaps and deficiencies with EDVOS's Men's Intake

- There is insufficient funding to contact low priority male perpetrators by telephone.
- Because of the limited funding for the program, and the limitations of the funders database EDVOS is unable to collect data to evaluate the program, therefore unable to provide evidence that the program is effective. EDVOS holds the position that it is valuable for men to be informed that their behaviour is unacceptable. Research shows that men require to be told by a number of outside sources that their behaviour is unacceptable before they contemplate change; we hope that some of our phone calls may provide that tipping point.



### **1.2.2 Recommended improvements to EDVOS's Men's intake**

- To call all male perpetrators and collect data to properly evaluate the efficacy of the program, Men's intake requires 1.5 EFT additional staff.

### **1.2.3 Recommendations to improve current Men's intake systems**

- Review national (e.g. Gold Coast) and international research (Duluth and New York Batterers Model) into responding to male perpetrators to identify and develop initiatives to effect change.



## 2. Domestic Violence Advocates (DVAs) Services

After an initial intake assessment, women who require and would like support from EDVOS are allocated a Domestic Violence Advocate (“DVA”). EDVOS currently employs 18 (FTEs) DVAs.

The DVA will work with the woman to identify her needs and access appropriate services and support. The initial meeting is usually at EDVOS offices and involves the DVA and the woman developing a plan encompassing her safety, any children’s safety and addressing any identified needs. At the end of the meeting, the woman is offered a copy of the plan. The DVA will regularly check in with the woman to review the plan, including updating risk assessments and safety plans. At all times, EDVOS endeavours to empower the woman to help herself.

The majority of EDVOS funding is to provide women with up to 13 weeks of assistance and support while a small amount of funding is available for support periods of up to 6 months. While many women would benefit from the 13 week support due to the significant demand and the concerns staff hold with turning women away, EDVOS made a decision to assist women based on higher risk, but usually for shorter support periods. Of course, not all women require the 13 week support period either, and any unutilised support hours are reallocated to women with more complex needs who may require longer term support or to support clients in excess of the funded quota.

Women who present with more complex needs may come from newly arrived and/or culturally linguistic and diverse communities; they may have immigration issues or suffer

from mental illnesses, have drug and alcohol problems, gambling problems, financial and legal issues; they may be homeless; and when the woman has children they are often suffering trauma from experiencing family violence.

The support from EDVOS may include the DVA attending legal appointments and court hearings with the woman, and drafting court and other documents. For many women, the abusive person may use the legal system to further disadvantage her and her children. Support also consists of assisting in negotiations with Centrelink and the Office of Housing, accessing accommodation and advocating with the Department of Immigration and Border Protection in relation to visa status. The more complex the woman’s needs, the more time EDVOS will devote to supporting her to achieve her plan.

EDVOS also has an afterhours ‘on call team’ that are available to attend out of hours appointments to provide information, emotional support, material aid, and other support ([see section 5](#)).

EDVOS has a DVA who is a designated Aboriginal Liaison Officer. This work supports and assists any Aboriginal or Torres Strait Islander women, or Aboriginal or Torres Strait Islander children who are seeking EDVOS assistance. The number of Aboriginal women and children using EDVOS services has increased with the introduction of the Aboriginal Liaison Officer role. All EDVOS staff complete Cultural Competency Training.

The Appendices contain a collection of DVA worker stories.



## 2.1 Gaps and Deficiencies with services provided by EDVOS's DVAs

- Women leaving violent partners/ex partners (or other family members) often have complex legal needs; including negotiating time with children, responsibility for debt, division of property, tenancy and immigration status and obtaining court orders. Some women also require legal advice in relation to criminal matters. Our DVAs spend a considerable amount of time arranging and attending legal appointments with their clients. It is not unusual after waiting for and attending such appointments that the organisation approached refuses or is unable to assist.
- There is no government funded legal assistance for victims of family violence on a temporary, tourist or prospective marriage visa. There is limited legal support for women on temporary spousal visas. EDVOS has forged relationships with community legal services that are at capacity but who will guide and review the documents prepared by the DVA. This limited legal support puts the responsibility back onto our DVAs to advocate on behalf of the woman with the Department of Immigration and Border Protection. EDVOS is fortunate to have staff that are prepared to step outside their training and expertise to endeavour to do this work but this is neither ideal nor sustainable.
- The women with drug and alcohol, disability or mental health issues are often receiving supports from other specialist community services. Many of these services lack a sophisticated understanding of family violence and do not factor it into support plans for the woman. It is not uncommon for these services to be reluctant to work with EDVOS to develop a safety plan for the woman that reflects both her safety and health needs. Frequently plans developed for woman with health needs break down because of the failure of other support services to recognise the impact that family violence has on the woman's capacity to respond and implement any health plans.
- In the Eastern Region of Melbourne there are minimal affordable housing options. Rents are high requiring women to often spend more than 55% of their income on accommodation making them ineligible for bond assistance and rent in advance from Centrelink as the tenancy is considered to be unsustainable. The high cost of alternative accommodation is a major factor in a woman's decision to remain in a violent relationship. Even when the woman can access transitional housing (which is in short supply), the expectation is that she will move into more permanent accommodation. The Centrelink crisis payment is not sufficient to even rent a cabin in a caravan park in the Eastern Region. Public housing is often not a viable option due to the extensive waiting list, even for priority housing. It is common for women to wait 8 – 15 months (or longer for women with many children, or special needs) for priority public housing. It is also disruptive for the family as they may settle into the community where the transitional property is, and then often have to relocate to a new area for the public housing.
- In developing immediate and long term safety plans it is important that women know when perpetrators are going to be released on bail or from prison after completing a sentence. There are currently no reliable procedures that will ensure that the courts advise victims of changes in the status of offenders appearing before courts. It is very difficult for women to



get information when a perpetrator is on remand or serving a short sentence. If a perpetrator on remand is released on bail, it is not uncommon for their victim to be unaware of his release and any conditions. It is not unusual that the perpetrator gives their victim's address as his place of abode. Unfortunately, on occasions the courts have failed to check as to whether any intervention orders exist barring the offender from living at this address. Where offenders are sentenced to short periods of imprisonment there is insufficient time for their victims to register with the Department of Justice and Regulation Victims of Crime Register service which will notify the victim of the offender's release date. This lack of effective notification procedures means that women are not aware that they may need to review and update their safety plans, or intervention orders resulting in women and children being at significant risk

## 2.2 Recommended improvements to EDVOS's services provided by DVAs

- EDVOS requires funding to employ four FTE qualified practicing lawyers. The lawyers would work as a team to provide prompt legal advice, and act for women in areas of need at both intake and resourcing. The lawyer will act at directions and contested hearings for intervention orders, recovery order applications in the Family Court, before the Department of Immigration and Border Protection and at VOCAT. Victoria Legal Aid and the Community Legal Centres do not represent women responding to domestic violence. In-house lawyers will provide women with a timely, holistic service.
- EDVOS requires funding to employ an additional eight FTE DVAs to effectively respond to the referrals for assistance received from police and other community services

## 2.3 Recommended improvements to current DVA responses

- That education and training be provided to health care providers, in particular in relation to the impact that family violence has on the clients' capacity to commit to and implement a health strategy plan.
- Funding to be provided for the development and implementation of co-case management between health providers and family violence support services to prevent and/or reduce further incidents of family violence.
- That effective systems and procedures be developed by the Department of Justice to ensure that victims of family violence are advised and updated in a timely manner regarding the status of the perpetrator's court matters. It should be the responsibility of the court and the justice system to advise victims of family violence where perpetrators are released on bail or complete a sentence of imprisonment. The responsibility to be informed should not be left with the victim. Consideration should be given to automatically including all victims of violence on the Department of Justice registry upon a perpetrator being sentenced.



### 3. Court Applicant Workers Service

The EDVOS court applicant workers provide information and support for women attending the Ringwood Magistrates' Court seeking intervention orders. They attend the Ringwood Magistrates' Court three days per week.

Tuesdays and Fridays are 'police family violence court sitting days' for the hearing of police applications and Mondays are 'self-applicant court sitting days' for the hearing of applications made by the victims on their own behalf.

Each working day, a court applicant worker reviews the L17s police referrals and identifies clients for whom the police will be making an application for an intervention order, and contacts women to provide information and support, including safety planning prior to the hearing.

On the morning of every police family violence court sitting day, our Court Applicant Worker attends a co-ordination meeting attended by the Police Prosecutor, the Police Family Violence Liaison Officer, the Family Violence Registrar and the Duty Solicitors from Eastern Community Legal Centre (ECLC) and Victoria Legal Aid (VLA). The purpose of the meeting is to discuss any issues that may arise during the day such as the need for interpreters, any relevant legal issues, court processes and safety issues. As our staff have read all relevant L17s, they identify at the meeting any women who will be attending court who are at high risk of on-going family violence.

On every self-applicant court sitting day, our court applicant worker receives the court list

from the Family Violence Registrar and she makes contact with the victims and offers them assistance. The Court Applicant Worker meets with the women and discusses with them their needs to be addressed by the intervention order. The worker liaises with the duty solicitors to identify appropriate intervention order conditions that will protect the woman.

As well as liaising with the court personnel, the Court Applicant Worker is responsible for providing emotional support to the woman who is often highly distressed and anxious. For many women this may be the first time they have entered a court, and the court processes are foreign to them.

In addition to this, the Court Applicant Worker assesses the on-going safety and other needs of the woman and may refer them to EDVOS or other appropriate community services.

If an EDVOS client is involved in a contested hearing for an intervention order, the Court Applicant Worker will continue to provide support and attend the hearings with the woman.

Ringwood Magistrates' Court has recently been funded to employ court workers for both the applicant and respondent. The positions have not yet been filled.

Initially EDVOS received project funding to trial the court applicant role in 2002, and developed strong relationships with all court support staff. As we consider this a crucial role for women attending court, we now resource this role from general outreach funds.



EDVOS seeks to remain at Ringwood Magistrates' Court to continue this work. Court workers employed by the Department of Justice work within a different response framework and they are answerable to the

Magistrates. EDVOS court applicant workers have an obligation to represent and be answerable to the victim. These are two distinct paradigms and each offer a valuable but different service to the victim.

### **3.1.1 Gaps and Deficiencies with EDVOS's court applicant workers service**

- EDVOS has worked extremely hard to develop positive and effective relationships with a range of court staff and users. The work performed by EDVOS staff in the court is highly respected by the police, duty lawyers and court staff. Regrettably, the attitude of some Magistrates at Ringwood Magistrates' Court towards EDVOS court applicant workers is dismissive and at times hostile. On occasions, Magistrates have threatened to have EDVOS staff removed from the court, ignored the court applicant worker's presence in their court room, criticised their role within the court and questioned the value of the support provided to victims of family violence.

### **3.1.2 Recommended improvements to EDVOS's court applicant workers service**

- That the role of the EDVOS Court Applicant Worker is respected by the judiciary. Section 73 of the Family Violence Protection Act 2008 allows the court to admit evidence from an expert witness about the dynamics and characteristics of family violence. An 'expert witness' is defined by the Act to mean a witness with relevant qualifications, training or expertise in family violence. EDVOS calls upon Magistrates at Ringwood Court to call our workers as expert witnesses in hearings for intervention orders.
- To augment EDVOS's Court Applicant Worker Program, EDVOS requires four FTE qualified practicing lawyers experienced in all areas of law impacting on a victim's safety and security. These lawyers will work as a team and attend the Ringwood Magistrates' Court to appear on behalf of EDVOS clients at directions and contested hearings. Victorian Legal Aid and Eastern Community Legal Centre are not funded to appear at intervention order direction hearings.





## Five observations of justice responses for victims of family violence at Ringwood Magistrates' Court and recommended improvements

### 1. Attitudes and Belief Systems held by some Magistrates

EDVOS staff report the biggest obstacle for woman seeking protection from male violence in the inner and outer eastern region of Melbourne is the attitude and belief system held by some Magistrates at Ringwood Magistrates' Court. EDVOS staff sit with women at the Ringwood Magistrates' Court providing emotional support. They witness the Magistrates' behaviour towards the women and see its emotional impact on victims. Despite many years' experience and training, some Magistrates at Ringwood Court continue to apply a narrow definition of family violence to their decision making. This is despite the broader definition of family violence that was enacted in the Family Violence Protection Act 2008. They appear to have very little understanding of a woman's experience, the impact that this has on the woman's capacity to protect herself and her children and little if any empathy. Victims hold judges in high esteem and when their experience of violence is minimized or discounted by the judiciary, many women start to question their own experience and right to be safe. As a result of these experiences, some victims are reluctant to pursue remedies through the court system as they come to believe that the perpetrator's rights have higher priority than their own.

The processes some Magistrates at Ringwood apply in relation to intervention orders and protecting women's safety place victims at risk of on-going abuse.

For example:

- Some Magistrates insist that the affected family member and the respondent reach an agreement regarding the care of children before granting an intervention order. The Family Violence Protection Act 2008 requires Magistrates to enquire into the needs of children separately to the needs of adults. By insisting that parties agree to arrangements for spending time with children, the Magistrates are failing to take into account the impact family violence has on children and could be placing them at risk of experiencing on-going family violence and trauma. Insisting that the victim enters into such an agreement minimizes her own and the children's experience and provides opportunities for the perpetrator to maintain control. These decisions place the perpetrator's desire to spend time with his children above the safety needs of the woman and children. It is contrary to the Act.
- It is a common tactical practice for lawyers representing respondents to advise them to make cross applications notwithstanding that the perpetrator has no substantial evidence of violence against him. On the day of the hearing, pressure is placed on the woman by the man's lawyer to consent to the perpetrator's application on the proviso that the perpetrator will consent to the victim's application. Some Magistrates at Ringwood are willing to grant



these cross applications without questioning the basis for either order. It appears to be a convenient way for the Magistrate to manage these matters. By failing to inquire properly into the circumstances of either application, the Magistrate minimizes the experience of the women and children and fails to adequately hold the perpetrator to account. It also can place the victim and her children at risk of further violence.

- A Magistrate at Ringwood granted a variation to an order ex parte. The woman had an intervention order that excluded her partner from the home. She returned home to find her partner seated at the kitchen table. He told her that he had obtained a variation to the order allowing him to return to live at the family home and handed the woman a copy of the order. The Family Violence Protection Act 2008 requires the affected family member be given an opportunity to respond to any application for variation by the respondent. On this occasion the affected family member was not notified of the respondent's application and she was not given an opportunity to respond to it. As a consequence the woman and children had to leave the home for their own safety.
- In a recent case before the Ringwood Magistrates' Court, the perpetrator contested the intervention order. The contested hearing was adjourned by the Magistrate four times at the request of the perpetrator. The woman attended Court on seven separate occasions over a 12 month period before the perpetrator eventually consented to the order being made. The perpetrator in this case was clearly using the court processes to exercise control over the woman and the court permitted this to happen. Frequent and on-going adjournments of contested matters are not uncommon.

The existing complaints procedure is inadequate, not transparent and discouraging. It emphasised the independence of the judiciary and the Chief Magistrates' lack of power to discipline or remove the Magistrates. The complaints procedure stresses that the only action the Chief Magistrate can take is to counsel the Magistrate in question. On two occasions EDVOS has written to the Supervising Magistrate at Ringwood expressing concerns about decisions made by the Court in relation to intervention orders. On each occasion EDVOS received an acknowledgment of their complaint but EDVOS staff reported no change in Magistrates' attitudes or court procedures. Neither was EDVOS advised of any outcome in regards on their complaint.

### Recommendation

- That the Judicial Commission of Victoria Bill 2010 be re-introduced to Parliament and enacted.

## 2. Non Bona Fide Intervention Order Cross Applications

When a woman consents to an intervention order against her by her alleged perpetrator on the basis that he will consent to her application, the resulting orders are known in the sector as "mutual" intervention orders. Mutual intervention orders provide an opportunity for the perpetrator to use allegations that the woman is contravening his intervention order as a tool to continue to control. Conditions placed on mutual orders are often difficult for the police to interpret and enforce appropriately as the victim is also named as the perpetrator of family violence in the



court system. Police may incorrectly infer that the woman is equally violent towards her partner and may make inappropriate decisions based on the existence and their interpretation of the mutual orders.

### Recommendation

- That the Family Violence Protection Act 2008 be amended to prevent the practice of non bona fide cross applications.
- When cross applications are made both parties receive funding for legal representation.

### 3. The invisible Perpetrator

One of the purposes of the Family Violence Protection Act 2008 is to hold the perpetrator accountable for his behaviour. It is not uncommon that perpetrators do not appear before the Court in response to the service of intervention order applications. Under the Act, orders can be made ex parte and the perpetrator may never appear before a Magistrate. The only contact a perpetrator may have with the wider judicial process is when police serve an intervention order. The recent amendment to the Act allowing for a condition to be placed on interim orders that the final order can be considered served if the perpetrator consents to the order or does not oppose it (simply by not appearing at Court) further reduces the opportunity for a Court to hold him accountable for his behaviour. When perpetrators have been bailed by police to appear at Court for the hearing for the interim order and does not appear, the Court is reluctant to issue process to bring the perpetrator before the Court. It is uncommon for police to charge these offenders for the offence of failing to answer bail under the Bail Act. Under the Family Violence Protection Act, the Court has the power to issue warrants to bring perpetrators to Court for the intervention order hearings. This is not the practice at Ringwood Magistrates' Court.

### Recommendation

- That the Family Violence Act 2008 be amended to require the Magistrates to issue legal process to bring all respondents before the court to be held accountable for their behaviour.
- That Magistrates invoke the provisions of the Bail Act in all incidences where the respondent fails to appear.

### 4. Unacceptable Two Week Waiting List

Women making self-applications at Ringwood Magistrates' Court are required to make an appointment with the Family Violence Registrar who will prepare the application. There are appointment times available every day of the week, however due to demand; **there is currently a two week waiting list**. This is extremely concerning as the women may be vulnerable to on-going abuse during this time. When the victim attends the appointment, the Family Violence Registrar may then identify she requires urgent protection and place the matter immediately before a Magistrate. If the Court Registrar does not identify the matter as urgent, the application will



progress by summons further delaying the matter for at least another fortnight. Unless there are further incidences of family violence between making the appointment and the appointment, there is a danger that the seriousness of the behaviour that initiated the application may be minimized and not be regarded as urgent. In contrast, if police attend a family violence incident there are no delays, they may issue a Family Violence Safety Notice and the hearing for the interim intervention order will occur within five working days. Unlike women who receive assistance from the police, the delay between a self-applicant's initial contact with the court and the hearing can place the women at high risk of on-going violence and abuse.

### **Recommendation**

The process for self-applicants is streamlined to reduce waiting times.

## **5. No funding for Directions Hearings**

Currently VLA and ECLC are not funded to appear for parties at directions hearings. This results in women having to represent themselves and negotiate directly with the court, the perpetrator or his lawyer. There are few women who would have the knowledge or the capacity to represent their interests effectively. This can result in women accepting conditions on intervention orders that do not protect them or accept an undertaking by the perpetrator to be of good behaviour. A woman cannot make an application for legal aid funding until the direction hearing determines that the matter will progress to a contest. It is unreasonable to expect women responding to family violence to understand the process and have the capacity to make an application for legal aid funding without assistance.

### **Recommendation**

- Victorian Legal Aid and the Community Legal Centres are funded to appear for applicants at directions hearings for contested intervention orders. We recommend that future EDVOS lawyers will also appear on behalf of EDVOS clients at directions hearings.



## 4. Repeat Police Attendance and High Risk Response Program

The Repeat Police Attendance and High Risk Program commenced in March 2014 bringing together EDVOS and Victoria Police as a team to proactively connect high risk victims of family violence with dedicated EDVOS Domestic Violence Advocates (DVAs).

There are two program sites; Glen Waverley Police Station (Inner East program) and Croydon Police Station (Outer East program) and an EDVOS staff member is allocated to each program.

The purpose of the program is to provide a coordinated response to women who are living with a violent man and, police are attending to family violence incidents on multiple occasions and/or the violent man is repeatedly contravening an intervention order.

Police and EDVOS staff make joint visits to these women to assess their ongoing support needs and to develop safety and response strategies to keep the women safe.

A weekly "visitors' list" is prepared jointly by police and EDVOS, with most of the list being instigated by police. EDVOS can add clients to the list. There is a maximum of nine women on the list each week.

The Inner East program weekly visiting day is Wednesday and the Outer East program is Tuesday.

EDVOS staff meet the police at the relevant police station at 2pm for a briefing and initial planning regarding the visits. Generally, the police do not make appointments or advise

the woman of the visit by the team. They are 'cold' visits. Police will provide the woman with information and advice in relation to intervention orders and take statements in relation to criminal offences. The EDVOS worker will assess the woman's needs and provide information and referral to appropriate services. The Team will assist the woman to develop a safety strategy and endeavour to reach an agreement on how she and the police will respond to any future episodes of family violence.

If police identify that a woman is at high risk, arrangements will be made to respond immediately rather than wait for the next available 'visiting' day. They contact the EDVOS worker and request that the worker contact the woman by phone to discuss immediate safety planning.

Representatives from both Victoria Police Family Violence Units and EDVOS meet monthly to report on the progress of clients and discuss any concerns or issues that have arisen. The meetings are chaired by an EDVOS Team Leader.

These meetings should also be attended by a representative from the Department of Health and Human Services, Child Protection Unit, however their attendance is intermittent.

Based on international and local research, and on our long history working closely with Victoria Police in the region, this program is an extension of two programs we developed in 2011, the High Risk Response, and the Repeat Police Attendance pilot



programs. Initially we began receiving the L17's and connecting with women in 2004 prior to the introduction of the Victoria Police Code of Practice to Investigate Family Violence.

The relationship building that occurred during both the development stages and learning during the pilot periods enabled the partners to move quickly when the two Victoria Police Family Violence Units became operational in the region.

The success rate of engagement is significantly higher with family visits compared to the standard engagement strategy of phoning women to offer information and support. One year into the program the outcomes show the success of the program. For example, from March 2014 – February 2015, the team made 174 home visits in the Inner East, with 79% of the women engaging with our DVA and participating in safety planning. Of the remaining 20%, just eight women were not interested, while 29 were not able to be contacted.

EDVOS staff report that this is one of the most innovative and positive programs that they have been involved with. The program has enabled them to develop strong professional working relationships with police resulting in

better outcomes for victims of violence. EDVOS and police working on the program have learnt from each other and taken these learnings back into their individual work places.

This program has proved effective in engaging victims of family violence who previously failed to engage with police and support services. One of the unexpected outcomes has been the reduction of on-going violence experienced by the victims. Although not initially designed as a prevention program it has been successful in reducing on-going violence.

The Victorian government has recently funded Risk Assessment Management Panels (RAMPS) within a strengthening risk management program across the state and created positions for RAMP coordinators. EDVOS will auspice the RAMP Co-ordinators for the inner and outer Eastern Region. The RAMP model does not include police and EDVOS conducting home visits.

In addition the commitment to the RAMPs program, EDVOS and the police in the Eastern region intend to continue with the Police Repeat Attendance Program.

#### **4.1 Gaps and Deficiencies of the Police Repeat Attendance and High Risk Response Program**

- EDVOS require funding to implement this program to initiate additional visits with police to at least five days per week.

#### **4.2 Recommended improvements to co-ordinated programs**

- Where there are co-ordinated responses between government and community services that all government departments are required to participate fully and held accountable if they fail to fulfil their agreed obligations.



## 5. Eastern Crisis Advocacy and Response Service (ECARS)

The ECARS program was established six years ago and is a partnership with Safe Steps Response Service and Safe Futures Foundation. It was designed to provide an after-hours, week-end and public holiday face-to-face response for women and children who were required to leave their homes as a result of family violence.

EDVOS has workers (the "ECARS worker") on call from 5pm to 9am week nights and from 5pm Fridays to 9am Mondays. A manager provides "back-up" for the worker's safety, and is able to provide the ECARS worker with advice and or debriefing if required.

Referrals to the ECARS program are made by Safe Steps, via a police referral or self-referral. While women may be supported at a hospital or a police station, most often the ECARS worker supports women, and women with children, when they have been placed in

emergency accommodation in the Eastern Region, usually a motel room.

The ECARS worker will contact the woman by phone and conduct a safety and initial needs assessment. If material aid is required, such as nappies, baby formula, emergency clothing, and cab charge vouchers, the worker will purchase these goods and leave them at the motel reception desk. As a consequence of a number of incidents where staff were placed in difficult circumstances when visiting women in motels, the ability of the ECARS worker to visit women in their motel rooms is under review.

Once the safety planning and material aid has been provided, the ECARS worker will report back to Safe Steps who make appropriate arrangements to place the woman in more permanent accommodation.

### 5.1 Gaps and Deficiencies of the ECARS program

- There is a lack of suitable appropriate accommodation available for women and children who need to leave their homes immediately for safety reasons. Often supported accommodation would be more appropriate.
- After the initial launch of the program there was high recognition within the family violence sector and the police of the service. As knowledge of ECARS diminished over time due to changes in staff, the numbers of referrals to the service have decreased. Program models such as ECARS need to be constantly brought to the attention of services to ensure that new staff entering the sector are aware of it. The program would benefit from funding for community development and evaluation.
- EDVOS require funding to employ a community liaison and education officer to ensure referral pathways and programs are known in the community and service sector.



## **5.2 Recommended improvement to afterhours responses to victims of family violence**

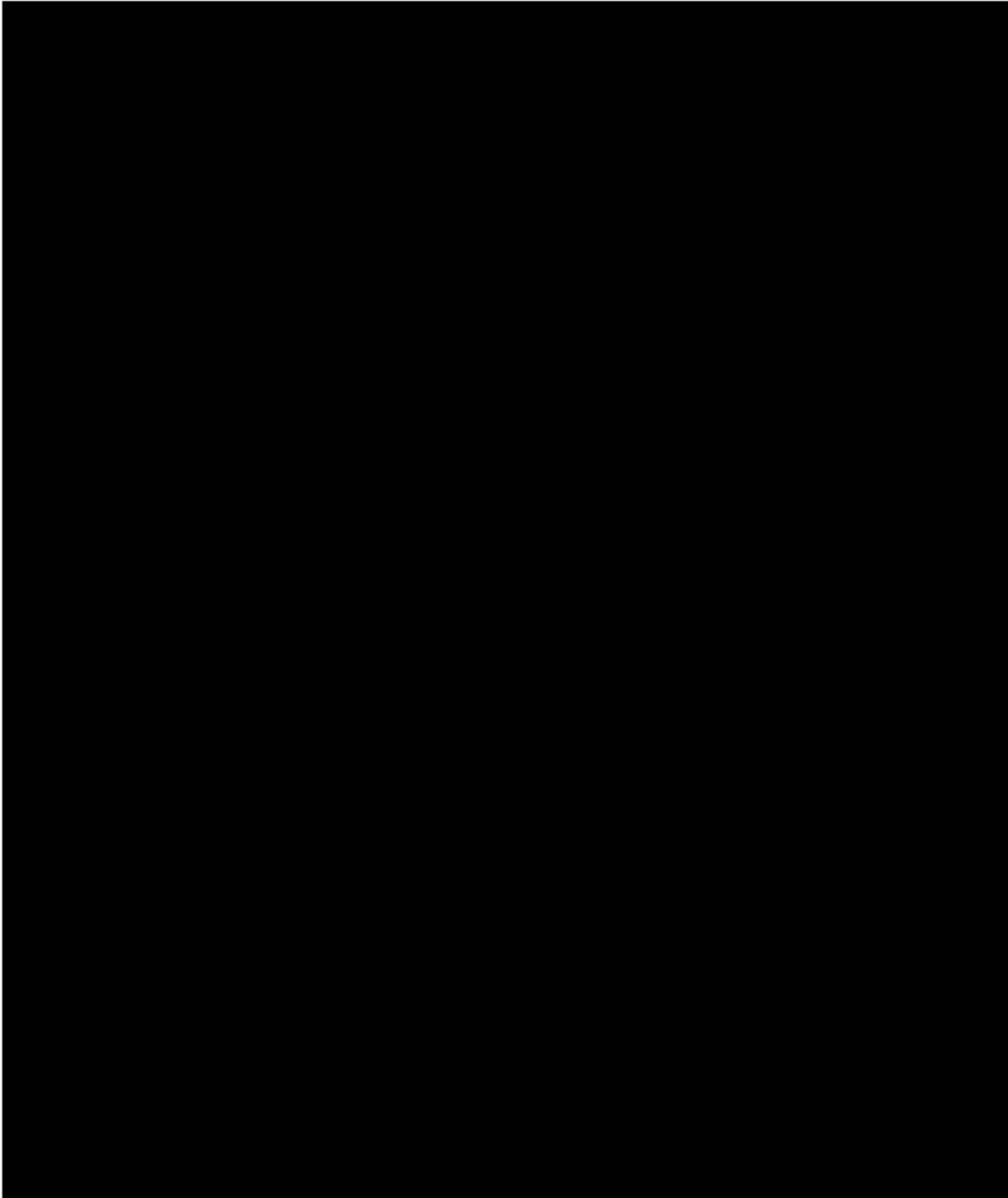
- Part of all programs should include funding for review and evaluation in order that programs are continuously improved so that they provide the most effective and value for money response to the victims.
- Given the high turnover of staff in the government and non-government sectors, community funding be provided to maintain awareness of the programs.

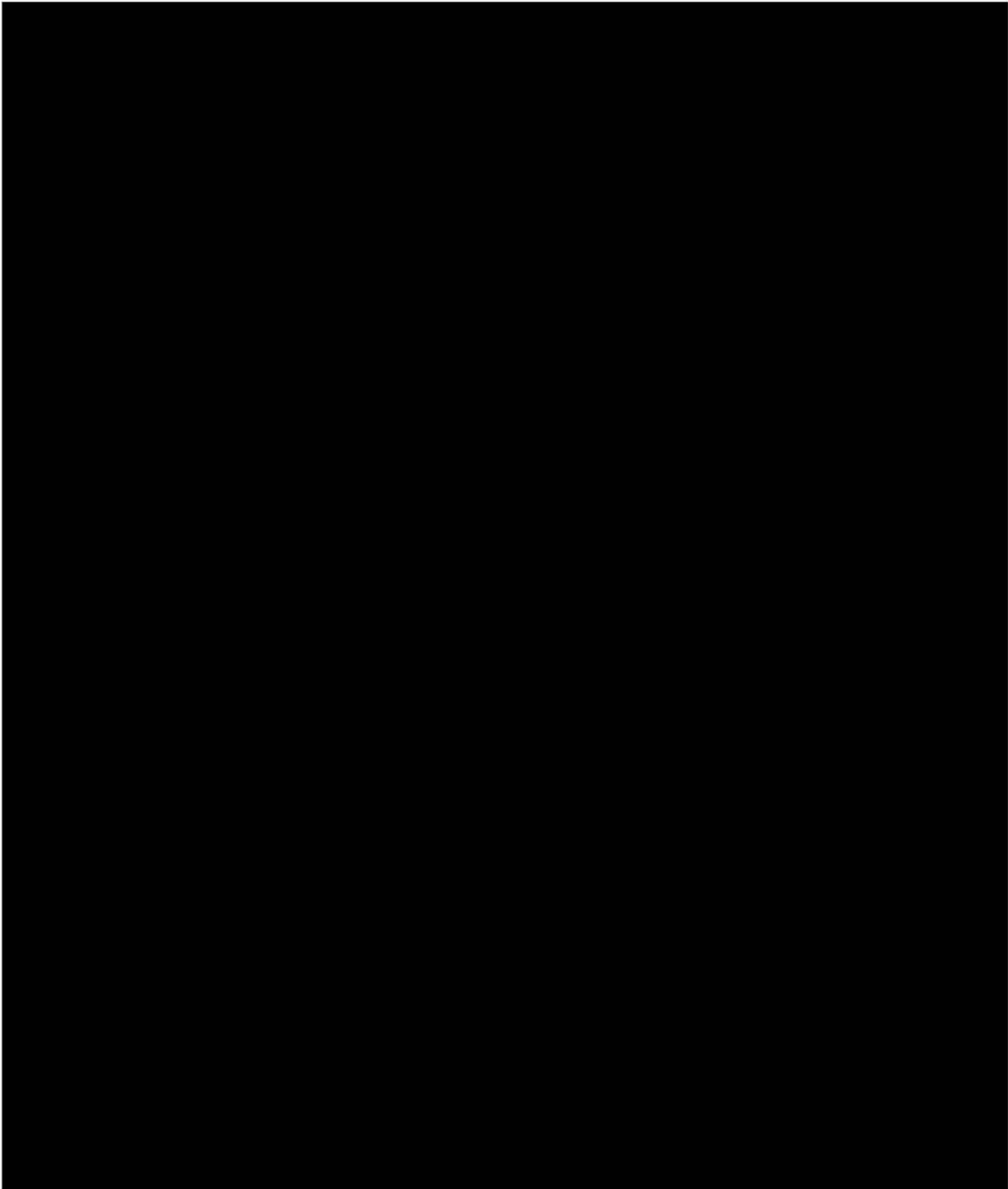






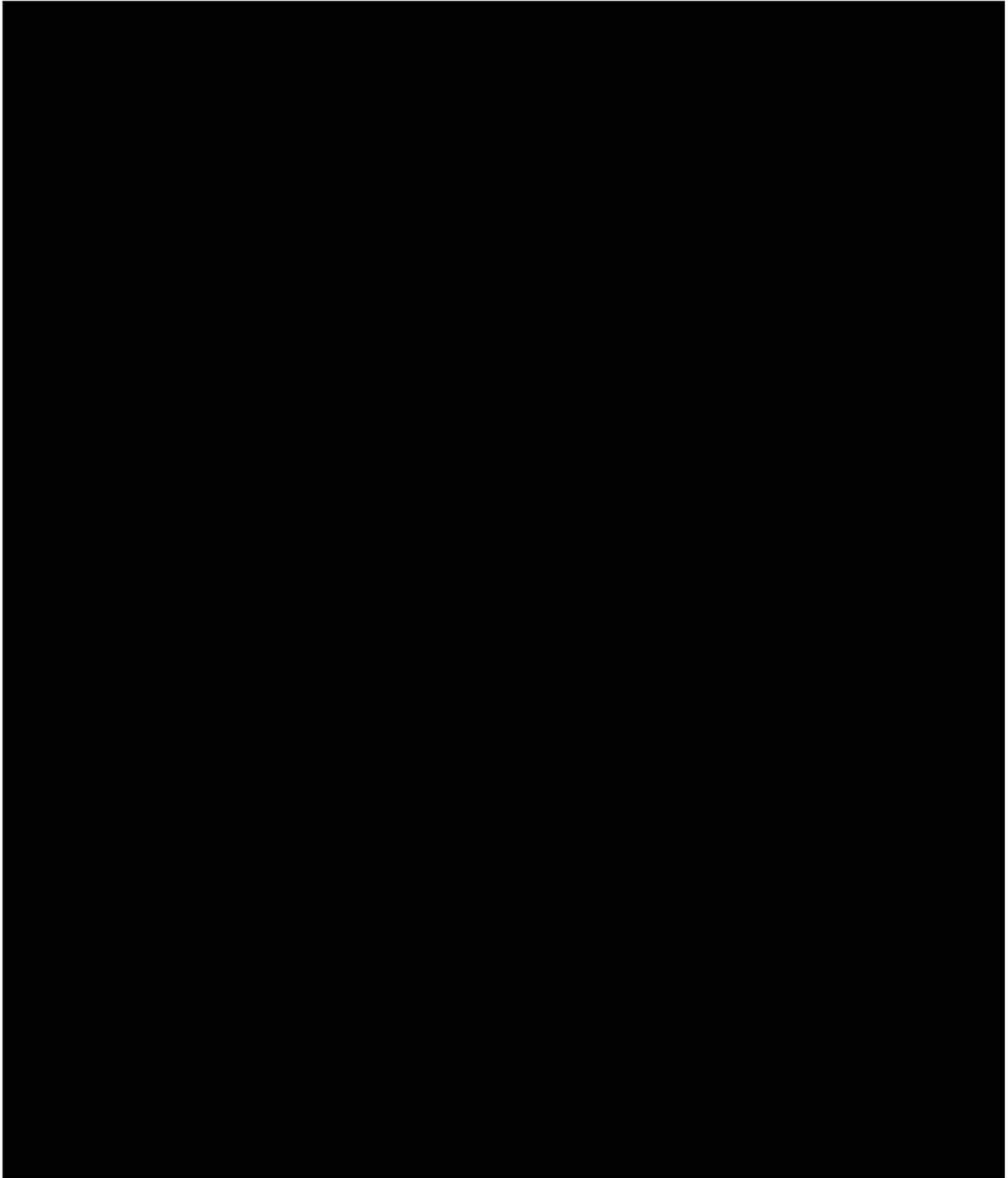
## Appendices **CONFIDENTIAL**







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