

Submission to the Victorian Royal Commission into Family Violence

I make this submission with reference to the RCFV Issues Paper and include some general concluding comments.

Each 'Issue' raised in the RCFV Issues paper warrants thorough consideration. Specific Issues that require priority and action are:-

1. Housing

There is a critical and urgent need for the state and federal governments to provide substantial funding for state-wide resources and services specifically devoted to the provision of crisis, emergency, interim, transitional and long-term housing access for individuals and families escaping domestic violence. This is vital and urgent.

The current un-met need for this housing is substantial and the supply deficit becomes more pronounced by the day.

Without 'escape routes', victims can be effectively condemned to 'toughing out' the pain, the terror, the horror of living in a violent home.

2. Police Powers

I am aware of at least 1 case wherein Victoria Police took it upon themselves to alter a Court Intervention Order. On any reading this must surely be illegal. I find no basis in the justice system that would allow a law enforcement officer to effectively intercede in and over-ride an Order of a Court.

In the instance with which I am familiar the consequences of that action by Victoria Police resulted in a tragedy for a mother and her children and a flagrant, galling abuse of justice, certainly natural justice and I would hope 'black letter law'. That this action by Victoria Police has never been properly scrutinised by the Court or any other Court tarnishes those judicial authorities also. The failure of process and the horrible consequences for this family are an outrage perpetuated by the 'justice' system. Victoria Police and the Court are complicit in their acts of commission and omission in this instance.

3. Legal Representation by a practitioner related to both parties to an IVO.

In the FV case to which I have referred above, the respondent (the husband) was represented by his brother in a matter between that husband and his (then) wife. The husband's lawyer – the brother in law of applicant and best man at the wedding of the 'couple' – set aside ethics, principle and, in my lay view, his duty and his oath to uphold the best professional standards of his job and conspired with the husband to manipulate and manoeuvre the processing of the IVO to their own ends.

This practice, if not outright illegal already must be made so at the very least where personal relationships are involved as in this case.

4. Education of the Judiciary

The judiciary, in dealing with FV, must be equipped with a thorough understanding of the behavioural and psychological dimensions of FV.

Whilst physical trauma is demonstrable and can be 'timelined', other forms of manipulative, controlling abuse such as Gaslighting, passive/aggressive and covert/aggressive behaviour, subtle and devastating assaults on the well-being and stability of a partner (usually but not always the female partner is victim) are difficult to demonstrate, track and comprehend. This problem is profound and needs immediate and substantial attention. The health and safety of families, in instances their very lives, do depend on the judiciary and its Courts knowing what the hell is going on in FV and making it their business to protect people, not broken judicial processes.

5. General Comments

The judiciary and state enforcement agencies (eg Police, Child Protection, etc) must meet the mandated obligations set down under relevant UN Conventions regarding the rights of the child, of women, of men to judicial fairness. Statutory and regulatory changes such as are needed to secure this should be recommended by the RCFV.

FV is a social and human right tragedy. We are morally, ethically and legally under UN and Victorian Human Rights Charter to protect our people from this on-going tragedy through means such as those I have addressed above.

Mark Towler

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