

Submission to Royal Commission on Family Violence

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1 Introduction

This submission is made by Thomson Goodall Associates Pty Ltd (TGA), a Melbourne based independent consulting organisation.

TGA has undertaken a number of consultancies in the family violence sector pertaining to service responses for women and children, and men. Much of this work has been for the Department of Human Services.

The submission covers two areas in which Thomson Goodall Associates (TGA) has particular knowledge:

- ❑ Engagement of men who use violence in behaviour change programs (based on TGA's evaluation of Enhanced Service Intake, MRS AH service, Men's Case Management Services, and Indigenous Men's Case Management Services for DHS, 2011)
- ❑ Risk Assessment and Management Panels (based on TGA's evaluation of RAMP pilots for DHS, 2013/14; and development of Statewide Guidelines and Service model for family violence Risk Assessment and Management Panels, for DHS, 2014).

2 Engagement of men with a view to changing their behaviour

2.1 Current situation

In Victoria, approaches to men's behaviour change are:

- based on a limited model, mainly using psycho-educational groups, designed for men who are contemplating change, and which are not suitable for men with complex issues
- largely seen to be the responsibility of non government organisations such as community health and family support services
- underfunded, with the lack of resources directly affecting the capacity to change men's behaviour
- poorly evaluated – in terms of the number and quality of evaluations.

The current situation in Victorian may be contrasted with approaches in some foreign jurisdictions which involve more complex models of varying type, intensity and duration, matched to different perpetrator groups; a coordinated multi-disciplinary approach to men's behaviour change; funding arrangements which include contributions by men; and more comprehensive evaluations.

Men may contemplate changing their behaviour for a number of reasons, including orders and coercion by the criminal justice system, and/or as a result of their interaction with related agencies (eg. Child Protection, drug and alcohol, mental health), and with friends, family, work colleagues/employers, etc.

Men's Behaviour Change Programs (MBCPs) are the primary 'therapeutic' response to changing the behaviour of men who use violence. Men's Behaviour Change Programs

have been in place for a number of years in Victoria, provided by community health services and family support agencies. The Department of Human Services funds a number of agencies to deliver MBCPs throughout Victoria. There are relatively few other options which specifically aim to change men's violent behaviour towards women.

MBCPs include several components including intake (assessment), referral, partner contact, liaison with other services, one to one counselling, group work, and follow up. Men's groups are the primary community based strategies by which men are assisted to change their behaviours. Men who are assessed as unsuitable to participate in a MBCP may be referred to counselling, drug and alcohol programs, mental health support or other programs.

MBCPs traditionally received self referrals, as well as referrals from community health and other health services, DHS Child Protection, Courts, Corrections, Victoria Police and other sources.

2.3 Victoria Police referrals to MBCPs

Over the past 10 years the volume of family violence referrals from Victoria Police to men's services has increased significantly. This has resulted from legislative and policy reform and changed police practices when attending family violence incidents.

The Victorian Police Code of Practice provides for formal and informal referral of perpetrators to men's services, as part of integrated ongoing risk assessment and risk management. These referrals are in addition to criminal or civil responses to the perpetrator, by the police.

In the past there has been some variation in police practice when attending family violence incidents. This is evidenced by differences across police areas in the proportion of family violence incidents attended which result in civil action, criminal action and referrals. These variations depend on police attitudes towards family violence at a local level. As well as attitudes of individuals, organisational differences (eg. presence of an FVLO, and Family Violence Units) can affect police responses.

As a result there is considerable variation in the rate of formal referrals by Victoria Police to MBCPs, across police areas. Evidence suggests that the interaction with police, and early contact with behaviour programs contribute to men's engagement with MBCPs.

It is recommended that variations in police referrals to MBCPs, across police areas, be reviewed, and that Victoria Police develop strategies to promote consistency.

2.4 Court Orders and referrals

The majority of Court mandated referrals originate from the Family Violence Courts. Theoretically, any Magistrate can include 'behaviour change' as a condition of a Court Order, whether an Intervention Order, or a Community Correction Order. However, rather than including attendance at a MBCP as part of an Order, Magistrates outside the Family Violence Court system may refer men to behaviour change programs.

In some jurisdictions Courts may order an assessment of men's suitability for particular programs, prior to a Court decision. This does not generally occur in family violence cases. Assessment prior to making Orders or sentencing would likely enhance the effectiveness of the Courts in this regard.

Court monitoring of attendance and completion of MBCPs by men subject to Orders is inconsistent. There are reportedly few sanctions for men who fail to complete MBCPs.

In foreign jurisdictions men who attend MBCPs are required to make payments. These payments may be ordered by the Court.

1. *It is recommended that Courts strive to be more consistent in their approach to ordering men's participation in MBCPs, and other programs*
2. *It is recommended that Courts make Orders for assessment of the suitability of some men for behaviour change and other programs*
3. *It is recommended that MBCPs provide reports to the Court regarding men's participation in the program, and that the Courts hold men accountable for participation in, and completion of MBCPs*
4. *It is recommended that Court Orders provide for men to make payment to attend MBCPs.*

2.5 Enhanced Service Intake ('front end' services)

2.5.1 Introduction

In response to increasing numbers of police L17 referrals to MBCPs, funding was provided in the Victorian 2008-09 budget for two key initiatives:

- the development and implementation of a statewide Enhanced Service Intake system for MBCPs (ESI services)
- the establishment of an After Hours Men's Referral Service¹ within No To Violence.

Funding provided by DHS was intended to assist these services to make timely follow up telephone calls to an increased number of men soon after receiving L17 referrals from Victoria Police.

The main functions of these services are:

- initial and ongoing identification of risks, threats and dangers to the safety of women and children from family violence
- contributing to a risk management plan, which might include enhanced decision making by the perpetrator in the short term
- assessing the needs of individual men and making referrals to facilitate men's entry into the health and community service system, where further risk assessment and risk management would occur

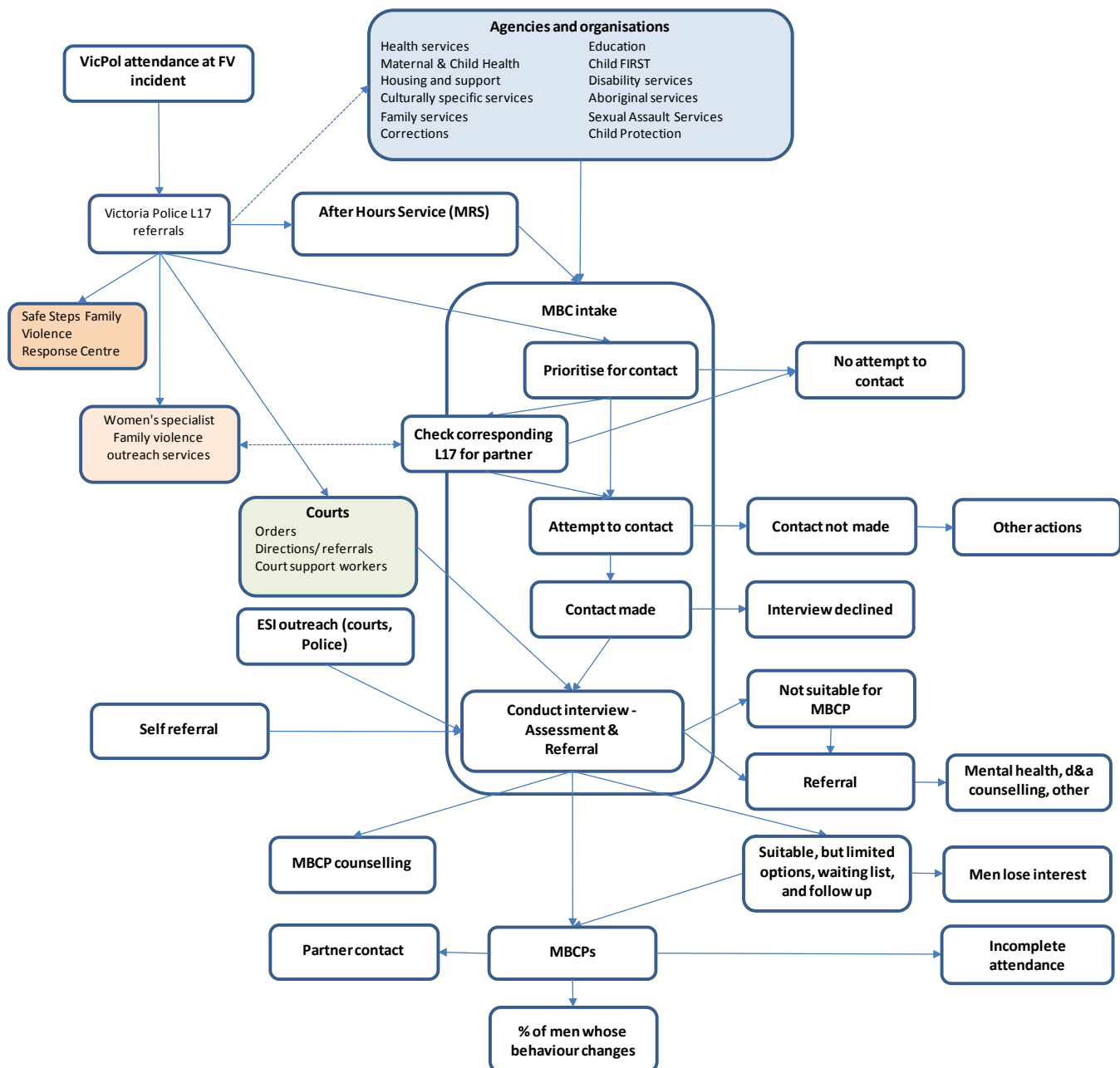
¹ DHS also funded Men's Case Management Support and the Indigenous Men's Case Management Support programs.

- engaging men to contemplate changing behaviours, and subsequently assessing men's suitability for participation in a men's behaviour change program, and/or other options.
- strengthen relationships and referral pathways between the ESI agencies and police, courts, child protection, family violence and other services

The main strategy involves assertive telephone outreach to men referred by the police, by ESI services and by MRS After Hours Service.

Chart 2.1 below illustrates the contact process undertaken by ESI services.

Chart 2.1: Referral and contact processes



2.5.2 ESI services

Chart 2.1 illustrates the following:

- ❑ ESI services prioritise their telephone work. Prioritisation is based on information provided on the police L17 form, and includes consideration of the level of risk, the presence of children and other factors. Approaches to prioritisation and other contact practices varies between ESI services. For example 3 attempts may be made to call 'high priority' men, and 1 attempt to call 'low priority' men. ESI services attempt to contact most of the men referred to them.
- ❑ Some ESI services contact women's services to check that a corresponding referral for the woman has been received. This is taken into account when deciding whether or not to contact the perpetrator.
- ❑ ESI services seek to contact men by telephone. ESI services vary according to the time of day of the call (usually during business hours), and the number of attempts before they stop calling. If an ESI service cannot make contact, they may (or may not) send a letter.
- ❑ Where ESI services do make contact, they seek to arrange an interview. Some men do not agree to an interview.
- ❑ Those men who attend an interview may be deemed not suitable, or they may refuse the conditions of participating in a MBCP (eg. partner contact). Some MBCPs may be able to offer counselling, and/or refer the man to other services, in order for a man to be 'group ready'.
- ❑ In many instances there are insufficient places in MBCPs and men who are suitable, and willing to participate, are forced to wait several weeks. During this time they may lose interest.
- ❑ Men who do participate in MBCPs may 'drop out', or only attend some sessions.
- ❑ Some men who participate do not benefit from MBCPs.

There is a relatively high 'attrition rate' from police referral to participation. It is estimated that 5-10% of men who are referred by Victoria Police actually participate in a MBCP.

There are differences between ESI services in terms of contact and engagement success rates. Research has shown that successful contact and engagement depends on early attempts to contact men, within 72 hours of the incident, and within 48 hours if possible. At this time men are more likely to be remorseful and they are soon to attend Court.

Successful engagement also depends on staff skills in communicating with men who use violence, and in conducting risk assessments over the phone. This suggests that callers should have required skills, and that they are able to speak confidently, and convincingly about the value of MBCPs.

5. *It is recommended that systems of prioritisation by agencies which receive L17s are reviewed and that a consistent approach is developed*

6. *It is recommended that research is undertaken to determine the optimum regime for telephone calling (time of day, day of week)*
7. *It is recommended that sufficient resources are provided to enable calls to be made to all men who are referred to men's services by Victoria Police*
8. *It is recommended that callers are trained appropriately and have direct experience in providing MBCPs, and that performance is monitored*

2.5.3 Alternative outreach approaches

Other strategies to engage men include Court outreach, or police outreach, where agencies seek to engage men in the context of the criminal justice system. These may be more time and resource intensive, but may be more effective than assertive outreach by telephone. Men may be more likely to contemplate change in a Court or police station, face to face to with a worker, compared to a telephone call in their workplace.

Some men's services attend Court in order to engage men, and report good success rates, however there has been insufficient evaluation of alternative approaches to engaging men.

9. *It is recommended that the effectiveness of alternative outreach approaches to engage men in behaviour change be evaluated.*

2.6 Men's Referral Service (After Hours)

The Men's Referral Service (After Hours) takes formal faxed referrals from Victoria Police from 5 pm Friday to 9 pm Sunday. These account for nearly half of all police L17 referrals. Following receipt of an L17, the After Hours service attempts to contact the perpetrator with a view to making a referral to a local MBCP.

The Men's Referral Service (AH) is designed to provide an assertive outreach (telephone) response, including men who have been excluded from the home following police action after hours (eg. Family Violence Safety Notice, Application and Warrant).

The MRS (AH) complements the voluntary Men's Referral Service which operates during business hours. Both services are auspiced by 'No To Violence' (NTV). NTV has a wealth of experience, and collects a range of data.

TGA's evaluation (2011) found that MRS (AH) achieved consistently higher contact and engagement rates compared to ESI services, and significantly reduced the burden on ESI services particularly on Mondays. MRS (AH) however, was not able to make contact with a significant proportion of men due to missing information on the police referral, unavailability of an interpreter, or time and resource constraints. MRS (AH) does not make contact with women's services prior to calling the man (a contested issue).

10. *It is recommended that sufficient resources are provided to MRS (AH) to enable calls to be made to all men who are referred by Victoria Police*

2.7 Structural issues

The allocation of funds for ESI services was largely decided at a regional level, and a variety of arrangements resulted, including single regional services, and sub regional services.

The evaluation of ESI services (TGA, 2011) found that a regional response can result in higher contact and engagement rates compared to disaggregated (local) services. Regional providers have the capacity to establish a team based approach, and provide a 5 day per week response. Otherwise smaller ESI services may be limited to providing a response on selected days of the week, and the level of funding can mean that the ESI response is not adequately supported, or is provided as part of a more generalist intake response.

Statewide, or regional models may provide 'economies of scale', and enhanced information collection and dissemination, but may dilute the capacity to provide a more timely and locally based response.

At present there are two systems – the Statewide MRS (AH) service operating on the weekend, and ESI services operating on weekdays. There may be benefits from establishing a single statewide telephone contact service operating 7 days per week.

11. It is recommended that the advantages and disadvantages of different 'front end' organisational structures, including sub regional, regional, and statewide models are reviewed

12. It is recommended that a Statewide 7 day per week telephone contact service be evaluated.

2.8 MBCP models

MBCPs mainly use a group psycho-educational model of relatively short duration (10-12 weeks), which is largely based on the assumption that men are ready for change. This was historically the case, with MBCPs mainly accepting men (following assessment) who were ready for change. This is no longer the case, as nearly 50% of men now entering MBCPs are mandated by Courts.

Men's behaviour change models need to become more responsive to the circumstances of the perpetrator. In some overseas jurisdictions, different treatment/therapeutic models have been developed according to willingness/ resistance to treatment and other factors. Group programs are provided of various type, intensity and duration, and individual counselling is also provided according to an assessment of individuals.

13. It is recommended that different models for men's behaviour change programs are researched with various models selected for trial

2.9 Coordinated response to men's behaviour change

There is no coordinated approach to change the behaviour of men who use violence in Victoria. It has largely been left to MBCPs which are under resourced and which do not have the capacity to assist men with complex issues.

There are several other organisations which have an interest in, and can contribute to men changing their behaviour including Child Protection, drug and alcohol services, mental health services, and Corrections. These organisations/ agencies vary in their approach and in their capacity to establish a 'mandate' for individual men to change their behaviour.

Corrections Victoria is responsible for managing offenders and ensuring compliance with the conditions of their Orders. Conditions may include participating in assessment, and in treatment and educational programs. Community Corrections Officers (CCOs) manage offenders and assess and manage the risk. In this context CCOs play a coordination and management role for men subject to criminal sanctions.

It is important that Corrections ensure that men who have committed family violence participate in appropriate programs, whether in prison, or in the community. Corrections Victoria has funded a limited number of community based MBCP places. This may need to be expanded, and programs also developed within prison.

Recommendations

- 14. It is recommended that a coordinated response to men's behaviour change is developed involving all agencies working with men who use violence*
- 15. It is recommended that mens case/ risk manager positions are established to coordinate responses between agencies and organisations to enhance risk management and behaviour change, and that these are auspiced by Corrections Victoria*
- 16. It is recommended that Corrections establish programs which aim to change men's behaviour while men are the responsibility of Corrections*

3 Risk Assessment Management Panels

Risk Assessment Management Panels (RAMPs) are being established across Victoria in 2015.

The following submission is informed by issues that were identified by Thomson Goodall Associates as part of its work for the Department of Human Services (TGA, 2013/14).

3.2 Data collection – Performance of RAMPs

A data collection system is required for RAMPs to enable the implementation and operation of RAMPs to be monitored, across Victoria. This data collection system should be separate from other data collection and reporting, undertaken by individual RAMP members and associates.

The data collection system needs to be simple and effective, without requiring programming or extensive IT involvement, or place an additional administrative burden on RAMP Coordinators, Chairs or other staff supporting the RAMP.

There should be two primary sources of data – a Referral Form, and the ‘Minutes’ of the RAMP meeting.

A **RAMP Referral Form** is required to help ensure that cases referred to RAMP meet the criteria of ‘serious and imminent risk’, otherwise the program runs the risk of operating outside of privacy legislation (ie. where the risk is not high enough to justify disclosure of information). There is also the potential problem that RAMPs will be overwhelmed with referrals.

In the absence of a validated tool for measuring ‘serious and imminent’ risk, it will be important to monitor the risk thresholds being used in practice, across the RAMPs.

A RAMP Referral Form should provide valuable data which can be used to determine the level of risk of cases considered by RAMPs across Victoria, and shed light on the various eligibility criteria that RAMPs are using, and ultimately promote consistency.

At some stage RAMPs will need to be evaluated. The data collection proposed would provide fundamentally important information for the evaluation.

17. It is recommended that selected information is collected from the RAMP Referral Form, and used as a basis for comparison of referrals being accepted by RAMPs, over time.

The **Minutes** of the RAMP meeting should form the basis for collecting data about decisions made, and action plans during the RAMP. This would provide useful administrative data (number of cases, length of meetings, attendees, etc.) as well as indicate the diversity of actions.

18. It is recommended that selected information is collected from the RAMP Minutes, and used as a basis for monitoring the program.

4 Validated RAMP assessment tool

The CRAF in its current form, does not measure ‘serious and imminent risk’, and only provides an ‘Aide memoire’ for workers assessing risk.

Risk assessment tools are used in other jurisdictions to provide a consistent and more rigorous indication of level of risk (and imminence), to assist in decisions about referral to MARACs (UK), Family Safety Meetings (South Australia), and the like. There are tools in use in other jurisdictions which have been statistically validated, with a scoring system considered to be a reasonably accurate predictor of risk.

The absence of such a tool in Victoria makes it more difficult to achieve a consistent approach within RAMPs, and across all RAMPs about the threshold for referral. There are concerns that a more rigorous assessment approach, is required to support sharing of confidential information at RAMPs.

19. It is recommended that a tool is developed to specifically measure eligibility for RAMPs.

5 Client feedback

The evaluation of the Pilots demonstrated the difficulty of measuring outcomes associated with RAMP interventions. A preferred approach is to obtain feedback on the RAMP process, and its impact, from women who have been assisted by the RAMP. Feedback from women provides important information about the quality of the interaction with RAMPs, as well as the impact of the actions which are implemented following a RAMP meeting.

A client feedback form would provide ongoing quality assurance, and valuable data for subsequent evaluation of RAMPs. A feedback form gives women the opportunity to voice their views, and provide feedback to RAMPs.

20. It is recommended that a client feedback form is developed for women who are assisted by RAMPs.

6 The issue of ‘imminence’

The criterion of ‘imminence’ as part of the assessment process is problematic.

Current privacy legislation allows for information of a private nature to be shared where it is reasonably believed that disclosure is necessary to prevent or lessen a *serious* and *imminent* threat to the life, health or safety of a person. RAMPs share information (without consent) about cases which are considered to meet the seriousness and imminence criteria.

The assessment of *seriousness* is facilitated by the CRAF, and complemented by other information and professional views. The approach to assessing ‘imminence’ however, is less clear. While consideration of imminence is required as part of the RAMP assessment and referral process, it remains somewhat subjective, and influenced by the perceptions of the victim, and the person(s) undertaking the assessment.

Imminence needs to be considered in the context of family violence, and the patterns of abuse which occur. In this context, patterns of perpetrator behaviour, specific triggers to violence, and patterns of escalation may be relevant.

In its review of family violence laws, the ALRC (2010:s22) concluded that 'imminence' is difficult to characterise. The ALRC said that 'there are compelling policy reasons to remove the imminence requirement' (from privacy legislation), noting that *'family violence sometimes manifests as controlling behaviour over a number of years. The resulting threat may therefore be very difficult to characterise as 'imminent' even where it is serious'*.

Similarly, the 'problem' of defining imminence has also been considered in the context of self defence. Sheehy et. al. (2012:471) note that the approach to imminence in family violence involves an entirely different enquiry. 'Imminence' includes circumstances where a woman is living in a constant state of terror and believes that inevitably there will be a serious attack which could result in her death. The immediacy of the danger is constant.

Reviews of family violence deaths (eg. by the Coroner) could provide some useful perspectives of 'imminence', and whether there were specific indicators of imminent dangers, and/or whether the danger was always there.

The recency of serious violence, and the assumption that violence escalates, and the recency of various risk factors, may contribute to assessing imminence. The South Australian Family Safety Meeting referral form (revised October 2014) gives weight to selected risk factors, and focuses on those risk factors which have occurred in the previous 14 days.

In Victoria, it will be important that referrals to RAMP are not restricted or limited due to a perceived lack of 'imminence' on the part of the referring agency. It is probable that family violence agencies will have a broader view of 'imminence', understanding that 'the danger is always there', whereas other agencies and organisations may have a narrower view, and look for more concrete indicators/ predictors that serious violence is about to happen, as proof of imminence. This could in part be addressed using the South Australian approach, giving weight to recency of risk factors (ie. as part of a high risk assessment process).

21. It is recommended that the issue of imminence in the assessment of women for referral to RAMPs be re-visited.

References

ALRC (2010) *Family Violence – A National Legal Response*, Report No. 114, Section 22, Confidentiality and Admissibility.

Sheehy, E., Stubbs, J., and Tolmie, J. (2102) “Defences to Homicide for Battered Women: A Comparative Analysis of Laws in Australia, Canada and New Zealand”, *Sydney Law Review*, Vol. 34, p 471.

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