

# Royal Commission into Family Violence

Harris and George

Submission entered by the Centre for Rural Regional Law and Justice on May 29 2015,  
Part 1/2, PUBLICALLY AVAILABLE

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## About the Centre for Rural Regional Law and Justice and this submission

This paper is authored by Bridget Harris<sup>1</sup> and Amanda George, researchers who produced *Landscapes of Violence: Women Surviving Family Violence in Regional and Rural Victoria* (2014, hereafter referred to as *Landscapes of Violence*) for the Centre for Rural Regional Law and Justice (CRRLJ). CRRLJ is housed with Deakin University and seeks to enhance access to improved justice systems and services for regional and rural Australians through research, education, engagement and advocacy and provide opportunities to engage meaningfully with communities, services, industry and government. We thank the Royal Commission for the opportunity to respond to the issues paper and to contribute to the inquiry.

The following response is informed by two research projects conducted by CRRLJ. The first (attached to the submission and available online via the CRRLJ website<sup>2</sup>) explored *Women's Experiences of Surviving Family Violence and Accessing the Magistrates' Court in Geelong, Victoria* (completed by Jordan and Phillips: 2013).<sup>3</sup> The second (also attached to this submission and available online via the CRRLJ website), *Landscapes of Violence* drew from and expanded on the 2013 report, through extending the geographic focus, the range of issues considered and participants consulted. It investigated the experiences of and outcomes for survivors of family violence<sup>4</sup> in regional and rural Victoria, their contact with and perceptions of government agencies (Victoria Police, Victorian magistrates' courts and the Department of Health and Human Services<sup>5</sup>), community and private advocates (family violence support services, women's services, community legal centres, Legal Aid and private lawyers) as well as healthcare professionals (General Practitioners and counsellors). *Landscapes of Violence* was informed by interviews with survivors, support workers, lawyers, magistrates and sessions with and submissions from a range of government and non-government agencies involved with responding to violence (some who have elected to remain anonymous).<sup>6</sup> We are grateful to survivors for sharing their stories and all the advocates, workers and agencies who contributed to this research.

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<sup>1</sup> Now based at the Criminology Department at the University of New England.

<sup>2</sup> CRRLJ, 'Research' <http://www.deakin.edu.au/law/research/crrlj>

<sup>3</sup> We acknowledge the great contribution of Lucinda and Lydia; their study was vital in completing *Landscapes of Violence* and in developing this submission and Lucinda had a central role in CRRLJ family violence work. She initiated and designed both studies.

<sup>4</sup> The focus of our study emerged as intimate partner violence; all of the women consulted for our study identified male perpetrators. However the phenomenon of 'networks' of abuse and lateral violence also featured.

<sup>5</sup> We note the name change (from the Department of Human Services to the Department of Health and Human Services) which occurred after our research was published; we have used the current name change unless quoting from our 2014 report.

<sup>6</sup> Please note that when survivors 'names' feature, these are pseudonyms.

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We recognise and acknowledge Aboriginal and Torres Strait Islander peoples<sup>7</sup> as First Nation, traditional owners and custodians of Victorian lands. We pay our respect to them, their cultures and their Elders, past and present.

***This is part one of two submissions by Harris and George; part one of this submission is publically available***

## Abbreviations

AFVPLS	Aboriginal Family Violence Prevention and Legal Service
CRRJ	Centre for Rural Regional Law and Justice
CASA	Centre Against Sexual Assault
DHHS	Department of Health and Human Services
EHDVS	Emma House Domestic Violence Services
FVIO	Family Violence Intervention Order
GPs	General Practitioner
GPS	Global Positioning System
ICT	Information Communication Technology
SMS	Standard Messaging System
WESNET	Women's Service's Network

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<sup>7</sup> We acknowledge the diversity that exists within this cultural grouping and note here that some who prefer the term 'Indigenous', others with preference for cultural names relating to their country or areas they identify with, such as 'Koori'. We have used the terms 'Aboriginal and Torres Strait Islander', which reflects the preference of survivors, support workers and agencies that we consulted for this research.

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## ***Question One: Are there other goals the Royal Commission should consider?***

We would ask that the Royal Commission recognise and seek to address the extensive rates of family violence and risk to survivors in regional and rural Victoria, as well as the challenges non-government and government agencies in regional and rural Victoria face in responding to family violence.

### **'Postcode justice'**

Law, legal and criminal justice processes and resource allocations typically reflect urban as opposed to non-urban settings and circumstances. Furthermore, thus far there has not been equitable dissemination and implementation of services and programs (Jordan and Phillips: 2013; George and Harris: 2014; see also Stewart: 2011). We note that there are definitional and measurement issues associated with the terms 'rural' (see Carrington: 2007; Harkness and Harris: forthcoming; Hogg and Carrington: 2006; O'Connor and Gray: 1989; Owen and Carrington: 2014; Scott: 2007) and 'rural community' (see Barclay and Donnermeyer: 2007; Harkness and Harris: forthcoming). However, regardless of how these terms may be defined, as discussed in *Landscapes of Family Violence*, survivors residing outside of metropolitan Victoria are disadvantaged by limited resources and services, which can dramatically affect their experience of responding to violence. The geographic discrepancy between urban and non-urban services which exists has been described as 'postcode justice', in reference to the spatial variations in justice system outcomes depending on the location of the offence, offender or criminal justice institution (see also Coverdale: 2011 and submission response to question two).

### **Rates of family violence and risk in non-urban areas**

The phenomenon of postcode justice is worrying for two reasons. Firstly, postcode justice indicates (geographic) inequality and thus failings of a justice system. Secondly, in parts of Victoria inadequacies and imbalances in justice system, services and resources occur regardless of how great the needs of those communities are. Despite non-urban areas being limited in regards to the resourcing of police and court agencies and legal advocates, Australian research produced by advocates and academics and reviews of police statistics indicate that rates of family violence can be significantly higher in non-urban compared with urban areas (see Crime Research Centre: 1996; Council of Australian Governments: 2012; Department of Justice: 2012a and 2012b; Dillon, Hussain and Loxton: 2015; Eaton: 2001; Ferrante et al: 1996; George and Harris: 2014; Jordan and Phillips: 2013; Victoria Police – *Family Violence Incident Reports* for instance – 2008-2013; WESNET: 2001; Women's Health Grampians: 2012). On the issue of rates

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of family violence, it is widely acknowledged that family violence is underreported, in part because of its occurrence in private spaces and, worryingly, ‘this is even more of a problem in many parts of rural and regional Australia where privacy is compounded by geographic isolation from police and health services and other formal and informal networks’ (Hogg and Carrington: 2006, 148). Given the barriers women in regional and rural areas face (outlined below) it is highly possible, if not highly likely, that rates of family violence in regional and rural places are greater than the statistics currently indicate (George and Harris: 2014; Hogg and Carrington: 2006). However, justice system resources (both generalist<sup>8</sup> within court and policing bodies and specialist<sup>9</sup>) as well as health and support services (including specialist women’s and family violence services<sup>10</sup> and perpetrator programs) are typically less available outside of metropolitan regions and, where they do exist, are commonly overburdened and under-resourced.

The resourcing of not only criminal justice agencies but also health and support services in non-metropolitan areas, is also an issue because as InTouch Multicultural Centre Against Family Violence<sup>11</sup> has noted, ‘the *risk* of domestic violence to women living in rural areas is believed to be higher than for women living in non-rural areas’ (Immigrant Women’s domestic Violence Service: 2006). We note also that there are groups, including Aboriginal and Torres Strait Islander women and their children<sup>12</sup> and women and children with disabilities,<sup>13</sup> that experience higher rates of family violence than other community groups, and specialist resources and programs which address their needs are less accessible in regional and rural areas. Additionally, Aboriginal and Torres Strait Islander women are more likely to reside in regional and even more so rural and remote areas than metropolitan locations and so the need for culturally appropriate supports in non-metropolitan areas is apparent (Carrington and Scott: 2008; Cunneen 2007; Owen and Carrington: 2014).

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<sup>8</sup> And also resources and mechanisms that could and should be standard within police and courts that can assist survivors in disclosing and responding to family violence including but not limited to: remote video technology and interpreters (for culturally and linguistically diverse as well as hearing impaired survivors).

<sup>9</sup> Including but not limited to: Victoria Police Family Violence Liaison Officers, Victoria Police Court Liaison Officers, Aboriginal Liaison Officers, Multicultural Liaison Officers, specialist family violence court divisions and workers.

<sup>10</sup> Such as for culturally and linguistically diverse survivors, survivors and their children with disabilities and survivors and their children who identify as Aboriginal or Torres Strait Islander.

<sup>11</sup> Formerly the Immigrant Women’s Domestic Violence Services.

<sup>12</sup> With victimisation rates that are approximately 40 per cent higher than non-Aboriginal and Torres Strait Islander women (Aboriginal Family Violence Prevention and Legal Service 2010; Al-Yaman, Van Doeland and Wallis: 2006; Cunneen: 2001; Jordan and Phillips: 2013; The National Council to Reduce Violence against Women and their Children: 2009). As the *Second Action Plan 2013-2016 – Moving Ahead – of the National Plan to Reduce Violence against Women and their Children 2010-2022* has acknowledged, ‘Indigenous women are 31 times more likely to be hospitalised due to family violence related assaults than other women’ (Department of Social Services 2014, 5).

<sup>13</sup> See Healey et al (2008).

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It is imperative that both the rates of family violence and the risk to survivors in regional and rural places are recognised in and reflected by spatially appropriate justice resource allocation.<sup>14</sup> We would add that in the interests of equality and, in the interests of enhancing community and individual capital, resource allocation more broadly (such as relating to transport, housing, finances, education and health) needs to be extended in regional, rural and remote areas. As discussed in this submission, although the notion of ‘escaping’ violence is problematic because it is tenuous at best, women in regional and rural areas often encounter challenges when escaping violence because of limited transport networks, housing and finances and limited educational and employment opportunities.

## **Barriers facing survivors of family violence in regional and rural areas**

All survivors of family violence encounter barriers when seeking assistance and responding to family violence and the barriers that regional (and, even more so) rural women encounter are exacerbated. Because universal definitions of rurality and remoteness do not exist (Hastings and MacLean: 2002) some studies have investigated family violence in what we might consider rural as opposed to regional, or remote as opposed to rural contexts. We stress that little academic research investigating family violence in a remote contexts has to date been undertaken and that survivors in remote locations face unique challenges that are beyond the scope of this submission.

The following barriers are by no means exhaustive, but emerged in our study as complications and challenges that survivors in rural and regional communities encounter when responding to violence, including:

- ◆ Geographic isolation (see *Landscapes of Violence* 46-47 which includes consideration of fragmented public transport networks, limited and expensive private transport and perpetrator control of access to personal vehicles)
- ◆ Social isolation (see *Landscapes of Violence* 47-48 for discussion of the phenomenon of lateral violence<sup>15</sup> as well as social and community ideologies which can support or excuse violence against women)

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<sup>14</sup> By spatially appropriate we mean that which reflects the needs and context of a particular (non-urban) area.

<sup>15</sup> Lateral (or horizontal) violence refers to groups or numbers of individuals operating together to undermine, attack or target an individual, family or another group. It can include a range of behaviours that people might engage in (such as organised conflict, gossiping, intimidating, bullying, degrading, excluding and physically abusing others). A product of social, cultural and historical conflict, lateral violence stems from conditions of oppression, such as that associated with the processes of colonialism.

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- ◆ Visibility (see *Landscapes of Violence* 50-51 with reference to risk, danger and issues with privacy and confidentiality in smaller communities)
- ◆ Visibility and invisibility of culturally and linguistically diverse survivors (see *Landscapes of Violence* 51-55 for notes on issues with knowledge of and difficulties in exercising rights and pressures from informal support networks)
- ◆ Gun ownership and homemade weapons (see *Landscapes of Violence* 55-57 on associated covert and overt threats)
- ◆ Limited alternative and crisis accommodation (see *Landscapes of Violence* 57-59 for mention of the lack of culturally appropriate housing and housing that accommodates survivors and children with disabilities and issues with relocation)<sup>16</sup>
- ◆ Less access to support services and legal services (see *Landscapes of Violence* 59)
- ◆ Complicated financial arrangements and pressures (see *Landscapes of Violence* 60 for comment on barriers to women seeking to exit relationships and establish financial independence)
- ◆ The aftermath of natural disaster (including phenomenon which are not uncommon in rural areas, such as floods, droughts and fires see *Landscapes of Violence* 61)<sup>17</sup>
- ◆ The 'digital divide'<sup>18</sup> (see *Landscapes of Violence* 61).

**Question Two: The Royal Commission wants to hear about the extent to which recent reforms and developments have improved responses to family violence, and where they need to be expanded or altered.**

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<sup>16</sup> See also Trainor: 2015

<sup>17</sup> See also seminal work conducted by Women's Health Goulburn North East: Parkinson (2011); Zara and Parkinson (2013); Weiss, Zara and Parkinson (2013).

<sup>18</sup> A digital divide exists when citizens do not have equal connectivity (adequate access, ability and affordability) to the internet and information communication technology. See also: Curtin (2002); Rooksby, Weckert and Lucas (2007); Willis and Tranter (2006).

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## **Victoria Police and the *Code of Practice for the Investigation of Family Violence*<sup>19</sup>**

We acknowledge Victoria Police efforts to enhance responses to family violence by developing the *Code of Practice*; this policy provides a framework and methodology to strengthen police practices. Additionally, we note that there are exemplary officers who not only adhere to the *Code of Practice* but demonstrate great empathy, utilise innovative approaches when responding to family violence and seek to improve their responses by engaging and liaising with government and non-government organisations that respond to family violence.

Survivors consulted for *Landscapes of Violence* had a range of experiences of generalist police which were often polarised. This is concerning because it indicates that the *Code of Practice* has not been uniformly implemented. The *Code of Practice* itself is not problematic, but police divergence from the *Code of Practice* is problematic. Given that this question focuses on assessing recent reforms, in this section we discuss reforms including positive experiences with generalist police and the introduction of specialist police and courts. In the section relating to question three we discuss negative experiences with police and how Victoria Police responses to family violence could be further strengthened (Victoria Police Family Violence Coordination Unit: 2014).

### **Positive encounters with generalist police and utilisation of the *Code of Practice***

Survivors who had positive encounters with police spoke of officers who were ‘sensitive, supportive and skilled’ and ‘listened to and validated their stories and experiences’ (George and Harris: 2014, 66, see pages 66-68). Survivors appreciated officers who made efforts to explain criminal justice procedures and processes and endeavoured to put survivors at ease and promote security in the police station and court setting. They also appreciated police officers who made efforts to shield children from violence and from the trauma of criminal justice responses. Women celebrated officers who offered guidance as well as links and referrals to support services (including culturally appropriate support services) and who sought to empower women and affirm their strength as survivors. Further discussion and specific examples of positive perceptions of and encounters with police can be found in both phases of CRRJ research (Jordan and Phillips: 2013 and George and Harris: 2014).

Past studies have indicated that rural male officers preferred female officers to respond to sexual and female violence. Research has also identified gender differentiation in police

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<sup>19</sup> Hereafter referred to as the *Code of Practice*.

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responses to such violence (Nicholson: 1998). More recently, although there has been little academic review of the issue, training and policy reforms as well as increases in the numbers of female officers servicing in Victoria Police and in rural areas has likely influenced and enriched responses to violence. In our study it appeared that gender had less bearing than in Nicholson's (1998) study and so the gender divide had, to a significant degree, been overcome. When assessing police actions, survivors sometimes identified but did not differentiate between the genders of officers. This seems to suggest that male officers are better equipped to assist survivors than in previous years.

Support workers highlighted the strong relationships they had forged with Family Violence Units, which they regarded as a significant response to family violence, which speaks to the sector engagement, knowledge-sharing and improved responses pursued by Victoria Police.

## **Specialist criminal justice responses**

### **Perceptions of and access to specialist police**

Survivors consulted for *Landscapes of Violence* held specialist police officers in high esteem. Family Violence Liaison Officers were praised for the way they demystified court processes and procedures and sought to make court appearances – which can be associated with anxiety and danger – more comfortable and safe. Support workers and lawyers also spoke highly of specialist police officers; one advocate noted that officers had made a 'vast difference' because they are 'properly trained and integrated into the system' (advocate 27 in George and Harris: 2014, 66).

We would also note that Aboriginal Liaison Officers – though not always easily available – were highly regarded by Aboriginal and Torres Strait Islander survivors and support workers, because of their awareness of and respect for cultural issues as well as their family violence training.<sup>20</sup> The importance of Aboriginal Liaison Officers and the need for further officers in regional and rural areas should not be underestimated. As noted earlier in this submission Aboriginal and Torres Strait Islander women experience family violence at higher rates than non-Aboriginal and Torres Strait Islander women.

Specialist police in regional and rural areas typically cover large catchment zones and have extensive caseloads. Consequently, as reported in the first phase of this research, '[w]hile women and workers generally recognised the value of Family Violence Liaison Units, some

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<sup>20</sup> See also another regional and rural study on family violence in Victoria: Neilson and Renou for Loddon Campaspe Community Legal Centre: 2015, 52.

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participants reported extensive waits to speak to the unit' (Jordan and Phillips: 2013, 190). One survivor, for example, had repeatedly contacted the unit over a two year period, but, at the time of speaking to researchers, was still awaiting a response (Jordan and Phillips: 2013). Difficulties experienced by survivors in accessing specialist police, not only Family Violence Liaison Officers but also Aboriginal Liaison Officers and Multicultural Liaison Officers must be rectified. We emphasise the need to extend access to these officers in regional and rural areas; see **'Police reforms: resource-based reforms'** recommendations on page 13 of *Landscapes of Violence*.

We understand that resources are limited, but note that existing mechanisms could also be used to extend access to these officers, such as utilisation of videoconferencing. Australia's use of videoconferencing in legal capacities is 'internationally recognised' (Victorian Parliamentary Law Reform Committee as cited in Wallace: 2008, 2), including trialling by Victorian magistrates' courts (Harris, Jordan and Phillips: 2014). Such technologies might help to connect survivors located in different locations to specialist officers. Information and communication technology can have a 'significant impact on the ability to administer justice from a distance, and therefore service rural and remote communities' (Cavill and Miller: 1997, 9-10). However, thus far, as CRRLJ researchers have documented, 'there has been limited resourcing provided to enable the widespread uptake of such technologies in rural areas' (Harris, Jordan and Phillips: 2014, 158, see also Coverdale: 2011). Additionally, we caution that this is not an ideal solution, because, as commentators have noted, communication can be difficult through this medium, particularly for individuals and community groups who may experience difficulty communicating with for instance court officials - such as Aboriginal and Torres Strait Islander and culturally and linguistically diverse and hearing impaired citizens (Harris, Jordan and Phillips: 2014; Wallace: 2008).

In extending community engagement and enhancing responses we also recommended that Victoria Police Agricultural Liaison Officers who are employed in regional and rural areas receive specialist training around family violence and extend their outreach work (which currently focuses on farm crime) to include information pertaining to family violence. We note that in their response to our recommendations, Victoria Police have stated that they would consider this recommendation.

## **Perceptions of and access to specialist court structures and workers**

As CRRLJ researchers have previously documented, despite rates of family violence in regional, rural and remote communities, 'the roll-out and implementation of specialist family violence courts across Australia and in RRR [regional, rural and remote] areas in particular has been ad hoc and slow' (Harris, Jordan and Phillips: 2014, 164). Victoria Family Violence Court Divisions

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were developed as a ‘whole of justice system response’ (Stewart: 2011). At the time of writing this submission the roll-out of the Family Violence Court Division in Victoria has only included one regional site: Ballarat. We appreciate that in their *Response to Family Violence 2015-2017*, the Magistrates’ Court of Victoria (2014, 1) has identified an intent to ‘[i]mprove and encourage state wide consistency and best practice in the Court’s response to family violence’ and to expand dedicated family violence services<sup>21</sup> ‘to all headquarter courts across the state’. Given barriers women in regional and rural areas encounter when seeking FVIO support, it is imperative that the major regional courts have specialist Family Violence divisions and that they also commit to effectively delivering those dedicated services to their rural satellite courts. If this is not done, the consequence is continued systemic discrimination against non-metropolitan victims of family violence, particularly within smaller regional and rural communities.

There are many advantages to specialist courts. As Stewart (2005, 7) identifies, specialist family violence courts aim to identify and provide:

- best practice in policing and prosecuting domestic violence offences
- expedition of cases
- information, support, advocacy and services for victims of domestic violence and their children
- safety for victims of domestic violence and their children as the primary outcome
- validation and empowerment of victims of domestic violence and their children
- responsibility and accountability for domestic violence to be accepted by offenders
- reduction and prevention of domestic violence.

One of the most important features of specialist family violence courts/divisions is the presence of funded applicant and respondent workers. In our study we found that these workers benefited clients of the courts as well as magistrates, lawyers and court personnel. Magistrates indicated that they significantly reduced the amount of court hearing time involved and women applicants felt more equipped in understanding the court process and were linked into referrals. We were told that respondent workers were very effective in diffusing men’s anger and thereby making them more receptive to pre-court negotiations rather than a combative court appearance. This all enhances court safety and reduces court time and therefore costs (see 103-4 in *Landscapes of Violence*).

The rearranging of existing court spaces to include a ‘protected persons space’ as at Broadmeadows and Ringwood Courts is an effective way of enhancing court safety for women and children by keeping parties separated, in courts that are not deemed ‘specialist’ (George and Harris: 2014, 92).

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<sup>21</sup> Which are identified as including ‘Family Violence Registrars, applicant support workers and respondent support workers, providing assistance to all court regions’ (Magistrates Court of Victoria: 2014, 1).

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Given their significant distance from survivor's residences, few women consulted for *Landscapes of Violence* had experiences in specialist courts. However, some survivors like Cassie, who had negative experiences in generalist courts (discussed in our response to question three) elected to travel a great distance to attend a specialist court for subsequent appearances. She had been dissatisfied with registrars she encountered at generalist courts and at the specialist court she reported that 'the registrars were much more pleasant to deal with' (George and Harris: 2014, 77).

We stress that other women who had negative experiences at generalist courts might, like Cassie, have more positive experiences at specialist courts, yet travelling to specialist courts is unlikely to be feasible for most regional and rural women. Women who formally respond to family violence typically have to contend with a whole raft of matters (such as financial instability and searching for alternative accommodation) as well as being exposed to ongoing violence. Compounding the issue, travel is difficult because of fragmented public transport networks, limited and expensive private transport and perpetrator control of access to personal vehicles. And there are other practical constraints women face that would serve as inhibitors, such as challenges in securing child care, which would be all the more difficult given the time required to travel to specialist courts. On this issue and court recommendations more generally see: **'Court reforms: court spaces and models'; 'personnel reforms' and 'procedural and operational based reforms'** recommendations on page 13-16 of *Landscapes of Violence*.

## **Support Services**

Another key reform has been the development of support services (women's services, family violence services and specialist support services developed for Aboriginal and Torres Strait Islander and culturally and linguistically diverse communities, as well as for women with disabilities). We acknowledge that these services have developed over time as a result of the tireless work and campaigning of advocates, as well as social justice movements (George and Harris: 2014).

In *Landscapes of Violence* we heard of the valuable contributions of support services and their initiative, ingenuity and strength in working with survivors who have experienced extensive trauma and with very limited resources (see 123-126 in George and Harris: 2014). Pressure is heightened when workers are assisting women who require 'intensified specialised support' because of particular needs such as 'acquired brain injury, mental health, [or] disability support' (advocates 28 in George and Harris: 2014, 123).

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In addition to the stresses and distresses that workers contend with daily, those in regional and rural places encounter further obstacles, including many of the obstacles survivors face (for instance geographic and social isolation) as well as limited resources and often being bound to catchment areas<sup>22</sup> (George and Harris: 2014). Additionally, support agencies can encounter other barriers such as difficulties in recruiting and retaining staff and limited access to other professionals and specialist workers (Roufeil and Battye: 2008).

Overwhelmingly, survivors consulted for *Landscapes of Violence* characterised their interactions with support services as positive and ‘empowering’ (Chloe, quoted in George and Harris: 2014, 124). Women appreciated that workers provided information, holistic assistance (such as access and referrals to counselling and legal services), endeavoured to empower them, demystified complex criminal justice processes, appeared with them at court where possible (in many cases even when they were not funded to do so) and validated their experiences. In fact, for many women like Macy (in George and Harris: 2014, 124) support workers were

the first [people] I ever spoke to who validated what I was experiencing and kept saying, ‘Yes, we’re familiar with these behaviours, this is controlling, this is abusive’.

The magnitude of this should not be underestimated. Many survivors who had normalised violence accepted or blamed themselves for the abuse they experienced: perceptions workers contested. Workers also recognised and understood non-physical forms of violence which might not be seriously regarded (or indeed regarded as abuse) by others such as police, magistrates or private lawyers. In this vein, survivors identified that, because of this, their workers had the knowledge and confidence to be able to question the action of state agents (such as police and magistrates) in the court setting and to liaise with police in a way that they could not.

We maintain there should be an extension of funding to support services (and to services that assist culturally and linguistically diverse and Aboriginal and Torres Strait Islander survivors as well as survivors and children with disabilities). See 123-6 and **‘family violence support services: extension of funding’ recommendations, page 16 in *Landscapes of Violence***.

## **Legal advocates**

In rural and regional Victoria access to affordable legal information and representations is limited and can be further complicated by conflict of interest issues (see Kyle, Coverdale and

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<sup>22</sup> Although we did hear of workers who invested their own time and resources to assist survivors located outside of their service’s catchment zone.

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Powers: 2014). Key to enhancing access to legal advocacy is increased funding to community legal centres and specialist family violence lawyer programmes.<sup>23</sup>

In *Landscapes of Violence* specialist family violence lawyers were highly regarded, although accessing specialist lawyers could be difficult. Some survivors travelled extensive distances to access Women's Legal Service Victoria in Melbourne (who were greatly valued) but this was not possible for many.

There are specialist family violence legal services available to Aboriginal and Torres Strait Islander survivors outside of metropolitan areas through the Aboriginal Family Violence Prevention and Legal Service (FVPLS Victoria).<sup>24</sup> The outcomes of as well as the need for FVPLS speaks to its importance, yet recent funding cuts will affect the operations and capacity of FVPLS and place pressure on other already overburdened and under-resourced agencies (many of which have also faced cuts) who assist survivors. In efforts to reduce the incidence and harms of family violence on Aboriginal and Torres Strait Islander women and children, extension of support to agencies such as FVPLS is essential.

Specialist family violence lawyers attached to community legal centres in rural and regional areas and delivering FVIO services at court, benefit not only survivors who are seeking protection from the court, but streamline court processes and hearings. There are extensive unmet legal needs in Victoria and funding shortfalls and restrictions that legal services face will have devastating impacts on people seeking legal advocacy, including survivors of family violence.<sup>25</sup>

See 113-123 for more on legal advocates and family violence and '**extension of funding and revision of existing funding guidelines and policies**' recommendations on page 17 *Landscapes of Violence* 113-123.

## **Education campaigns and public awareness of family violence**

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<sup>23</sup> That is, lawyers trained to respond to family violence and connected to support or legal services (either formally or informally). Some specialist lawyers are further training and connections to community groups including Aboriginal and Torres Strait Islander survivors.

<sup>24</sup> FVPLS provides culturally appropriate assistance (legal advocacy, casework, counselling, outreach and court support) to survivors who do not access mainstream services (and nationally, engages in intervention, prevention and education programs). FVPLS are aligned with a range of services including those associated with housing, counselling, drug and alcohol and allied health services.

<sup>25</sup> See George and Harris: 2014, 119 and National Association of Community Legal Centres: 2015.

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The majority of survivors consulted for *Landscapes of Violence* experienced what we termed 'lifetimes' of violence; that is, they experienced family violence as children and as adults in interpersonal relationships or, in multiple interpersonal relationships. Consequently, women talked about how in the context of their lives violence was normalised, sometimes expected or, at the time, they felt it may have been warranted (George and Harris: 2014, see similar findings in Neilson and Renou for Loddon Campaspe Community Legal Centre: 2015, 39-14).

We note that survivors 'commonly conveyed the difficulty they faced in identifying non-physical forms of abuse as family violence' (George and Harris: 2014, 3) and identified a reluctance on the part of some private lawyers, police and magistrates to do likewise. Failure to acknowledge non-physical violence was, for some survivors, a failure of the system to recognise the harms of family violence and, a failure of justice.

Support workers also spoke of problems with identifying and responding to non-physical violence. The legal definition of family violence in the *Family Violence Protection Act 2008* (Vic) is much broader than physical violence but, in the words of workers, 'the change to the law that family violence is not just physical has not permeated through' (advocates 32 in George and Harris: 2014, 40). Thus not only survivors but criminal justice agents and the community at large would benefit from further education on the many forms that family violence can assume (for more on this see *Landscapes of Violence* 40-41).

Survivors had strong ideas about changing public awareness of and responses to family violence. Key to preventing intergenerational violence and abuse and, challenging acceptance of family violence in family structures is, they asserted, engagement in and education of children on the issues of gender, respectful and healthy relationships and violence. Women also proposed there be spaces in schools for children to discuss violence and its effects, to serve as a 'sense of sanctuary from responsible adults if those people at home aren't engaging in those [responsible] behaviours' (Macy in George and Harris: 2014, 43).

Survivors believed there was a lack of understanding about family violence and saw correlations between constructs of gender, the subjugation of women and the perpetration and normalisation of violence against women (for instance that committed in public as well as private spaces). They proposed widespread campaigns in public forums, such as free newspapers to challenge and change gender constructs and such ideologies and suggested there be greater discussion of family violence – the forms it can assume – and assistance available to women experiencing violence.

Community legal centres have long had educative roles and with greater funding could provide further resources, such as factsheets, on: family violence for communities and legal

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practitioners; preparing for the court event, understanding and varying FVIOs (for applicants and respondents).

See **'Broader societal responses and primary prevention initiatives'** recommendations on page 9 and **'Legal services: extension of funding on page 17 Landscapes of Violence** on how education campaigns might be further formulated and implemented.

***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?***

## **Extending access to specialist justice structures in regional and rural Victoria**

***Survivors should not be exposed to 'postcode justice'; they should not be disadvantaged by the lack of available specialist services in their regions (George and Harris: 2014). In the interests of justice, addressing needs and enhancing responses to family violence, it is imperative that access to specialist (police and court) responses are extended to regional and rural areas.***

As noted in the response above, among the most effective reforms to the family violence system would be the development and expansion of specialist criminal justice workers, programs and initiatives (including but not limited to specialist family violence courts and court workers, Family Violence Liaison Officers, Family Violence Court Liaison Officers, Aboriginal Liaison Officers, Multicultural Liaison Officers). We appreciate that throughout the country there has been considerable progress in this regard, and that Victoria has in many ways been a leader in initiating and implementing such reforms. However, thus far, equitable roll-out and implementation of services has been inconsistent and slow (Alston: 1997; Hogg and Carrington: 2006; Jordan and Phillips: 2013; Stewart: 2011). Specialist responses are less available in non-urban areas despite rates of family violence and risk to survivors and need to be extended, particularly in regional and rural areas (George and Harris: 2014).

## **Improving generalist criminal justice system responses**

The positive outcomes of the specialist police and courts need to be brought into the generalist systems, and work needs to be undertaken to identify how this can be achieved through creative use of resources and education. This is imperative because survivors and researchers (involved with CRRLJ researchers and beyond) have discussed how 'power imbalances inherent within the justice system can compound experiences of abuse and further traumatise survivors of violence' and indeed 'some authors have argued that the abuse and violence women

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experience at the hands of their partners is frequently repeated by the justice system through processes of rejection, marginalisation, emotional unresponsiveness and disempowerment' (Jordan and Phillips: 2013, 7; see also Douglas: 2012; Herman: 2003; Salisbury 2005; Wilcox: 2010). As CRRLJ researchers (Jordan and Phillips: 2013; George and Harris: 2014) have discussed, victim-blaming attitudes as communicated by state agents (such as generalist police and court personnel and child protection practitioners) ineffective or delayed criminal justice responses and trauma caused by and risk associated with the court event can result in repeat or secondary victimisation. Survivor experiences and perceptions of criminal justice responses can influence how (and indeed whether or not) they informally or formally respond to future incidents of family violence. In this section we identify issues with generalist police and court responses that could be improved.

## Negative survivor experiences of generalist police

In *Landscapes of Violence* support workers noted that women were not always comfortable talking to generalist officers about the family violence that they experienced and, alarmingly, some women chose not to identify as Aboriginal or Torres Strait Islander because they feared they would receive worse treatment from police. Some Aboriginal and Torres Strait Islander support workers described generalist police as 'a lottery'; at worst displaying culturally insensitive or racist behaviour (advocates 28 in George and Harris: 2014, 70). Advocates also identified a reluctance to ask women if they identified as Aboriginal or Torres Strait Islander, fearing it was an insensitive question. The result was that women were not necessarily directed to Aboriginal Liaison Officers who were available (see response to question two on the value of and need for culturally appropriate specialist police).

The polarised experiences survivors reported with generalist police in *Landscapes of Violence* suggest that the *Code of Practice* has not been uniformly implemented and that Victoria Police responses to family violence could be enhanced, as outlined in our response to question three. To this end, in regards to issues that emerged in the course of *Landscapes of Violence* (see George and Harris: 2014, 68-74) we assert that:

**further training is needed for officers (new recruits as well as serving officers) that is informed by specialist family violence agencies and organisations, as outlined on pages 10-11 of *Landscapes of Violence*.**

We also recommended **operational and procedural reforms, both in line with and extending on from the *Code of Practice*, see pages 11-13 of *Landscapes of Violence*.**

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## **Negative experiences of traditional, generalist court structures**

Traditional court structures and practices are not designed to deal with the particular characteristics of family violence matters. Our research found that women did not feel safe at generalist magistrates' courts. The design of the court space meant that women had to be in the same area as perpetrators. Out of necessity women often had children with them at court, which exposes them to more trauma and the courts are not child friendly spaces. Women's experiences of registrars at generalist courts were patchy, notwithstanding the extra training registrars received. The lack of privacy at the front counter of generalist courts was particularly difficult in small communities, compounding anxieties about disclosing abuse and attending court. There was an underutilisation of remote (videoconferencing) evidence capabilities, which could have helped to overcome some of the safety and anxiety issues women identified when appearing at court. Many magistrates were positively regarded, but worryingly, women, support workers and lawyers spoke of magistrates who displayed at best insensitive, at worst bullying, behaviour. In such circumstances some women spoke of feeling as though the court experience replicated the violence they experienced (Jordan and Phillips: 2013; George and Harris: 2014, see similar findings in Neilson and Renou for Loddon Campaspe Community Legal Centre: 2015, 68-70). As Wilcox (2010, 1018) explains 'victims of domestic violence can be further disadvantaged through engagement with the state (which ought to protect them)'.

On proposed recommendations in regards to courts see: **'Court reforms: court spaces and models'; 'personnel reforms' and 'procedural and operational based reforms'** recommendations on page 13-16 of *Landscapes of Violence*.

**Question Four:** Not applicable to this response.

**Question Five:** *If you or your organisation have been involved in observing or assessing programs, campaigns or initiatives of this kind, we are interested in your conclusions about their effectiveness in reducing and preventing family violence.*

## **Emma House Domestic Violence Services Model**

Our research found high levels of satisfaction from women in the South West region who were supported through the model operated by Emma House Domestic Violence Services (EHDVS) in Warrnambool: a community-based, independent feminist organisation. This initiative is operating out of Warrnambool Court and under it, most applicants who are not represented by

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police prosecutors in court are represented by a lawyer employed in-house by EHDVS, who is funded by Victoria Legal Aid. Most applicants see the lawyer at the family violence service and have a family violence worker through Emma House, but this is not mandatory. EHDVS negotiated a protocol between the court, police and the service, whereby a fax is sent to EHDVS the day before the family violence court list is heard. This enables the service to make contact with women to determine whether they need assistance in court. Warrnambool Court has a streamlined approach such that on court days registrars do not call for matters until they are advised that EHDVS is ready to proceed (see George and Harris: 2014, 123).

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

As highlighted in our answer to question one, women in regional and rural areas encounter an array of barriers which hinder help-seeking and formal responses to violence. These factors are thus associated with the persistence of family violence and indeed can be significant in facilitating and perpetuating the violence itself. Moreover, we identify that gender imbalances and constructs of gender are underlying issues in and causes of family violence (George and Harris: 2014).

***Question Seven: What circumstances and conditions are associated with the reduced occurrence of family violence?***

In the context of our study and in this submission we emphasise that efforts to address and overcome the aforementioned barriers would help contribute to increased access to assistance, improved formal responses and potentially, reduced occurrence of family violence.

***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.***

We note our answers to previous questions have focussed heavily on gaps and deficiencies in current responses to family violence, particularly in the rural and regional context. Some of the problems and deficiencies identified in our study are likely to be applicable to a broader geographic framework. For instance, we found that police and magistrates could be reluctant to pursue and issue FVIOs where women experienced non-physical violence. Perceptions of non-

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physical violence as less serious and such responses to it are not necessarily unique to criminal justice agents in regional and rural Victoria (see also George and Harris: 2014, 35-44 for more on trauma, forms and perspectives of violence as well as sections pertaining to police and court responses). Our comments in this section pertain to gaps and deficiencies observed in our (regional and rural) study however many of these would likely be applicable to and have relevance for survivors and (government and non-government) agencies cross Victoria.

## **An absence of funded applicant and respondent workers**

There is a need for funded applicant and respondent workers in all rural regional courts (see also George and Harris: 2014, 103-4). They greatly reduce the amount of time that magistrates need to spend on matters (and subsequently would reduce the time of court lists) as much of the work is done outside court by skilled workers with information and relationships with support services appropriate for the people they assist. By providing men with accurate information, respondent workers also are very effective at diffusing men's anger, which assists the process of negotiation with applicants, gives respondents agency in the process and enhances safety in the court. See **Court: 'court spaces and models'** recommendations in George and Harris: 2014, 13.

## **Extensive and unsafe waiting times at courts**

In *Landscapes of Violence* we outlined risk and trauma associated with court visits (George and Harris: 2014, 91, 93-96). Staggered family violence court lists would be beneficial in reducing waiting times and enhancing sense of safety at court. See **Court: Procedural and operational-based reforms** in George and Harris: 2014, 14.

## **The magistrate diversity deficit**

Currently the makeup of the magistracy does not reflect the community in terms of gender and culture. Greater diversity in the magistracy is necessary to maintain community confidence as the work of the court evolves from its traditional criminal base (see George and Harris: 2014, 91, 93-96 and Court Services Victoria: 2014; Dillon: 2005; Harris, Jordan and Phillips: 2014; McColl: 2014; Roach Anleu and Mack: 2009). Additionally, family violence permeates much of the court's criminal and civil work and the training of magistrates needs to be ongoing, challenging and interactive. See 'Characteristics of a good family violence magistrate' (George and Harris: 2014, 173) and recommendations in regards to: **Court: personnel reforms** (14).

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## Questions regarding existing court accountability models

In our research there were a number of women, support workers and lawyers who detailed behaviour by magistrates that was inappropriate at best, improper at worst and was experienced as bullying by some women applicants. There were also a number of issues raised around registrar attitudes and behaviours. For the women we spoke with, making a formal complaint was viewed as a luxury and not a priority in the context of the instability and trauma of ongoing proceedings, negotiating parenting issues, finances, relocation and the plethora of issues arising from relationship breakdown. Practitioners in small towns also were reluctant to formally complain because they appeared before the same magistrates all the time.

Current models of court accountability can be characterised as flawed because there is no transparency in the complaints process and no information is published on the number or type of complaints dealt with. Whilst the majority of magistrates no doubt perform their duties with great skill and competence it is essential for public trust in the judiciary and confidence in a complaints system that there is a level of transparency and accountability. The researchers recommended a **Judicial Commission be established along the lines of the NSW Judicial Commission and that such a Commission be established having consulted with stakeholders from various community and legal interest groups** (See George and Harris: 107-11 and recommendations, 15)

## Problems with FVIO breach responses

In the first phase of this research, the majority of women consulted reported breaches of FVIOs, with varying natures and severities. Consequently, survivors felt that FVIOs did not always protect women from family violence and, as Jordan and Phillips (2013, 32) surmise: '[w]omen reported vehemently that the FVIOs have not increased either their safety or their sense of safety'. In both studies (Jordan and Phillips: 2013, 6-7, 32-34 and George and Harris: 2014, 68, 71-72, 98, 143, 151, 163-168, see similar findings in Neilson and Renou for Loddon Campaspe Community Legal Centre: 2015, 60-64) police and court responses to breaches were described as inadequate and FVIOs were termed 'paper shields'. Women found that often it was very difficult to get police to respond to breaches particularly those delivered via information communication technology<sup>26</sup> (ICT), such as contact or threats made via text messaging. This was

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<sup>26</sup> Defined in *Landscapes of Violence* as: 'Technology utilised for the purposes of communication. Such technology includes telephonic functions (voice calls or voicemail messages made and received with "landline" or mobile telephones and Standard Messaging Systems – better known as "SMS" or "text" messages) or

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particularly the case when even the word ‘children’ was used in the message. Women reported that on seeing this word, police would regard it as a contact issue, not a breach. Text messages were seen as less serious even when there were multiple messages.

**On this issues see police and court recommendations**, in particular on pages 10, 12, 16 (George and Harris: 2014),

## **Gaps and deficiencies with FVIOs**

### **Recognising impacts of violence on children in the court setting**

Our research revealed a failure of lawyers and some magistrates to understand the impact on children of experiencing family violence.<sup>27</sup> This results in children being excluded from the protection of an FVIO. As the FVIO application form only has a box to tick in regard to whether children witnessed violence one lawyer said that in her experience if women give sworn evidence in court about the children witnessing the violence, that some magistrates view this as an add-on because it had not been detailed in the main body of the FVIO application (see **court: ‘procedural and operational-based reforms’** in particular on page 15, George and Harris:2014).

We found that some magistrates and lawyers took the view that if the violence against the woman was prevented by a FVIO, then witnessing children would, as a consequence, be protected from the violence and thus there was no need to include them on the order (see George and Harris: 2014, 96). This practice excuses the perpetrator from responsibility for the serious consequences on children witnessing their violence.

### **Child contact exemptions**

In respect of problems arising from child contact issues, Section 92 of the *Family Violence Protection Act 2008* (Vic) creates an ‘exemption’ to having contact with the applicant when the communication is to arrange child contact. Our research indicated that this exemption is exploited with many women reporting that even if an abusive text message has the word children or a reference to contact with children in it, then police will not breach a defendant

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messages or posts made on or through the internet (websites or email accounts), applications on social media sites and platforms (such as “Twitter”, “Facebook” and “MySpace”)' (George and Harris: 2014, 150).

<sup>27</sup> The Australian Domestic and Family Violence Clearinghouse (2011) notes various terms have been employed to capture women’s experience of family violence. We used the term ‘experiencing’ family violence because whether or not children were directly exposed to violence, survivors in our study discussed the multitude of ways that violence impacted on their children’s health and wellbeing. See also Flood and Fergus (2008).

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(see George and Harris: 2014, 97-8).

***We recommend that the Section 92 be amended so that it clearly states that it does not apply as an exemption in situations where the communication itself contains threatening or intimidating language.***

## Self-executing FVIOs

We note the critical role in Magistrates play in FVIO proceedings and so (see **'State government court-related reforms'** on page 16 in *Landscapes of Violence*) recommend that a quantitative and qualitative evaluation be done of self-executing FVIOs and their impact on FVIO breach rates. And on this issue see our answer to **question fourteen**.

## Cross applications and mutual FVIOs

On the issue of cross applications and mutual FVIOs, our research indicated that a great number of cross applications and mutual orders come about through women 'consenting' to them at court in order to not to have to battle with a perpetrator. In these circumstances most of the men were also legally represented. Support workers and lawyers suggested that mutual orders are in fact perceived as being used by men as bargaining tools in family law negotiations. As most of these orders are seemingly consented to they are not usually scrutinized by the court, which we assert they should be (see George and Harris:2014, 100-2).

## **Emphasising the need for privacy with police and registrars**

In our research women spoke of problems with not being able to privately speak with police when police attended family violence incidents and at the police station, or having children witness conversations between them and police. Women also identified a lack of private spaces to speak to registrars. Women can feel embarrassed and fearful and when forced to publically discuss their abuse could be reluctant to 'go into much detail about the violence they experienced, in case others might hear'; as Bella, speaking to the absence of privacy at the registrars desk explains (George and Harris: 2014, 76)

There could be six people behind you and because it's a small town two people behind you might know him. So you water it down, because there's people behind you listening.

This could potentially impact on criminal justice responses, because further evidence might not be disclosed and so it may seem as though women have not demonstrated why an FVIO is necessary or outlined the impacts of violence on their children.

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The lack of confidentiality and exposure women and their children experienced exacerbated trauma (often resulting in secondary victimisation noted in our reply to question three) and, as discussed in *Landscapes of Violence* had long-term impacts on their health and wellbeing. Speaking to this, Bron recalled how (in George and Harris: 2014, 69) officers at one police station insisted on speaking with her in front of her son. 'I wasn't happy and asked if I could take my boy home,' she lamented. '[I said I was cooking him roast pork for dinner, I just wanted him out of the station' but 'they asked if I was calling them pigs because of the roast pork comment'; '[t]hey didn't take it very seriously and laughed at me'. Her son was greatly impacted by the incident. She reported that he now

thinks he saw the violence. He is convinced of it. He has it set in his mind. He was there. He said 'Oh I wish I could have woken up and protected you'. But he wasn't there. He just heard me talking about it to police'.

**See aforementioned recommendations around police and court operations** (in particular on pages 11 and 15, George and Harris: 2014).

## Inadequate access to interpreters

The lack of use and lack of appropriate interpreting services in rural regional Victorian courts results in many culturally and linguistically diverse and hearing impaired women being disadvantaged in the court setting. The current use of male interpreters in family violence cases is also particularly problematic (see George and Harris: 2014, 104-7) and **court: 'personnel reforms'** on page 14. There is the potential for remote video technology to be used to extend access to interpreters, however, as stated earlier (in our answer to question two) communication can be problematic through such mediums (see Harris, Jordan and Phillips: 2014; Wallace: 2008).

## Property settlement processes

The majority of women, lawyers and magistrates interviewed for *Landscapes of Violence* said that women usually did not have family law agreements in place. The limited availability of legal assistance for family law matters means that these issues often remain unresolved and can continue and exacerbate violence. The cost of negotiating small property settlements means often that women are severely financially disadvantaged and may walk away from relationships with nothing, rather than to engage with a violent partner. There is the need for a low cost small property claims tribunal where family law property is less than \$100,000 (see **Court reforms:**

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**'Federal government court-related reforms'** George and Harris:2014, 16).

## **Housing**

One of the biggest challenges for women in rural and regional Victoria is the dearth of affordable housing. The lack of crisis, short and long term housing in rural regional areas results in women and children continuing to live with family violence because of a lack of housing either for perpetrators or for women and children. Magistrates indicated to us that they were reluctant to make exclusion orders against defendants in an FVIO, as the men would become homeless or have to move a long distance to get housing. Magistrates and lawyers also told us the lack of housing options is what is behind a number of breaches being committed, either by perpetrators insisting they be able to come 'home' or applicants feeling that they did not want to cause their former partner to be homeless. (see George and Harris: 2014, 57-59, 102-3 and **Crisis, short- and long-term housing** recommendations, 18-19).

## **Responses to child abuse post-separation**

National and international research has indicated connections exist between intimate partner abuse and child abuse (Dwyer and Miller: 2014; Forman: 1996; Tomison: 2000). Australian studies have documented connections between intimate partner abuse and child sexual abuse in particular (Brown et al: 1998; Goddard and Hiller: 1993; Tomison: 1995; Wild and Anderson: 2007). Approximately 13 per cent of survivors consulted for *Landscapes of Violence* (George and Harris: 2014) reported that, after escaping violence, they discovered that their children had been sexually abused by their former partner, during their relationship and sometimes post-separation (and in one case allegedly by a neighbour, post-separation). We note that national and international studies have dispelled myths that child sexual allegations in the context of separation or divorce are 'vindictively and falsely made' (Hume: 2003, 4, see also Brown: 1997; Brown and Alexander: 2007).

Survivors highlighted barriers and failings in responses to the abuse their children experienced. Locating ongoing counselling for children was difficult; resources are limited in the government and family violence sectors across Victoria and shortages are exacerbated outside of the cityscape. Moreover, some survivors reported encountering reluctance on the part of magistrates to back their request for counselling without endorsement from the Department of Human Services (DHHS). In another instance a survivor said that Centre Against Sexual Assault

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(CASA) workers informed her that counselling would not be made available or effective if her child was in contact with her abuser (charges had not been laid and so the child's father had maintained visitation).

Women described their struggles when pursuing charges against their child's abuser and dissatisfaction with state – police and D[H]HS – responses. In one case officers had not laid charges because the child was 'too frightened to do anything (about him or what he does)' and 'too scared to talk' and so had not 'made proper disclosure' (Chloe in George and Harris: 2014, 136). In counselling sessions her daughter later revealed that her abuser had threatened her mother's life if she told anyone about the abuse. Another survivor recounted police telling her that there was not enough evidence to proceed; '[t]heir exact words,' she remembered, were "'Who's going to believe the ramblings of a three year old'" (Jane in George and Harris: 2014, 136). She recalled that 'DH[H]S [Child Protection] said the same thing' but were more receptive 'after CASA approached them' which she found frustrating (Jane in George and Harris: 2014, 136). Child Protection practitioners also questioned the believability of Angela's children because of their ages (three and six years old) and because of their 'slightly varying stories' (in George and Harris, 136).

The notion of veracity and how it might be judged warrants further attention. Firstly, disregarding the above accounts of children based on their age is misguided. As Brown and Alexander assert, 'children as young as three can give clear accounts [of abuse] if approached properly' (2007, 55). Secondly, 'discrepancies' that are seen to discredit children's narratives can, Angela maintains, be overstated. She says that in her case 'nothing ended up happening' because when recounting an incident to police 'one [child] said slap, one said punch' (in George and Harris, 137). Lastly, survivors identified reluctance on the part of some authorities when allegations of abuse involved perpetrators who were known and had standing in their community.

We acknowledge the continuing and evolving training and education that both police and Child Protection practitioners receive and their formal and informal engagement with non-government agencies that assist survivors and their children (see for instance Dwyer and Miller: 2014 and George and Harris: 2014 for further coverage of programs and progress). Responses are increasingly holistic and improvements have been made, however the perceived failures of justice which occurred in the cases recounted here and the ongoing trauma survivors and their children were exposed to speak to a need to review current practices.

Given the connections between intimate partner abuse and child abuse and, perceived failings in responses to child abuse, we have advocated for changes around links between specialist family violence officers and Victoria Police Sexual Offences and Child Abuse Unit (see **police: procedural and operational-based reforms** page 12 of *Landscapes of Violence*). We have made further recommendations around the extension of services that assist children who have

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experienced family violence and sexual assault (see **'family violence support services** page 16 of *Landscapes of violence*) and recommendations pertaining to DHHS (see **DHS practitioner response recommendations: training based reforms, procedural-based reforms and government roles and responsibilities in regards to DHS policies and practices'** on pages 20-22 of *Landscapes of Violence*). Recommendations concerning DHHS (see 138-147 of *Landscapes of Violence*) were also developed to address negative experiences and perceptions some survivors had with and of DHHS, including in relation to child removal (and fear of child removal) and the phenomenon of 'mother blaming'.<sup>28</sup>

## Family violence and family law: separate but entwined

Earlier in this submission we mentioned that the notion of escaping violence is tenuous at best. It is not uncommon for women who have formally responded to violence to continue to experience violence and / or trauma and effects of abuse as well as having to contend with a raft of other matters. In this vein, women who shared parenting with their abuser and worried that their children were still exposed to violence talked about feeling as though they were 'still living it [the violence] through the kids' (Dawn in George and Harris: 2014, 141, see also 141-147). Some survivors felt that state agents (Child Protection practitioners, police and magistrates) considered their abuser's parenting and relationship with their children to be 'more important than protecting them' (Lola in George and Harris: 2014, 142, see also Brown and Alexander: 2007). Likewise, Victorian advocates have asserted that the primary objectives of the *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cwlth), which stresses the importance of children maintaining meaningful relationships with both parents, and protecting children from harm are, in the context of violence or abuse, fundamentally in conflict (Domestic Violence Resource Centre Victoria: 2009). And Kirkwood (2007, 12) warns that '[d]angerous consequences can flow from a pro contact culture'. Moreover, academic studies (Brown and Alexander: 2007; Edleson: 1998; Shea Hart and Bagwell: 2008) and in fact the *Working with Families Where and Adult is Violent: Best Interest Case Practice Resource* released by DHHS (Dwyer and Miller: 2014) have observed that in Australia, a mother's concerns about the impact of family violence on their children has to a certain extent, been overlooked.

In *Landscapes of Violence*, survivors and workers suggested that for some police, magistrates and lawyers, 'family law and family violence matters can become entwined and family law matters can take precedence over family violence' (George and Harris: 2014, 143 and see

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<sup>28</sup> Governed by sexual bias, this phenomenon considers a mother's role in and contributions to her children's maltreatment and maladjustment, while ignoring the role in and contribution of the father. In the context of family violence, mother blaming discourse operates to hold mothers primarily accountable for violence or the effects of violence their children experience while obscuring the accountability of an abusive father.

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sections pertaining to police, courts and 143-145). We documented accounts which spoke to police and magistrate reluctance to intervene when incidents involved children to some degree and so were said to be ‘family law’ as opposed to ‘family violence’ matters. Workers and survivors maintained that police and magistrates were often unwilling to respond to technology-facilitated abuse (discussed in coming pages) when communication mentioned children, even if such communication contravened FVIOs and constituted breaches. This situation illustrates one of the inadequacies of how section 92 is currently used. ***Section 92 should be a means of allowing necessary communication around contact matters, but not of enabling technology-facilitated violence.***

In the context of post-separation parenting survivors talked about being exposed to violence during ‘changeovers’ and having their complaints ignored by state agents. Angela sought an FVIO for the fourth time following an incident when her abuser ‘tried to punch me during a changeover’ but the magistrate was reluctant to grant it as ‘there’s been family law orders involved. He says it’s too difficult’ (in George and Harris: 2014, 143). Responsibility and blame for violence was, survivors felt, often placed on them as opposed to perpetrators. As Lola explained ‘[t]hey [the courts] look it as fixing me or making me and my children put up with it rather than changing what he’s doing’ (in George and Harris: 2014, 143). When courts ordered children to see their father against their wishes they blamed their mothers, which impacted on the mother-child relationship (see also Domestic Violence Resource Centre Victoria: 2009; Dwyer and Miller: 2014).

Survivors were angered when they felt that state agents – Child Protection practitioners, police and magistrates – did not recognise how danger impacts on, and is posed to, their children. As we emphasised in *Landscapes of Violence*, ‘[m]ore than solely a failure of justice, for women this represented a failure to protect survivors and their children’ (George and Harris: 2014, 148). Macy recalled how a magistrate maintained she had raised ‘parenting matters not family violence’ in her FVIO application; she told him ‘this is how things like the Farquharson dam case<sup>29</sup> happen, because you’re not recognising the unpredictability that comes [with family violence and abusers]’ (in George and Harris: 2014, 148).

## Prioritising children’s safety and holding perpetrators to account

In the course of our sessions with survivors, support workers, lawyers and agencies we heard of the ways that perpetrators sought to undermine and attack women’s ability to mother and the ways that state agencies were complicit in allowing or not regulating this behaviour. Some

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<sup>29</sup> Macy refers to the conviction of Robert Farquharson for the murder of his three sons, who died after the car he was driving veered off the Princes Highway and into a dam. See *R v Farquharson* [2010] VSC 163; *R v Farquharson* [2010] VSC 177; *R v Farquharson* [2010] 26 VR 410 and Kirkwood (2012).

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perpetrators sought to control women by threatening to contact Child Protection and accuse them of being ‘bad mothers’ and assume primary parenting; given past histories of forced child removal this was especially chilling for Aboriginal and Torres Strait Islander survivors and survivors with disabilities (see George and Harris: 2014). Women worried that DHHS would hold them accountable for times when they were unable to provide for their children because perpetrators withheld assistance (and in fact some perpetrators hid and stole children’s toys and clothes in efforts to punish women). Seeking to punish or seek revenge on women, some perpetrators restricted access to children or did not return them at agreed times and, alarmingly, several perpetrators attempted to harm children. One survivor found poisonous material on her daughter’s car seat, on her birthday. Survivors themselves also received death threats; numerous survivors had threats to their lives issued in front of their children.

It was not uncommon for women’s opposition to father-child contact in the context of family violence to, in the court setting in particular, be read as attempts to destroy or terminate this relationship.<sup>30</sup> Women whose primary aim was to protect their children felt pressured to negotiate volatile situations and shield their children from violence. As Vlasis of No to Violence explained (in his submission to researchers, George and Harris: 2014, 145)

problems arise when those who work in the social and legal institutions which intervene in cases of domestic violence are also influenced by the view that women are predominately responsible for their children’s wellbeing.

For all women, the wellbeing and security of their children was paramount and was a major factor in determining women’s responses to violence. Concern for their children was overwhelmingly what prompted women to formally respond to violence and / or leave their relationship. Sometimes survivors elected not to report violence or apply for an FVIO if they felt doing so would jeopardise the safety of children or themselves. Australian research (Brown and Tyson: 2012; Domestic Violence Resource Centre Victoria: 2009; Dwyer and Miller: 2014; Kirkwood: 2012) has documented the increased dangers women and children face post-separation, which provides evidence that, sadly, their fears and caution is not unfounded, and indeed some women in our study reported that formal responses led to escalations in violence (George and Harris: 2-14). Our findings lead us to agree with advocates (see Women’s Legal Service Victoria et al: 2011) that the ‘Failure to Protect’ legislation (clause 4 of the *Crimes Amendment [Protection of Children] Act 2014* (Vic) as it might be applied to survivors is ‘misguided at best, harmful at worst’ (George and Harris: 2014, 149). Simply put, the legislation does not appreciate the danger women and children are exposed to post-separation or the vast body of evidence that demonstrates that women’s responses to violence are governed by what they believe is in the best interests of their children. See **“Failure to protect” legislation: clause**

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<sup>30</sup> In actuality women sought to accommodate and resume father-child contact once assured of their children’s safety.

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**4 of the Crimes Amendment (Protection of Children) Bill 2014 (Vic)** recommendation on page 22 of *Landscapes of Violence*.

## Healthcare sector responses to family violence

In recent decades healthcare professionals have explored ways to enhance their responses to family violence (see George and Harris: 2014, 129-135 and Hamberger and Phelan: 2004; Hegarty and Bush: 2002; Roberts, Hegarty and Feder: 2006; Royal Australian College of General Practitioners: 2014). Hegarty (2006, 20) maintains that 'IPA [intimate partner abuse] is a very common, hidden problem for women attending clinical practice'. Patients may not present with any recognised symptoms and '[g]eneral practitioners will often say that they do not see many patients who have suffered violence' (Hegarty and Bush: 2002). In fact it has been estimated that full-time general practitioners (GPs) in Australia see between one and five women per week who have experienced family violence at some stage of their life (George and Harris: 2014). The Royal Australian College of General Practitioners has expressed commitment to and support of enhanced GP responses to family violence<sup>31</sup> and has released an updated edition of its *Abuse and Violence: Working with Our Patients in General Practice* manual (2014). In this vein, the Australian Medical Association has also acknowledged that '[t]he medical profession has key roles to play in early detection, intervention and provision of specialised treatment of those' affected by violence (1998) and, with Women's Legal Service NSW has released *When She Talks to You about the Violence: A Toolkit for GPs in NSW*.<sup>32</sup>

GPs in rural regional areas were often not part of the community, or else were deeply embedded in the community. Each of these circumstances created their own set of problems. The difficulty of getting doctors into rural regional areas means that they are often only there for a short time, had no knowledge of local support services or were culturally unaware of the prevailing legal and social attitudes to violence against women and children. Some doctors who were part of the community tended to try to keep families together or discourage women leaving.

Survivors consulted for *Landscapes of Violence* had difficulty accessing GPs and like support workers, spoke of high turnover in some regions, which could inhibit disclosure of violence (see

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<sup>31</sup> Such as in regards to: possible presentations, signs and symptoms of abuse; assessment of and indicators in children and young people; barriers survivors might face; discussions and questions to ask women and suspected perpetrators; ways to respond to disclosure; how to assess safety issues; how to document abuse and the importance of providing referrals to specialist services.

<sup>32</sup> Guides and guidelines have also been produced by the Department of Justice (2006), Victorian Community Council against Violence (2004 – this was based on a kit developed by the Domestic Violence Resource Centre Victoria and Women's Health West), Victorian Community Council against Violence (2006).

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George and Harris: 2014, 129-133). Overall, survivors had mixed experiences with disclosing violence to GPs and our discussions with survivors, workers and agencies have informed our recommendations around extending training and policies and practices to aid in improving GP responses to violence, see page 19 of *Landscapes of Violence: **General Practitioners, training-based reforms and operational reforms***. Survivors and workers alike advocated for further training for GPs and for more information about family violence and relevant services to feature at GPs offices (such as pamphlets and posters).

In speaking to their experiences with counsellors, survivors noted that, where services were available in their area they were sometimes overloaded. Services may not be accessible because of limited transport options. Locating counselling for children was also said to be difficult. Recommendations around extending survivor training can be found on page 19 of *Landscapes of Violence: **Counsellors***.

## **Women's experiences of technology-facilitated abuse<sup>33</sup> and stalking<sup>34</sup>**

Victorian advocates have developed innovative and indeed pioneering responses to technology-facilitated abuse and stalking. The *SmartSafe* project undertaken by Woodlock (2013) at the Domestic Violence Resource Centre Victoria has led to the introduction of practical training for support workers as well as knowledge-building across the sector and in academia (on the importance of such work see Southworth et al: 2007). And as later discussed in our answer to question eleven, ICT has been used to extend advocacy (such as through Skype programs like 'Women, Workers, Lawyers' and 'LINK') and the pilot online FVIO application which provides potentially safer and more convenient ways for women to seek a FVIO. Additionally, while not explored in our research, we are aware of the 'Bsafe' mobile GPS unit provided to 'people escaping family violence and sexualised assault' (Women's Health Goulbourn North East: 2011, 5). While currently the online FVIO application is being trialled in a metropolitan location (Yarra) all of the aforementioned initiatives reached women and workers in regional and rural locations to varying degrees. The last – 'Bsafe' – was trialled in the Hume region 'which is geographically varied and includes Alpine areas, some relatively remote farming communities and the major

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<sup>33</sup> Defined in *Landscapes of Violence* as: 'the sending or posting of defamatory or abusive acts or communications delivered through ICT; posting of a survivor's personal information or material using ICT or impersonation (of the survivor or another individual) using ICT for the purposes of harassing and/or defaming an individual; causing an unauthorised function in a computer or device used or owned by the survivor or impairing authorised functions' (George and Harris: 2014, 192)

<sup>34</sup> Defined in *Landscapes of Violence* as: '[t]he use of techniques and technologies to monitor the communication, activities or movements of a survivor. It can be facilitated by access to a survivor's physical or virtual property, accounts or online profiles (email or social media accounts, for example) and the use of various technologies including but not limited to computer monitoring software ('Spyware' programs), keystroke loggers and location-based tracking software and GPS (Global Positioning Systems)' (ibid)

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regional centres of Wodonga, Wangaratta, Seymour, Benalla and Shepparton' (Women's Health Goulbourn North East: 2011, 5).<sup>35</sup>

Unfortunately, in the course of *Landscapes of Violence* we heard that abusers are also using technology in attempts to intimidate, control, harm and punish survivors (findings which tallied with Woodlock: 2013). Southworth et al (2005) and Woodlock (2013) have explained that theories and motivations of technology-facilitated abuse and stalking can be characterised as grounded in 'control' and 'coercion'. Technology-facilitated abuse and stalking were not separate from but imbedded in women's narratives of violence. For example, perpetrators who engaged in financial abuse sent abusive SMS messages relating to financial matters. We found that the overwhelming majority of women experienced technology-facilitated abuse and a significant proportion experienced technology-facilitated stalking (see *Landscapes of Violence* 151-168 for examples and greater discussion). Our study offered the first geographic perspective into technology-facilitated abuse and stalking and we (George and Harris: 2014, 153) maintain that

**there are particular implications for women in regional and rural places who experience these phenomena, in the form of increased danger and safety risks. In contrast to women in metropolitan locations they are more visible to their abuser and often under greater surveillance; have fewer transport options; are more likely to encounter homemade weapons and firearms; and have less access to support services, police and emergency assistance.**

Most frequently technology-facilitated abuse involved 'survivors receiving abusive SMS messages, voice calls and messages, and harassment via their social media profiles' (George and Harris: 2014, 157). The degree and amount of abusive messages sent could be extreme and it was not uncommon for perpetrators to commission people in their network (friends and family members) to engage in technology-facilitated abuse and or stalking. Sometimes survivors had proof of the perpetrator's identity, sometimes this was concealed. Several women told us that they received calls from people they believed to be their abuser or in their abuser's network, impersonating police officers, trying to intimidate women who were pursuing formal responses to family violence. Perpetrators also encouraged people in their network to participate in attempts to shame survivors (as they did in Woodlock's 2013 research, which found this often had a sexualised aspect). Rohini's abuser, for example, 'put all over Facebook about the "affair" I'd had and how I was a terrible mother' and urged others to condemn her character and ability to mother (in George and Harris: 2014, 160). '[E]veryone wrote on it [the post] she lamented, [t]hey kept saying all these horrible things about what I was, what a horrible mother' (in George

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<sup>35</sup> For more on the project see Women's Health Goulbourn North East (2011). As of yet Women's Health Goulbourn North East has been unable to secure government funding for Bsafe (see Women's Health Goulbourn North East 'Bsafe': [http://www.whealth.com.au/work\\_bsafe.html](http://www.whealth.com.au/work_bsafe.html), accessed 27/5/2015)

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and Harris: 2014, 160). Survivors in this and other arenas the world over have detailed unsuccessful attempts in having social media regulate or remove online abuse and though likely beyond the scope of the Royal Commission, we stress that many companies that maintain social media platforms have not adequately addressed technology-facilitated abuse and stalking (see also the Association for Progressive Communication in reference list).

We found clear links between technology-facilitated abuse and traditional stalking.<sup>36</sup> For example, numerous women who received abusive SMS and social media messages spoke of their abuser's frequently visiting their places of work or residences. Connections between technology-facilitated and traditional stalking were also established. Survivors spoke of receiving messages that revealed they had been 'under surveillance' by their abuser or people in his network, such as 'I know where you were last night, I had photos taken' (George and Harris: 2014, 161). Alarming one woman staying in a refuge received Facebook messages from her abuser saying 'I know where you are' (Harris: forthcoming). Location-based technology was utilised by some abusers, mostly but not exclusively post-separation. This sinister and dangerous practice has also been documented by Eastern Community Legal Centre. Workers recounted that an abuser tracked down a survivor at a friend's house where she sought refuge; he had located her by logging into the family's MyKi account and viewing her travel history, identifying the suburb where she had travelled (Eastern Community Legal Centre: 2013).

Women talked about the invasiveness of technology-facilitated abuse and stalking because of its spacelessness; they were confronted with it anytime they logged into social media or email accounts or used their phone, tablet or computer. Indeed as Hand, Chung and Peters surmise, the 'concept of "feeling safe" from an abuser no longer has the same geographic and spatial boundaries it once did' (2009, 3). As Dimond, Fiesler and Bruckman (2011, 420) observe 'ICTs have changed the ways abuse impacts survivors long after the act of leaving'. Thus the practices of technology-facilitated abuse and stalking are another reason that we assert that the perception that women 'escape' violence is flawed. Simply put, such statements overlook the ways violence frequently continues to permeate survivor's lives as well as multifaceted legacies of violence and associated traumas that they combat.

In our study, as with other forms of violence (physical, sexual, emotional, psychological or financial) survivors reported experiencing technology-facilitated abuse during their relationship and post-separation. Typically, this actually increased post-separation (see also Fraser et al:

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<sup>36</sup> Defined in *Landscapes of Violence* as referring to 'a perpetrator's repeated visual or physical harassment and surveillance that does not involve technology; that is, engaging in behaviour that is intended to cause a victim mental or physical harm, including self-harm, or to cause apprehension or fear in regards to another person's safety. Such behaviour includes but is not limited to following a victim; entering or loitering outside or near a victim's place of residence, employment or location frequented by that person; interfering with a victim's property or possessions; keeping a victim under surveillance; issuing threats to a victim; and performing offensive or abusive acts in the presence of or directed to a victim' (George and Harris: 2014, 192)

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2010) and is in line with other studies which indicate ‘the most dangerous point in an abusive relationship is when she tries to extricate herself from it’ (such as Dimond, Fiesler and Bruckman: 2011, 413).

Survivors who experienced technology-facilitated stalking recounted how during their relationship and post-separation, their abuser had restricted and monitored their use of technology. Perpetrators reportedly reviewed social media profiles and usage, emails and call, SMS and internet histories. Some women, like Macy who was using these platforms to ‘help me figure out how to get out safely’, were conscious of the surveillance they were under; Macy would ‘delete my browsing history ... I had to be very careful about what I was doing and deleting everything’ (in George and Harris: 2014, 158). We heard of abusers hacking or logging into their accounts and profiles and a number of women reported that their abusers changed account information and passwords. It was difficult if not impossible for women to receive assistance to rectify the situation (from either businesses or institutions) which was ‘exasperating for women who, in addition to dealing with ongoing violence, had to contend with other matters associated with the dissolution of their relationship’ (George and Harris: 2014, 159).

## **Technology-facilitated abuse and stalking: state responses**

Guided by survivors, earlier in this submission we referenced recommendations around educative and community campaigns. In developing these proposals survivors emphasised the need to recognise that women have the right to form and leave relationships, which featured in our recommendations around educative campaigns. In examining technology-facilitated abuse and stalking, it appears as though this would benefit police officers as well as community members, as is evident from Heather’s account. She told us (in George and Harris: 2014, 159) that

There had been a fella who contacted me on Facebook. My partner saw this (but he didn’t see that I said to him I didn’t want to see him) and he cracked it and threw me around. The police woman said, ‘You shouldn’t talk to guys on Facebook’. It felt like she was saying, ‘You deserve it’ but she was wrong. I wonder what she would have said about all the other times he hit me, but I wasn’t quick enough to say, ‘So, the last three years he has grabbed me around the throat and there was no “excuse”; was that okay?’ ... The police woman sort of made me feel I was to blame.

Heather felt that the officer she met with regarded her as somewhat culpable for the incident and the role and actions of her abuser were ignored. Her right to use and engage with others on social media (irrespective of whether or not this occurred) was called into question. Other women worried that, when reporting violence to police, they would be regarded as responsible

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for or complicit in the abuse and stalking they experienced, particularly if they interacted with their abuser. Jemma (in George and Harris: 2014, 160) felt that

even the [abusive] messages I couldn't show the police because I'd responded, I'd had a conversation. So even though he's not allowed to contact me, I didn't feel like I could [inform the police].

Although the majority of survivors consulted for *Landscapes of Violence* experienced technology-facilitated abuse and / or stalking, it was rare that they felt this was sufficiently acknowledged and addressed by state agents (police and magistrates). Survivors commonly retained extensive records, but we found that 'a considerable barrier for women ... was a lack of clarity and general confusion' as to what evidence was recognised and responded to by police (especially in regards to FVIO breaches) and was admissible in court. Officers instructed Jane to collect proof of the harassment she experienced – '[t]hey said just take pictures, record telephone conversations' – but when she took the materials she gathered to court a magistrate told her it could not be used (see George and Harri:2014, 162-163 for other cases). Women who spoke with us did not mention receiving specialised investigative assistance<sup>37</sup> and it is not known how frequently this might be used or required.

Survivors interviewed for *Landscapes of Violence* generally felt that officers were 'at best reluctant to acknowledge technology-facilitated abuse and stalking, and at worst dismissive of it' (George and Harris: 2014, 163). When reporting technology-facilitated violence to police Rohini thought the 'police officer [with whom she spoke] took it very lightly' and while the officer told her he would speak to the perpetrator and 'give him a real fright' her abuser informed her that he knew the officer in question and 'he knows my family and he thinks you're a joke and that this whole case is a joke' (in George and Harris: 2014, 163). Chloe and Kelly claimed officers 'wouldn't acknowledge' or had 'done nothing' about the abusive messages they received (in George and Harris: 2014, 163). Officers did not, it seemed, always realise the threat posed to women or react appropriately to this threat. We heard of Aboriginal and Torres Strait Islander women who had their phones confiscated by police for the purposes of investigating family violence incidents and, in doing so, officers removed channels they used to call for assistance.

In *Landscapes of Violence* we highlighted that survivors believed police responses to FVIO breaches were inadequate and this was certainly they were dissatisfied with police responses to breaches by technology, which were characterised as occurring with frequency. Georgia was sent over 480 abusive SMS and Facebook communications which she alleged police had 'just fobbed off' (in George and Harris: 2014, 163). For her, the lack of action was indicative of what

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<sup>37</sup> The *Code of Practice* (Victoria Police: 2014) outlines that '[d]epending on the circumstances, attending police may request ... specialised investigative assistance' for cases such as '[s]talking, including by technology'.

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she perceived to be a failure of FVIOs and the criminal justice system because (see George and Harris: 2014, 164)<sup>38</sup>

The intervention order has definitely not made me feel safer. I've put locks on my doors, my neighbour put dow[el]s in the windows so you can't lift them up and open them ... I thought if someone breached an [FV]IO once, they were arrested and got into trouble. Not 480 texts later and still not in any trouble for it.

We appreciate that DHHS (2014, 50) has recently emphasised the menace that such breaches represent as

Multiple and persistent breaches [of FVIOs], even those that may at first appear 'low level' such as text messages, may be indicators of increasing risk. Case-based analysis suggests that perpetrators who continue to ruminate and be obsessed in their thinking with their partner may demonstrate this through numerous text messages and other forms of attempted contact. This is consistent with the evidence that stalking behaviour and obsessive thinking are highly related behaviours; stalkers are more likely to be violent if they have had an intimate relationship with the victim; and stalking, when coupled with physical assault, is strongly connected to murder or attempted murder.

We stress that international studies have affirmed that abusers who stalk are more likely to breach court orders than those who participate in other forms of violence (Woodlock: 2013, see also Logan and Cole: 2007).

In *Landscapes of Violence* we asserted that '[t]he incidence and impacts of technology-facilitated abuse and stalking, and their indication of possible risk – not only to women but also to children – were not always appreciated by magistrates' (George and Harris: 2014, 164). Highlighting this, Aboriginal and Torres Strait support workers recalled a case where a survivor was sent an SMS threat to kill. Both the applicant and respondent agreed to children being included on an FVIO, however 'the magistrate said as there was no threat to the children he would not include them on the order' (in George and Harris: 2014, 164). This was an oversight; as the DHHS identifies, threats issued to survivors or their children and '[s]evere and persistent stalking' (whether by technology or traditional modes) signify risk (including of filicide; Dwyer and Miller: 2014, 85). When FVIO breaches by technology mentioned children police and magistrates were, survivors maintained, hesitant to act (because it was perceived to be a family law not family violence matter, which speaks to the need to identify conditions of parental communication in FVIOs).

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<sup>38</sup> Similarly Woodlock (2013, 32) says women 'often did not feel that breaches of the [FVIO] intervention orders were taken seriously, particularly if they occurred using technology, such as via the internet and mobile phone'

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Survivors were infuriated when they thought that police and magistrates did not acknowledge technology-facilitated abuse or stalking. Katherine felt she ‘wasn’t listened to even though I had proof there’ (in George and Harris: 2014, 165). When technology-facilitated abuse and stalking are unchecked it can continue, with distressful and devastating consequences. As well as understanding the harms and trauma associated with technology-facilitated violence and stalking, we assert that

***it is vital that survivors, advocates and state agents appreciate ‘that these acts are examined in the context of women’s experiences of family violence; and that technology-facilitated stalking – like traditional forms of stalking – can escalate to physical (lethal or near lethal) violence’ (George and Harris: 2014, 166, see also Woodlock: 2013, Dimond, Fiesler and Bruckman: 2011).***

Stalkers who have been in an intimate relationship with a victim are more likely to be physically violent; women stalked by former partners are ‘very likely to be physically, emotionally, and / or sexually assaulted by the same person’ (Mason and Magnet: 2012, 107; see also McFarlane et al 1999).<sup>39</sup>

***Dissatisfied with state responses, survivors may decide to disengage from technology and this ‘can severely impact women in regional and rural Victoria, experiencing family violence and geographic or social isolation, because their engagement with their social network (friends and family) as well as family violence support networks is jeopardised’ and indeed can increase risk to victims (George and Harris: 2014, 168). Women should not be held accountable or penalised for their abuser’s behaviour, and this must be reflected in responses to technology-facilitated abuse and stalking.***

## Border Issues

There are a number of issues that arise particularly for survivors who are attempting to deal with family violence in towns on or near state borders. These issues can relate both to lack of synchronisation and coordination of laws and to lack of cooperation between law-enforcers. For example, an FVIO issued in one jurisdiction may not be applicable on the other side of the border, so when a survivor crosses the border (as they might need to do, for example, for work or for shopping), they might no longer be protected by the order. Further, a survivor may live in one jurisdiction but the nearest police station might be over the border and a lack of cross-jurisdictional agreements between police departments can keep the police from investigating and acting on breaches that have occurred outside their jurisdiction. Typically, where these issues of cross

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<sup>39</sup> For more on risk and femicide see *Landscapes of Violence* page 166-168.

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jurisdictional policing are addressed, they are done so by the sheer goodwill of the officers involved, and therefore rely on informal arrangements that often disintegrate as soon as officers move on.

***Reciprocal arrangements across jurisdictions, both for the recognition of FVIOs and their enforcement, are therefore important to ensure greater safety for survivors who live on or close to jurisdictional borders.***

***Questions Nine and Ten:*** Not applicable to this response.

***Question Eleven: What are some of the most promising and successful ways of supporting the ongoing safety and wellbeing of people affected by violence? Are there gaps or deficiencies in our approach to supporting ongoing safety and wellbeing? How could measure to reduce the impact of family violence be improved?***

### **Specialist culturally appropriate family violence and legal services**

Specialist culturally appropriate family violence legal services have greatly enhanced women's experience of going to court and improve court outcomes. Aboriginal and Torres Strait Islander women need to have access to specialist Aboriginal and Torres Strait Islander family violence legal services. (See George and Harris: 2014, 120-123 and recommendation, 18). Women from culturally and linguistically diverse communities also need access to services that are appropriate for them. Culturally appropriate family violence and legal services engage women longer and give them better outcomes for themselves and their children (see George and Harris: 2014, 120-3)

### **Use of Information Communication Technology (ICT) to connect with survivors**

The 'Women Workers Lawyers' Skype project (and subsequent LINK projects) provide opportunities for women who have experienced or are experiencing violence to connect with legal advice through a family violence support worker located in a community organisation. Using a laptop or tablet and 'Skype'<sup>40</sup> that operates as an access point, the FV worker links survivors with legal workers at the Women's Legal Service. The service can be used anywhere there is internet connectivity and conversations between workers and survivors are private and encrypted. Only project partners have access to the Skype address (see George and Harris: 2014, 62-63 and Whittaker and Judd: 2013; Women's Health Goulbourn North East et al: 2012a;

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<sup>40</sup> Skype technology allows for free voice or video calls to be made using a computer, smartphone or tablet.

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Women's Health Goulbourn North East et al: 2012b). Support workers have also benefitted from such programs, through including through knowledge-building and enhanced networking. Family violence workers are provided with a 'Tool Kit' which 'covers all sorts of legal issues that they may need to consider...Many of the issues workers may not have been aware of or considered before' (Workers 25, not quoted in George and Harris: 2014; Harris: forthcoming).

These initiatives and others that utilise ICT have the potential to overcome barriers that both survivors and advocates encounter (including geographic and social isolation) and essentially create new, borderless, safe and confidential spaces women can access assistance. There is great potential in such programs increasing access to justice for women in regional and rural areas.

See page 18 of **Legal services: extension of funding and revision of existing funding guidelines and policies**; we recommend that Commonwealth and state funding be increased and extended for alternative advocacy services such as ICT advocacy that is currently being undertaken in Victoria (see also Dracup: 2014).

## **Online FVIO form trials**

In *Landscapes of Violence* we had recommended that (see George and Harris:2014, **Courts: procedural and operational-based reforms**, 15) 'courts create better online platforms so that family violence and legal workers can assist survivors in completing these forms online'. To that end, we are enthused that a trial of online FVIOs has begun, under a pilot project administered by The Neighbourhood Justice Centre. As the Neighbourhood Justice Centre has identified, this online platform potentially offers a more secure and convenient means for survivors to apply for FVIOs (see Neighbourhood Justice Centre: 2015). Currently the pilot is being offered to survivors living in the City of Yarra. On successful completion of the project we would hope that such initiatives are extended to regional and rural locations. Given the issues identified in *Landscapes of Violence* and raised in this submission (including but not limited to a lack of privacy at registrar's desks in many locations and safety issues at regional and rural courts) there would be great benefits to women beyond the cityscape. Other features of the online form utilised by the Neighbourhood Justice Centre – namely, the fact that it is '[e]asy to use, easy to read', 'written in Plain English' with 'explanations and examples to help guide the applicant through the process' – would also help in demystifying material that survivors, support workers and lawyers in our research identified as complex and intimidating (see Neighbourhood Justice Centre 2015 and George and Harris: 2014).

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**Questions Twelve and Thirteen:** Not applicable to this response.

**Question Fourteen: To what extent do current processes encourage and support people to be accountable and change their behaviour? To what extent do they fail to do so? How can we ensure that behaviour change is lasting and sustainable?**

Our comments on Men's Behaviour Change Programs relate to their implementation in regional and rural contexts (see George and Harris: 2014, 126-7 and **recommendations: Perpetrator services and supports** 17). We note that there were mixed perceptions as to the success of these programs and their ability to effect change. The appropriateness of such initiatives in smaller communities was questioned; some felt the group setting was off-putting, although altering the program based on the geographic setting was not recommended by family violence workers or men's organisations consulted by researchers. Instead, the consensus was for increased resources (across Victoria, not only but certainly in regional and rural areas). Additionally, it was suggested that Men's Behaviour Change programs be expanded to consider the safety of women to a greater extent and to refer women to appropriate services.

### **Changes to the Family Violence Protection Act 2008 (Vic)**

The introduction of self-executing FVIOs is concerning (see George and Harris: 2014, 90-92 and **recommendations: State government court-related reforms** 16) because of the reduced role of magistrates. By directly addressing perpetrators magistrates play a key role in speaking to the impact of and community approbation of family violence to women and children. Not utilising this authoritative public denouncement of violence to family members directly to the perpetrator in open court, is a significant missed opportunity.

**Questions Fifteen and Sixteen:** Not applicable to this response.

**Question Seventeen: Are there specific cultural, social, economic, geographical or other factors in particular groups and communities in Victoria which tend to make family violence more likely to occur, or to exacerbate its effects? If so, what are they?**

As noted in question one, incidence of family violence can occur at significantly higher levels in regional and rural as opposed to metropolitan regions. One possible explanation is the gender

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constructs and unequal power relations which are by no means unique to but can assume distinct forms and applications in non-metropolitan places (see George and Harris: 2014, 47-49). Another explanation is traits and values of self-reliance that have been located in some regional and rural places, which can result in reluctance to disclose abuse (see George and Harris: 2014, 47-50). However, regional and rural places are by no means homogenous and various factors that occur in places with high rates of family violence warrant further attention. The increase of family violence in the aftermath of disaster as outlined in the seminal research conducted by Parkinson, Zara and Weiss of Women's Health Goulburn North East (see reference list) identifies another risk category that could be further investigated and critically, that requires further support.

As discussed in question two, the majority of survivors consulted for *Landscapes of Violence* experienced 'lifetimes' of violence (long-term and or intergenerational experiences both of a survivor and by those within their informal support networks) which could result in normalisation of and a reluctance to disclose or response to violence. This speaks to a need to address forms and perceptions of violence, healthy relationships and gender at an early age (George and Harris: 2014).

***Question Eighteen: What barriers prevent people in particular groups and communities in Victoria from engaging with or benefiting from family violence services? How can the family violence system be improved to reflect the diversity of people's experiences?***

See researcher response to question one; survivors in regional and rural Victoria face a host of barriers. Groups and communities (including Aboriginal and Torres Strait Islander survivors, culturally and linguistically diverse survivors and survivors and their children with disabilities) can benefit from use of and engagement with specialist advocacy groups, services and criminal justice responses that are tailored to and address their needs. As outlined in the response to question two, specialist services, initiatives and programs require further resourcing, particularly in regional, rural and remote locations.

***Question Nineteen: How can responses to family violence in these groups and communities be improved? What approaches have been shown to be most effective?***

This question has been answered in previous answers.

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***Question Twenty: Are there any other suggestions you would like to make to improve policies, programs and services which currently seek to carry out the goals set out above?***

This has been noted in other responses; we would stress the need to consider regional and rural contexts and needs in future responses, additionally we identify a:

### **Silent voters anomaly**

Currently the Commonwealth electoral roll reveals the electorate of silent voters. This makes it easy in country areas for perpetrators to locate women.

We ask the Royal Commission request the Federal Special Minister of State ensure that only a silent electors name and the wording 'address suppressed' be publicly available on the Commonwealth Electoral Roll (see George and Harris: 2014, 22) and see Joint Standing Committee on Electoral Matters (2013, 82, 4.39).

***Question Twenty-one: The Royal Commission will be considering short term and longer term responses to family violence. Tell us about the changes which you think could produce the greatest impact in the short and longer term***

Please see recommendations in *Landscapes of Violence* (George and Harris: 2014, 6-23) which have been referred to in this document.

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