



Domestic Violence Resource Centre Victoria

Preventing violence, promoting respect

Submission to the Family Law Council

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About DVRCV

The Domestic Violence Resource Centre Victoria (DVRCV) aims to prevent violence in intimate and family relationships and promote non-violent and respectful behaviour. DVRCV was established in 1986 and is now the largest provider of family violence resources and training in Victoria.

Our work is informed by the lives of women and children who have experienced family violence. We work within a feminist framework, which is grounded in evidence that demonstrates the gendered nature of family violence. This means that while our work covers the many forms of family violence, we have a particular focus on men's violence towards women and children in intimate and domestic relationships. Our work on primary prevention aims to address the underlying gender inequality that is one of the most significant drivers of men's violence against women (VicHealth 2007).

DVRCV's work bridges the gap between research and practice. We undertake research and use available evidence to inform our training programs, publications and advocacy, and work in partnership with other organisations with similar aims. We provide:

- Training courses for professionals to improve responses to family violence, including primary prevention, intervention and crisis responses, risk assessment and management, and long-term recovery
- Comprehensive online and printed resources with information for:
 - People who have experienced family violence, their friends and family
 - Family violence workers, researchers, students and primary prevention practitioners
 - Young people
- A printed magazine, The Advocate, which covers current issues in the family violence field
- Specialist projects to support the development of the family violence service system
- Partners in Prevention, a network and capacity building forum for those working with children and young people to prevent violence against women
- Research to identify current evidence and gaps in service delivery
- Advocacy and comment on policy and practice initiatives, media reporting, law reform and best practice frameworks
- Initial support, information and referral to individuals and professionals seeking information on family violence and support services.

For more information about DVRCV, visit www.dvrcv.org.au

Submission scope

In this submission we have focused on issues relevant to Terms of Reference 4, 'the opportunities for enhancing collaboration and information sharing between the family law system and other relevant support services such as child protection, mental health, family violence, drug and alcohol, Aboriginal and Torres Strait Islander and migrant settlement services'. In particular, this submission discusses issues around risk assessment and risk management.

Family violence, risk assessment & assessing risk to children

A significant feature of family violence is that separation, or attempts to end the relationship, is a dangerous time for women experiencing family violence. For many women, violence persists after

separation and often escalates, and in many instances violence occurs for the first time after separation.

The preliminary findings of a forthcoming study of sexual intimacy homicides¹ by men in Victoria from 2005-2014 by DVRCV and Monash University indicate that two-thirds of these homicides occurred in the context of separation or sexual jealousy (forthcoming 2015). The NSW Domestic Violence Death Review Team's examination of deaths in NSW over a ten-year period during 2000-2010 also found that recent separation or an expressed intention to separate were key factors in cases in which women were killed by current partners (DVDRT 2015). Likewise, as examined by the Victorian Systemic Review of Family Violence Deaths, separation was a key factor in family violence-related deaths in 2007-2011 (Walsh et al 2012).

This research echoes the findings of national and international studies. Forty per cent of men who killed their intimate partner in Australia were found to be motivated by the termination of a relationship or jealousy (Mouzos 1999). A US study found that half the women (51 per cent) killed by a male partner were killed as they were trying to leave and approximately half these women were leaving for the first time (Block 2009).

In DVRCV's 2012 discussion paper, *'Just say goodbye... Parents who kill their children in the context of separation'*, separation was identified as also being a significant risk factor in filicides (where children are killed by a parent). The DVRCV paper identified strong links between violent and controlling behaviour towards the mother, and harm to children.

In the cases examined in the DVRCV paper of fathers killing their children, three key themes were identified. One or more of the following was evident in the cases examined:

- Prior intimate partner violence
- Anger towards an intimate partner in relation to separation and desire for revenge
- Using the child/ren to hurt their mother

The key point arising from DVRCV's research is that violence against women is a significant contributing factor in many filicides. We share the view put forward by the Women's Aid Federation in the UK, that 'if the child's primary carer is facing a potentially lethal level of violence, this should always be recognised as a serious child protection issue and efforts should be made to ensure the safety of both the non-violent parent and the children' (Saunders 2004).

Victims may express fears or concerns to professionals, and in several of the cases examined by DVRCV, mothers whose children were killed had current intervention orders against the perpetrator.

A British study (Ferguson 2009) sheds further light on the links between separation, family law disputes and family violence in filicides. Of particular interest was the finding that over-controlling behaviour towards the mother and children was more likely to be a key feature in filicides that occur in the context of custody disputes. Additional research suggests that loss of control over the family after separation may be as significant as the motivation of revenge (Harne 2011). 'It is the extent of control over the whole family rather than the frequency of physical violence that indicates that such fathers are at high risk of killing children' (Ferguson 2009). Many filicide perpetrators come into prior contact with service providers, and in many cases police, medical or social services were aware of the conflict in the relationship. This includes prior violence towards the partner, extreme anger towards their ex-partner and thoughts of suicide or harming family members.

¹ Situations in which a person kills their current or former intimate partner, or kills a person whom they consider to be a sexual rival in relation to their current or former intimate partner

Peter Jaffe, Chair of the Domestic Violence Death Review Committee in Ontario, Canada, argues that warning signs in filicides are often overlooked by professionals. While the risk to adult victims of family violence may be identified, the potential risks to children may not be, particularly when there is no history of the perpetrator directly harming the child (Jaffe et al 2014). As such, workers coming into contact with families in which there are concerns about the safety of family members, or conflict in relation to separation, require skills (and tools) for effective risk assessment.

DVRCV takes the view that risk assessment is likely to be most effective when implemented as a whole system approach based on a shared understanding, which includes appropriate referral pathways. It is important that risk assessment frameworks be aligned across sectors and jurisdictions.

The Victorian Family Violence Risk Assessment and Risk Management Framework

The Family Violence Risk Assessment and Risk Management Framework (known commonly as the Common Risk Assessment Framework, or 'CRAF') is a central tool for assessing and responding to family violence risk in Victoria. Released in 2007 by the Victorian Government's Office for Women's Policy, CRAF serves as one of the most significant pieces of collaborative work in efforts to reduce family violence harm in Victoria. Government and non-government agencies contributed to the development of the Framework.

Its purpose was to provide a foundation and guide for consistent approaches to family violence risk assessment and risk management, as well as to support the development of an integrated family violence system in Victoria. It was primarily designed to assess the risks of women experiencing family violence being seriously harmed or killed. It was not developed with consideration of risk indicators for filicide or other serious harm to children, even though the links between family violence, child abuse and filicide are well documented.

An accompanying training program was also developed and has been rolled out since 2008. Since that time, over 6,500 professionals have attended CRAF training.

The Framework adopts a 'structured professional judgement' approach that combines three elements to determine the level of risk to women:

- the victim's own assessment of their level of risk
- evidence-based risk indicators
- the practitioner's professional judgement

However, there is no validated risk assessment tool in Australia or internationally that measures risk to children in the context of family violence. DVRCV acknowledges that guidance within CRAF around risk assessment of children is currently inadequate, and in our submission to the Royal Commission into Family Violence, has called for a review to include better guidance in this regard. (We attach DVRCV's submission to the Royal Commission into Family Violence for information).

While different models of family violence risk assessment operate in different jurisdictions, the evidence-based risk indicators outlined in CRAF are consistent with most other tools and frameworks used elsewhere.

The need for consistent state and federal risk assessment frameworks and tools

The 2010 Australian Law Reform Commission/New South Wales Law Reform Commission (ALRC/NSWLRC) report Family Violence: A national legal response identified the need for consistent state and federal approaches to family violence, including family violence risk assessment. DVRCV and its alliance partners made a comprehensive submission to this inquiry. The following recommendations made by ALRC/NSWLRC were in line with that submission:

18.52 The Commissions consider that a common definition of family violence, together with a shared understanding of particular conduct that may comprise family violence, would provide the groundwork for a common approach to risk assessment for family violence. Across all jurisdictions a common approach to risk assessment would mean that the needs of victims of family violence are consistently understood and addressed by all service providers, including specialist family violence services, courts, police, lawyers and mainstream service providers such as education and health care providers ...

18.55 Work is currently underway to develop a national framework to support screening and assessment for family violence across the federal family law system. In order to promote consistency in understanding and identifying family violence across jurisdictions, it would also be desirable if the federal framework currently being developed was consistent with the overarching risk assessment and management frameworks that apply in states and territories (ALRC/NSWLRC 2010).

However the relationship (or lack of) between state-based family violence risk assessment tools and processes and federal processes is problematic. There is little crossover between Victorian risk assessment tools and the way that family violence risk is assessed in the Federal Circuit and Family Courts. Recent frameworks developed at a national level for application in the federal courts were done without reference to or consultation with state family violence systems or frameworks (for example, the Family Law DOORS framework that assists separating parents and family law professionals to detect and respond to both wellbeing and safety risks was developed without the knowledge of, consultation with or reference to the Office of Women's Policy in Victoria, which held responsibility at the time for the Victoria risk assessment framework).

We would urge that the Family Law Council revisit the recommendations in the ALRC/NSWLRC report in this regard, with a view to working with states and territories to resolve this issue.

Information sharing and risk management

Many issues identified in the Family Law Council Interim Report to the Attorney-General (June 2015) speak to the need for effective information sharing. This is especially pertinent given that the family law system has no independent investigative body akin to a child protection department to provide the courts with a forensic assessment of child risk issues, and the family courts have no capacity to compel a child protection department to intervene in a family law case or to investigate the court's concerns.

The report also notes the 'significant problems for families and the courts created by the lack of information shared between jurisdictions' and that the current system can be 'un-coordinated, with no overall case management to ensure that relevant information from one jurisdiction is available to another or to assist families with the transition from one system to another' (Family Law Council, 2015).

DVRCV is of the view that it could be helpful for the Family Law Council to examine the model of family violence risk management (through the establishment of Risk Assessment Management

Panels) that has been trialled in Victoria and is to be introduced statewide, to see if there are learnings that could be applied in the family law context.

A Risk Assessment Management Panel (RAMP) is a formally convened meeting of key agencies and organisations to comprehensively assess the safety of individual women and children at serious and imminent risk from family violence, and to develop coordinated action plans across participating agencies. Cases referred to a RAMP must involve women and children at serious and imminent risk, and where the development of a coordinated multi-agency action plan in addition to the 'normal' service response is considered essential to avert the threat posed by the perpetrator.

The RAMP model operates within the context of limited confidentiality of Victorian law where confidentiality may need to be breached if there is a need to act to lessen or prevent serious and imminent threat to an individual's life health or safety. RAMPs bring together multiple agencies that hold risk-relevant information. Service providers meet to share that information and discuss strategies to preserve life and safety in high risk cases. A family violence specialist worker who holds a regionally based coordination role is able to canvass participating agencies to identify who holds risk-relevant information, and then coordinates the bringing together of that information at a RAMP meeting. There are elements of this model that may be helpful for the Family Law Council and federal Courts to consider.

In the family law context, for example, when a Form 4 is filed that indicates that family violence has occurred, the family violence case coordinator (a RAMP-equivalent role) would be tasked with identifying agencies that may hold relevant information (e.g. Child Protection, police, Magistrates Courts, family violence services, mediation services, etc). They would then seek to access information that is risk relevant and deemed to be important for the court to consider.

As is happening in Victoria at the moment, such a model requires a review of policy, practice and legislation which is likely to identify reforms to improve the way that information is able to be shared across jurisdictions in order to promote safety of children and of their primary caregivers.

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