

## Appendix 1

### CONSULTATION PAPER SUBMISSIONS

No	Date	Name	Organisation
1	2 Jan 2003	Phillip Westwood	
2	16 Feb 2004		Vietnamese Community in Australia – Vic Chapter
3	29 June 2004		Eastern Domestic Violence Outreach Service
4	16 July 2004		Eastern Domestic Violence Outreach Service
5	16 July 2004	Sam Iliadis	Acting Sergeant, Victoria Police
6	17 June 2004		Office of the Public Advocate
7	31 Aug 2004	Barbara Roberts	
8	16 Sep 2004		Werribee Legal Service
9	5 Oct 2004	Cindy Smith	Social Worker
10	10 Dec 2004	Prue Innes	
11	16 Dec 2004	Anonymous	
12	4 Jan 2005	Paul Evans	Sergeant, Victoria Police
13	10 Jan 2005	Adrian Sowton	
14	11 Jan 2005	Anonymous	
15	12 Jan 2005	Anonymous	
16	17 Jan 2005	Suzanne McDonald	Acting Sergeant, Victoria Police
17	21 Jan 2005		The Police Association

18	21 Jan 2005	William D Wilde	
19	31 Jan 2005		Family Law Council
20	2 Feb 2005	Mrs EF Belsten	
21	3 Feb 2005	Adrian Sowton	
22	10 Feb 2005	Kim Robinson	Social Worker
23	14 Feb 2005		Zonta Club of Frankston
24	21 Feb 2005	James Hickey	
25	22 Feb 2005	Barbara Roberts	
26	22 Feb 2005	Valerie Ashton	Public
27	24 Feb 2005		Robinson House BBWR
28	25 Feb 2005		Murray Mallee Community Legal Service
29	25 Feb 2005	James Hickey	
30	25 Feb 2005		Violence Against Women Integrated Services
31	25 Feb 2005	Lisa Keyte	Senior Constable, Gay and Lesbian Liaison, Victoria Police
32	26 Feb 2005	John Murtari	
33	28 Feb 2005		Women's Domestic Violence Crisis Service
34	1 March 2005	Andrea Marian	
35	1 March 2005	Anonymous	
36	1 March 2005		Paediatric Division, Royal Australasian College of Physicians
37	1 March 2005		County Court Law Reform Committee
38	1 March 2005		Emergency Accommodation Support Enterprise EASE
39	1 March 2005		Royal Women's Hospital
40	1 March 2005		Whittlesea Domestic Violence Network
41	3 March 2005		Victoria Legal Aid

42	3 March 2005	Roy Tucker	Retired Psychiatric Social Worker
43	3 March 2005		Humanist Society of Victoria
44	3 March 2005	Anonymous	
45	3 March 2005	Rochelle Campbell	Women's Health Resource Worker
46	3 March 2005		Royal Children's Hospital
47	3 March 2005	Judy Johnson	
48	4 March 2005		Coburg Brunswick Community Legal and Financial Counselling Centre
49	7 March 2005		Domestic Violence and Incest Resource Centre
50	7 March 2005	Barry Johnstone	Senior Registrar, Magistrates' Court of Victoria
51	7 March 2005		Villamanta Legal Service
52	11 March 2005		Gippsland Community Legal Service
53	11 March 2005		Women's Electoral Lobby, Victoria
54	11 March 2005	Andrew Compton	
55	11 March 2005		Crime and Misconduct Commission Queensland
56	11 March 2005		Lone Fathers Association (Australia)
57	21 March 2005		Victorian Aboriginal Legal Service
58	22 March 2005		Family Court of Australia
59		duplicate	
60	22 March 2005	Andrew Compton	
61	23 March 2005		Broadmeadows Community Legal Service
62	29 March 2005		Eastern Community Legal Centre
63	29 March 2005		Darebin Family Violence Working Group
64	31 March 2005		Federation of Community Legal Centres (Vic)

65	31 March 2005	John Willis	Associate Professor, La Trobe University
66	31 March 2005		Aboriginal Family Violence Prevention and Legal Service (Victoria)
67	1 April 2005	Rosemary Hunter	Professor, Griffith University
68	1 April 2005		Statewide Steering Committee to Reduce Family Violence
69	6 April 2005		Victorian Community Council Against Violence
70	11 April 2005		Asylum Seeker Resource Centre
71	19 April 2005	Anonymous	
72	19 April 2005		Victoria Police
73	27 Nov 2004	Anonymous	
74	20 April 2005		Women's Legal Service Victoria
75	29 April 2005		National Network of Indigenous Women's Legal Services
76	14 Feb 2005	Anonymous	
77	2 March 2005	Anonymous	
78	May 2005		Department for Victorian Communities
79	3 June 2005		Department of Human Services
80	29 June 2005	Anonymous	
81	25 July 2005	Anonymous	
82	15 August 2005	James Hickey	
83	2 March 2005	Anonymous	
84	14 Dec 2004	Anonymous	
85	27 Oct 2005	Deborah Weiner	
86	11 Nov 2005		Magistrates' Court of Victoria
87	11 Nov 2005		CASA House

## Glossary

**affidavit**

A written statement made under oath out of court.

**applicant**

A person who lodges an application for a family violence protection order, who may be the person who needs protection from family violence, a police officer, or a guardian of a child or young person.

**balance of probabilities**

The standard of proof in civil cases, and requires the magistrate to determine if it is more likely that the applicant or the respondent is telling the truth.

**charge**

When the police arrest someone, they must charge them with a crime.

**circle sentencing**

Involves the defendant's community and the victim making recommendations to the judge in relation to sentencing.

**complainant**

A person who applies for an intervention order on their own behalf or on behalf of another person.

**complaint**

A formal accusation of a crime. A **complaint and warrant** is an application for an intervention order that includes a power of arrest. A **complaint and summons** does not have a power of arrest.

**cross-examination**

When a witness is questioned by the lawyer from the opposing side.

**defendant**

The accused person in criminal proceedings.

**ex parte**

A Latin term meaning 'from one side'. Ex parte applications are heard in the absence of the defendant.

**evidence**

Includes any statements, objects or other things used to prove the facts in a legal hearing or trial.

**family conferencing**

Where family members who have used or experienced violence sit down with a mediator to discuss their experiences and come up with solutions to stop the violence.

**guardian**

A person who is legally appointed to protect the rights of another person. A plenary guardian has all the powers and duties that a person would have if they were a parent of the person subject to the guardianship order if the person was a child. A limited guardian has powers and duties over specific areas only.

**in chambers**

When a magistrate makes a decision out of the court.

**interim order**

A temporary order which is issued until a hearing can be conducted to decide whether a final intervention order is made.

**jurisdiction**

The territory over which judicial or State authority is exercised.

**justice system**

When referring to the justice system, we are talking about police, the courts, prisons and any other of the State's responses to crime or wrongdoing.

**magistrate**

A judicial officer in the Magistrates' Court who may judge civil and some criminal cases.

**on the papers**

When a decision is based on written material, ie without the parties present or giving oral evidence.

**ouster order**

An order made by a magistrate to remove a respondent from his or her home.

**perpetrator**

The family member who uses violence against another family member.

**police prosecutor**

Appears in court as the representative of the person who alleges the crime.

**registrar**

A registrar is a staff member at a court who carries out the court's administrative tasks.

**restorative justice**

Refers to the process that brings together people who have a stake in a specific crime or wrongdoing to decide how to deal with the consequences of the wrongdoing.

**revocation**

A revocation of an intervention order is its cancellation.

**serve**

Physically handing over (serving) court documents, such as an intervention order, to the person named in the document.

**stay**

An order of a court which suspends the operation of a previous order.

**substituted service**

When a document issued by the court cannot be served on a person, the court will use another method of letting the person know about the document, such as leaving it with a family member.

**summary offence**

An offence that is heard by a magistrate rather than a judge and jury.

**summons**

A summons is a formal request from a court to attend a hearing or trial.

**technical breach**

Magistrates and police sometimes use the term **technical breach** to refer to a breach that does not involve physical violence, eg a respondent coming within a prohibited distance.

**variation**

An intervention order variation occurs after application by one or all of the parties for the court to change the terms of the order.

**vexatious litigants**

Vexatious litigants are people who persistently institute legal proceedings without any reasonable grounds. In the area of family violence, vexatious litigants may be motivated to repeatedly bring an application against a family member as a way to continue to harass that person after separation.

**victim–offender mediation**

Where the victim/s and offender sit down with a mediator to discuss their experiences and decide on solutions or punishment for the violence.

**warrant**

A court document that allows police to arrest the accused or bring him or her before the court.

## Bibliography

- Access Economics, *The Cost of Domestic Violence to the Australian Economy: Part 1* (October 2004)
- Almeida, Rhea and Durkin, Tracy, 'The Cultural Context Model: Therapy for Couples with Domestic Violence' (1999) 25(3) *Journal of Marital and Family Therapy* 313
- Amnesty International, *Making Rights a Reality: The Duty of States to Address Violence Against Women* (2004)
- Spain: More than Words: Making Protection and Justice a Reality for Women Victims of Gender Based Violence in the Home*, (Publication No ER 41/005/2005)
- Andrews, Penelope, 'Violence Against Aboriginal Women in Australia: Possibilities for Redress within the International Human Rights Framework' (1997) 60 *Albany Law Review* 917
- Ascione, Frank, Weber, Claudia and Wood, David, 'The Abuse of Animals and Domestic Violence: A National Survey of Shelters for Women who are Battered' (1997) 5(3) *Society Animals*, available from <[www.psyeta.org/sa/sa5.3/Ascione.html](http://www.psyeta.org/sa/sa5.3/Ascione.html)>
- Australian Bureau of Statistics, *Women's Safety Australia 1996*, Catalogue No 4128.0 (1996)
- Australian Law Reform Commission, *Domestic Violence*, Report No 30 (1986)
- Equality Before the Law: Women's Equality*, Report 69, Part 2 (1994)
- Australian Law Reform Commission, NSW Law Reform Commission, Victorian Law Reform Commission, *Uniform Evidence Law: Report* (December 2005)
- Australian Lawyers for Human Rights, *Newsletter—June 2005*  
<[www.alhr.asn.au/html/main/NewsletterJune2005.htm](http://www.alhr.asn.au/html/main/NewsletterJune2005.htm)>
- Bagshaw, Dale and Chung, Donna, *Women, Men and Domestic Violence* (Partnerships Against Domestic Violence, 2000)

- Bobic, Natasha, *Adolescent Violence Towards Parents: Myths and Realities* (Rosemount Youth and Family Services, 2002)
- Adolescent Violence Towards Parents* (Australian Domestic and Family Violence Clearinghouse, 2004)
- Boyle, Mick, *Men, Male Family Violence and Homelessness*, Council to Homeless Persons, Male Family Violence Prevention Association,  
<[www.chp.org.au/parity/articles/results.chtml?filename\\_num=00132](http://www.chp.org.au/parity/articles/results.chtml?filename_num=00132)>
- Braithwaite, John, 'Shame and Criminal Justice' (July 2000) *Canadian Journal of Criminology* 281
- Branigan, Elizabeth, 'His Money or Our Money?' *Financial Abuse of Women in Intimate Partner Relationships* (Coburg–Brunswick Community Legal and Financial Counselling Centre, 2004)
- Breckenridge, Jan and Carmody, Moira (eds), *Crimes of Violence: Australian Responses to Rape and Child Sexual Abuse* (Allen and Unwin, 1992)
- Breckenridge, Jan and Laing, Lesley (eds), *Challenging Silence: Innovative Responses to Sexual Assault and Domestic Violence* (Allen and Unwin, 1999)
- Buzawa, Eve and Buzawa, Carl (eds), *Domestic Violence: The Changing Criminal Justice Response* (Sage, Thousand Oaks, 1992)
- Do Arrests and Restraining Orders Work?* (Sage Publications, Thousand Oaks, 1996)
- Domestic Violence: The Criminal Justice Response* (Sage, Thousand Oaks, 2<sup>nd</sup> ed, 1996b)
- Cockram, Judith, *Silent Voices: Women with Disabilities and Family and Domestic Violence* (People with Disabilities (WA), 2003)
- Coomaraswamy, Radhika, *Preliminary Report Submitted by the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, UN Doc E/CN.4/1995/42 (1994)
- Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, UN Doc E/CN.4/1996/53 (1996)
- Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women*, UN Doc E/CN.4/2003/75 (2003)

- Curtis-Fawley, Sarah and Daly, Kathleen, *Gendered Violence and Restorative Justice: The Views of Victim Advocates*,  
<[www.griffith.edu.au/school/ccj/kdaly\\_docs/vaw\\_paper.pdf](http://www.griffith.edu.au/school/ccj/kdaly_docs/vaw_paper.pdf)>
- Daly, Kathleen and Hayes, Hennessey, *Restorative Justice and Conferencing in Australia* (Australian Institute of Criminology, 2001)
- Department for Victorian Communities, *Changing Lives: A New Approach to Family Violence in Victoria* (2005)
- Department of Justice and Industrial Relations [Tasmania], *Safe at Home: A Criminal Justice Framework for Responding to Family Violence in Tasmania*, Options Paper (2003)
- Department of Justice [Victoria], *Cultural Diversity Project* (2003)
- New Directions for the Victorian Justice System 2004–2014: Attorney-General's Justice Statement* (2004)
- Statistics of the Magistrates' and Children's Courts of Victoria: Intervention Order Statistics 1998/99–2002/03* (2004)
- Department of Justice [Western Australia], *Report on a Review of Legislation Relating to Domestic Violence*, Final Report (2004)
- Director of Public Prosecutions [ACT], *Annual Report 2003–2004*, Publication No 04/1285 (Canberra, 2004)
- Disability Discrimination Legal Service, *Beyond Belief, Beyond Justice: The Difficulties for Victim/Survivors with Disabilities when Reporting Sexual Assault and Seeking Justice*, Final Report of Stage One of the Sexual Offences Project (2003)
- Domestic Violence and Incest Resource Centre, *What's in a Name? Definitions and Domestic Violence*, Discussion Paper No 1 (1998)
- Men as Victims of Domestic Violence: Some Issues to Consider*, Discussion Paper No 2 (2001)
- Family Violence and Homelessness: Removing the Perpetrator from the Home*, Discussion Paper No 2 (2002)
- Domestic Violence Death Review Committee, *Annual Report to the Chief Coroner: Case Reviews of Domestic Violence Deaths, 2002* (Ontario, 2002)
- Domestic Violence Legislation Working Group, *Model Domestic Violence Laws*, Report (1999)

- Donovan, Robert and Vlasis, Rodney, *VicHealth Review of Communication Components of Social/Marketing/Public Education Campaigns Focusing on Violence Against Women* (Victorian Health Promotion Foundation, 2005)
- Douglas, Heather and Godden, Lee, 'Intimate Partner Violence: Transforming Harm into a Crime' (2003) 10(2) *E Law—Murdoch University Electronic Journal of Law* <[www.murdoch.edu.au/elaw/issues/v10n2/godden102nf.html](http://www.murdoch.edu.au/elaw/issues/v10n2/godden102nf.html)>
- Easteal, Patricia, 'Marital Violence Among the Overseas-Born' (Paper presented at the Criminal Justice System in a Multicultural Society conference, Melbourne, 4–6 May 1993)
- Edwards, Robyn, *Staying Home Leaving Violence: Promoting Choices for Women Leaving Abusive Partners* (Australian Domestic and Family Violence Clearinghouse, 2004)
- Elizabeth Hoffman House, *From Shame to Pride: Access to Sexual Assault Services for Indigenous People*, Consultation Outcomes, Reports and Recommendations (2004)
- Erez, Edna, 'Immigration, Culture Conflict and Domestic Violence/Women Battering' (2000) 2(1) *Crime Prevention and Community Safety: An International Journal* 27
- Erez, Edna and Laster, Kathy (eds), *Domestic Violence: Global Responses* (AB Academic Publishers, 2000)
- Fantuzzo, John and Mohr, Wanda, 'Prevalence and Effects of Child Exposure to Domestic Violence' (1999) 9(3) *The Future of Children* 21
- Magistrates' Court of Victoria, Family Violence Court Division, *Applying for an Intervention Order* (2005)
- Fawcett, Nicholas, Gullone, Eleonora and Johnson, Judy, 'Domestic Violence and Animal Abuse: Encouraging Collaborative Relations Between Animal Welfare and Human Welfare Agencies in Australia' (2002) 24(2) *InPsych* 36
- Feder, Lynette and Dugan, Laura, 'A Test of the Efficacy of Court-Mandated Counselling for Domestic Violence Offenders: The Broward Experiment' (2002) 19(2) *Justice Quarterly* 343
- Field, Rachael, Carpenter, Belinda and Currie, Susan, 'Issues for Magistrates in the Making of Ouster Orders Under the Domestic Violence (Family Protection) Act, 1989 (Qld)' (Paper presented at the International Society Family Law Conference, Brisbane, 9–13 July 2000)

- Flood, Michael, *The Myth of False Accusations of Child Abuse: Fact Sheet 1* (2005) <[www.xyonline.net/Falseaccusationsabuse.shtml](http://www.xyonline.net/Falseaccusationsabuse.shtml)>
- Fact Sheet 2: The Myth of Women's False Accusations of Domestic Violence and Misuse of Protection Orders* (National Council of Single Mothers and Their Children, 2005) <[www.ncsmc.org.au/docs/False%20Accusations%20DV.pdf](http://www.ncsmc.org.au/docs/False%20Accusations%20DV.pdf)>
- ‘Changing Men: Best Practice in Violence Prevention Work with Men’ (Paper presented at the Home Truths Conference: Stop Sexual Assault and Domestic Violence: A National Challenge, Melbourne, 15–17 September 2004)
- Frances, Ruth (ed), *Mirrors, Windows and Doors: A Self-Help Book for Men About Violence and Abuse in the Home* (Revised by N Belfrage and I Wilson) (Victorian Network for the Prevention of Male Family Violence, 1998)
- Freckelton, Ian and Selby, Hugh (eds), *Expert Evidence: Law, Practice, Procedure and Advocacy* (Lawbook Co, 2<sup>nd</sup> ed, 2002)
- Freiberg, Arie, *Pathways to Justice: Sentencing Review 2002* (Department of Justice, 2002)
- ‘Problem-Oriented Courts: Innovative Solutions to Intractable Problems?’ (Paper presented at the Australian Institute of Judicial Administration, Magistrates' Conference, Melbourne, 20–21 July 2001)
- Frohman, Carolyn, *There is No Justice—There's Just Us: The Status of Women with Disabilities in Australia* (Women With Disabilities Australia, 2002)
- Violence Against Women with Disabilities: A Report from the National Women With Disabilities and Violence Workshop, Melbourne, February 1998* (Women with Disabilities Australia, 1999)
- Geffner, Robert, Jaffe, Peter and Sudermann, Marlies (eds), *Children Exposed to Domestic Violence: Current Issues in Research, Intervention, Prevention, and Policy Development* (Haworth Press, 2000)
- Gilson, Stephen, Cramer, Elizabeth and DePoy, Elizabeth, ‘Redefining Abuse of Women with Disabilities: A Paradox of Limitation and Expansion’ (2001) 16(2) *AFFILIA* 220
- Gordon, Ruth and Adam, Munira, *Family Harmony: Understanding Family Violence in Somali and Eritrean Communities in the Western Region of Melbourne* (Women's Health West, 2005)
- Graycar, Regina and Morgan, Jenny, *The Hidden Gender of Law* (Federation Press, 1990)

- Gullone, Eleonora, Johnson, Judy and Volant, Ann, 'The Relationship Between Animal Abuse and Family Violence: Implications for Animal Welfare Agencies and Human Service Organisations' (2002) 2 *Domestic Violence and Incest Resource Centre Newsletter* 3
- Hanna, Cheryl, 'No Right to Choose: Mandated Victim Participation in Domestic Violence Prosecutions' (1996) 109 *Harvard Law Review* 1849
- Health Outcomes International, *Improving Women's Safety* (Office of the Status of Women, Department of the Prime Minister and Cabinet, 2004)
- Heenan, Melanie, *Just 'Keeping the Peace': A Reluctance to Respond to Male Partner Sexual Violence*, Issues Paper No 1 (Australian Centre for the Study of Sexual Assault, 2004)
- Hester, Marianne and Radford, Lorraine, *Domestic Violence and Child Contact Arrangements in England and Denmark* (The Policy Press, 1996)
- Heydon, J D, *Cross on Evidence* (Butterworths, 6<sup>th</sup> ed, 2000)
- Ho, Robert and Venus, Marilyn, 'Domestic Violence and Spousal Homicide: The Admissibility of Expert Witness Testimony in Trials of Battered Women Who Kill Their Abusive Spouses' (1995) 1(1) *Journal of Family Studies* 24
- Hobart, Margaret, 'Tell the World What Happened to Me.' *Findings and Recommendations from the Washington State Domestic Violence Fatality Review* (Washington State Coalition Against Domestic Violence, 2002)
- Holder, Robyn, *Domestic and Family Violence: Criminal Justice Interventions* Issues Paper 3 (Australian Domestic and Family Violence Clearinghouse, 2001)
- Holder, Robyn and Mayo, Nicole, 'What Do Women Want? Prosecuting Family Violence in the ACT' (2003) 15(1) *Current Issues in Criminal Justice* 5
- Holder, Robyn and Munstermann, Nicole, 'What Do Women Want? Prosecuting Family Violence in the ACT' (Paper presented at the Expanding Our Horizons Conference, University of Sydney, 18–22 February 2002)
- Home Office [United Kingdom], *Speaking Up for Justice: Report of the Interdepartmental Working Group on the Treatment of Vulnerable or Intimidated Witnesses in the Criminal Justice System* (London, 1998)
- Research Development and Statistics Directorate, *Restorative Justice: An Overview* (1999)

- Hoyle, Carolyn and Sanders, Andrew, 'Police Response to Domestic Violence: From Victim Choice to Victim Empowerment' (2000) 40 *British Journal of Criminology* 14
- Hulls, Rob, Attorney-General [Victoria], *Human Rights in Victoria: Statement of Intent* (Department of Justice, 2005)
- 'Sites Chosen for Specialist Family Violence Service' (Media Release, 2 December 2005)
- Human Rights and Equal Opportunity Commission, *Submission to the Northern Territory Law Reform Committee Inquiry into Aboriginal Customary Law in the Northern Territory* (May 2003)
- <[www.hreoc.gov.au/sex\\_discrimination/customary\\_law/submission.html](http://www.hreoc.gov.au/sex_discrimination/customary_law/submission.html)>
- Humphreys, Cathy and Thiara, Ravi, 'Neither Justice nor Protection: Women's Experiences of Post-Separation Violence' (2003) 25(3) *Journal of Social Welfare and Family Law* 195
- Hunter, Rosemary, 'Styles of Judging: How Magistrates Deal with Applications for Intervention Orders' (2005) 30(5) *Alternative Law Journal* 231
- Indermaur, David, *Young Australians and Domestic Violence*, Trends and Issues in Crime and Criminal Justice, No 195 (Australian Institute of Criminology, 2001)
- International Save the Children Alliance, *Preventing Family Violence: A Manual for Action* (1999)
- Irwin, Jude, 'Lesbian Domestic Violence: Unseen, Unheard and Discounted' (Paper presented at the Second Australian Women and Policing Conference, Emmanuel College, University of Queensland, 7–9 July 1999)
- James, Kerrie, Seddon, Beth and Brown, Jac, '*Using It' or 'Losing It': Men's Constructions of their Violence Towards Female Partners*, Research Paper (Australian Domestic and Family Violence Clearinghouse, 2002)
- Jennings, Chris, 'Violence and Women with a Disability: Break Down the Barriers' (Paper presented at the 3rd National Homelessness Conference, Beyond the Divide, convened by the Australian Federation of Homelessness Organisations, 6–8 April 2003, Brisbane)
- Johnson, Kelly, Andrew, Ruth and Topp, Vivienne, *Silent Victims, A Study of People with Intellectual Disabilities as Victims of Crime* (Office of the Public Advocate, 1988)

- Judicial Council of California, Administrative Office of the Courts, *Domestic Violence Courts: A Descriptive Study* (2000)
- Karan, Amy, Keilitz, Susan and Denaro, Sharon, 'Domestic Violence Courts: What Are They and How Should We Manage Them?' (1999) *Juvenile and Family Court Journal* 75
- Kaye, Miranda, Stubbs, Julie and Tolmie, Julia, *Negotiating Child Residence and Contact Arrangements Against a Background of Domestic Violence* (Families, Law and Social Policy Research Unit, Socio-Legal Research Centre, Griffith University, 2003)
- Kearney McKenzie and Associates, *Review of Division 11: Review of the Operation of Division 11 of the Family Law Reform Act to Resolve Inconsistencies Between State Family Violence Orders and Contact Orders made Under Family Law* (1998)
- Kearney, Vanessa, 'The Option of Staying at Home' (Paper presented at the Home Truths: Stop Sexual Assault and Domestic Violence a National Challenge conference, Melbourne, 15–17 September 2004)
- Keel, Monique, Fergus, Lara and Heenan, Melanie, *Home Truths: a Conference in Review* (Australian Centre for the Study of Sexual Assault, 2005)
- Keys Young, *Against the Odds: How Women Survive Domestic Violence: The Needs of Women Experiencing Domestic Violence Who Do Not Use Domestic Violence and Related Crisis Intervention* (Office of the Status of Women, 1998)
- Evaluation of ACT Interagency Family Violence Intervention Program: Final Report* (ACT Department of Justice and Community Safety, 2000)
- Evaluation of the ACT Family Violence Intervention Program Phase II: Final Report* (2001)
- Laing, Lesley, *Children, Young People and Domestic Violence* (Australian Domestic and Family Violence Clearinghouse, 2000)
- Working with Women: Exploring Individual and Group Work Approaches* (Australian Domestic and Family Violence Clearinghouse, 2001)
- Responding to Men Who Perpetrate Domestic Violence: Controversies, Interventions and Challenges* Issues Paper 7 (Australian Domestic and Family Violence Clearinghouse, 2002)
- Domestic Violence and Family Law*, Topic Paper (Australian Domestic and Family Violence Clearinghouse, 2003)

- Lawrence, Anne and Robinson, Sally, 'Access to Injustice? Domestic Violence and Women with Intellectual Disabilities in Australia' (2002) 8(1) *Polemic* 34
- Lievore, Denise, *Non-Reporting and Hidden Recording of Sexual Assault: An International Literature Review* (Commonwealth Office of the Status of Women, 2003)
- McCarthy, Therese, *Public Health, Mental Health and Violence Against Women: Report Produced for VicHealth* (VicHealth, 2003)
- McGibbon, Alison, Cooper, Libby and Kelly, Liz, 'What Support?' *An Exploratory Study of Council Policy and Practice and Local Support Services in the Area of Domestic Violence within Hammersmith and Fulham* (CWASU Child and Women Abuse Studies Unity, 1989)
- McInnes, Kay, 'Easy Targets' (Paper presented at the Disability and the Criminal Justice System: Achievements and Challenges conference, Melbourne, 13–15 July 2005)
- McKenzie, Mandy, 'What Happened to Respect? How a National Violence Prevention Campaign Went Off the Rails' (2005) 4(1) *No to Violence Journal* 12
- Magistrates' Court of Tasmania, *Family Violence—General Information*, <[www.magistratescourt.tas.gov.au/divisions/family\\_violence](http://www.magistratescourt.tas.gov.au/divisions/family_violence)>
- Magistrates' Court of Victoria, *Family Violence and Stalking Protocols* (2003)
- Marcolin, S, *Female SAAP Clients and Children Escaping Domestic and Family Violence 2003–04* (Australian Institute of Health and Welfare, 2005)
- Melville, Angela and Hunter, Rosemary, "As Everybody Knows": Countering Myths of Gender Bias in Family Law' (2001) 1(1) *Griffith Law Review* 124
- Metropolitan Police [Great Britain], *Findings from the Multi-Agency Domestic Murder Reviews in London: Prepared for the ACPO Homicide Working Group* (2003)
- Mills, Linda, 'Killing Her Softly: Intimate Abuse and the Violence of State Intervention' (1999) 113 *Harvard Law Review* 550
- Ministry of Justice and Department for Courts [New Zealand], *Domestic Violence Act 1995: Process Evaluation* (Wellington, 2000)
- Mouzos, Jenny, *Homicidal Encounters: A Study of Homicide in Australia 1989–1999*, Research and Public Policy Series No 28 (Australian Institute of Criminology, 2000)

- Mouzos, Jenny and Rushforth, Catherine, *Family Homicide in Australia*, Trends and Issues in Crime and Criminal Justice No 255 (Australian Institute of Criminology, 2003)
- ‘Family Homicide in Australia’ (Paper presented at the Eighth Australian Institute of Family Studies Conference, Melbourne, 12–14 February 2003)
- Mouzos, Jenny and Makkai, Toni, *Women’s Experiences of Male Violence: Findings from the Australian Component of the International Violence Against Women Survey (IVAWS)* (Australian Institute of Criminology, 2004)
- Nancarrow, Heather, *In Search of Justice in Domestic and Family Violence* (Unpublished MA Thesis, Griffith University, 2003)
- National Committee on Violence Against Women, *Access to Services for Women with Disabilities who are Subjected to Violence* (1993)
- Newman, Tony, ‘Family Violence Court—Adelaide Magistrates Court’ (Paper presented at the Innovation: Promising Practices for Victims and Witnesses in the Criminal Justice System conference, Canberra, 23–24 October 2003)
- New South Wales Bureau of Crime Statistics and Research, *An Evaluation of the NSW Apprehended Violence Order Scheme* (1997)
- New South Wales Law Reform Commission, *People with an Intellectual Disability and the Criminal Justice System*, Report No 80 (1996)
- Apprehended Violence Orders*, Report No 103 (2003)
- Nunn, Jenny and D’Arcy, Marg, ‘Legal Responses to Family Violence: The Need for a Critical Review’ (2001) (3) *Domestic Violence and Incest Resource Centre Newsletter* 15
- Office for Women, Department of Family and Community Services, *Women’s Refuges, Shelters, Outreach and Support Services in Australia: From Sydney Squat to Complex Services Challenging Domestic and Family Violence* (2004)
- Office of the Status of Women, Department of the Prime Minister and Cabinet, *Community Attitudes to Violence Against Women*, Executive Summary (1995)
- Research into Good-Practice Models to Facilitate Access to the Civil and Criminal Justice System by People Experiencing Domestic and Family Violence*, Final Report (Barton ACT, 2002)
- The Cost of Domestic Violence to the Australian Economy: Part 1* (2004)

- Office of Women's Policy, Department of Premier and Cabinet [Victoria], *The Women's Safety Strategy: A Policy Framework* (2002)  
*Acting on the Women's Safety Strategy* (2002b)  
*Women's Safety, Women's Voices* (2002c)
- Osofsky, Joy, 'The Impact of Violence on Children' (1999) 9(3) *The Future of Children* 33
- Parkinson, Debra, Burns, Kerry and Zara, Claire (eds), *A Powerful Journey: Stories of Women Leaving Violent Situations* (Women's Health Goulburn North East, 2004)
- Partnerships Against Domestic Violence, *Attitudes to Domestic and Family Violence in the Diverse Australian Community: Cultural Perspectives* (2000)  
*Home Safe Home: The Link Between Domestic and Family Violence and Women's Homelessness* (2000)  
*Taking Responsibility: A Framework for Developing Best Practice in Programs for Men Who Use Violence Toward Family Members* (2001)  
*Domestic Violence: Working with Men, Phase 1 Meta-Evaluation Report* (2001)  
*A Comparative Assessment of Good Practice in Programs for Men who Use Violence Against Female Partners* (2003)  
*Children, Young People and Domestic Violence Phase 1 Meta-Evaluation Report* (2003)  
*Indigenous Family Violence, Phase 1 Meta-Evaluation Report* (2004)
- Paterson, Rosemary (ed), *Breaking the Cycle: Six Women Tell Their Stories of Finding Ways to Deal with Adolescent Violence with Courage and Hope* (Anglicare Victoria, 2001)
- Patton, Shirley, *Pathways: How Women Leave Violent Men* (Women Tasmania, 2003)
- Polk, Kenneth, *When Men Kill: Scenarios of Masculine Violence* (Cambridge University Press, 1994)
- Powers, Laurie, Curry, Mary Ann, Oswald, Mary, et al, 'Barriers and Strategies in Addressing Abuse: A Survey of Disabled Women's Experiences—PAS Abuse Survey' (2002) 68(1) *Journal of Rehabilitation*
- Queensland Law Reform Commission, *The Receipt of Evidence by Queensland Courts: The Evidence of Children*, Report 55, Part 1 (2000)

- Raj, Anita and Silverman, Jay, 'Violence Against Immigrant Women: The Roles of Culture, Context, and Legal Immigrant Status on Intimate Partner Violence' (2002) 8(3) *Violence Against Women* 367
- Rhoades, Helen, Graycar, Reg and Harrison, Margaret, *The Family Law Reform Act 1995: Can Changing Legislation Change Legal Culture, Legal Practice and Community Expectations? Interim Report* (Family Court of Australia, 1999)
- Richards, Jeffrey, MacLachlan, Angus, Scott, Wayne, et al, *Understanding Male Domestic Partner Abusers*, Trends and Issues in Crime and Criminal Justice No 283 (Australian Institute of Criminology, 2004)
- Sack, Emily, *Creating a Domestic Violence Court: Guidelines and Best Practices* (Family Violence Prevention Fund, San Francisco, 2002)
- Sacramento County Domestic Violence Death Review Team, *Annual Report December 2003: Presented to: Sacramento County Board of Supervisors and Sacramento County Domestic Violence Coordinating Council* [2003]
- Santa Clara County Domestic Violence Council, *Death Review Committee Final Report: January 1–December 31, 2003: Speak—Save Lives* (2003)
- Scottish Executive, *Redressing the Balance: Cross-Examination in Rape and Sexual Offence Trials: A Pre-Legislative Consultation Document* (2000)
- Scutt, Jocelyne, *Women and the Law, Commentary and Materials* (Law Book Company, 1990)
- Sex Discrimination Commissioner [Australia], *Submission to the Northern Territory Law Reform Committee Inquiry into Aboriginal Customary Law in the Northern Territory* (Human Rights and Equal Opportunity Commission, 2003)  
<[www.hreoc.gov.au/sex\\_discrimination/customary\\_law/submission.html](http://www.hreoc.gov.au/sex_discrimination/customary_law/submission.html)>
- Snider, Lauren, 'Towards Safer Societies: Punishment, Masculinities and Violence Against Women' (1998) 38(1) *British Journal of Criminology* 1
- Statewide Steering Committee to Reduce Family Violence, *Reforming the Family Violence System in Victoria: Report of the Statewide Steering Committee to Reduce Family Violence* (2005)  
*A Submission on the Human Rights Community Discussion Paper and a Human Rights Charter for Victoria* (2005)
- Stewart, Julie, *Specialist Domestic/Family Violence Courts within the Australian Context*, Issues Paper 10 (Australian Domestic and Family Violence Clearing House, 2005)

- Strang, Heather and Braithwaite, John (eds), *Restorative Justice and Family Violence* (Cambridge University Press, 2002)
- Stubbs, Julie (ed), *Women, Male Violence and the Law* (Institute of Criminology Monograph Series No 6, 1994)
- Stubbs, Julie and Powell, Diane, *Domestic Violence: Impact of Legal Reform in NSW* (New South Wales Bureau of Crime Statistics and Research, 1989)
- Tinning, Beth, 'Lost in Distraction: The Impact of a Criminal Justice Response to Domestic Violence on Women from Marginalized Communities' (Paper presented at the Re-Focusing Women's Experience of Violence Conference, 14–16 September 2005)
- Tobin, John, 'Family Violence: Opening Up the Silence' (1992) 18 *Melbourne University Law Review* 851
- Tomison, Adam, *Exploring Family Violence: Links Between Child Maltreatment and Domestic Violence*, Issues in Child Abuse Prevention Paper No 13 (Australian Institute of Family Studies, 2000)
- Tsai, Betsy, 'The Trend Towards Specialized Domestic Violence Courts: Improvements on an Effective Innovation' (2000) 68 *Fordham Law Review* 1285
- Tutty, Leslie and Goard, Carolyn (eds), *Reclaiming Self: Issues and Resources for Women Abused by Intimate Partners* (Fernwood Publishing and RESOLVE, 2002)
- United Nations, *Report of the Fourth World Conference on Women*, UN Doc A/CONF.177/20 (1995)
- Development Fund for Women, *Not a Minute More: Ending Violence Against Women* (2003)
- Division for the Advancement of Women, *Good Practices in Combating and Eliminating Violence Against Women: Report of the Expert Group Meeting* (Vienna, Austria, 2005)
- Division for the Advancement of Women, 'Report of the Expert Group Meeting' (Paper presented at the Good Practices in Combating and Eliminating Violence Against Women conference, Austria, 17–20 May 2005)
- Human Rights Commission, *Special Rapporteur on Violence Against Women its Causes and Consequences*,  
<[www.ohchr.org/english/issues/women/rapporteur/index.htm](http://www.ohchr.org/english/issues/women/rapporteur/index.htm)>

- University of South Australia, *Reshaping Responses to Domestic Violence*, Final Report (2000)
- Ursel, Jane, 'The Possibilities of Criminal Justice Intervention in Domestic Violence: A Canadian Case Study' (1997) 8(3) *Current Issues in Criminal Justice* 263
- VicHealth, *The Health Costs of Violence: Measuring the Burden of Disease Caused by Intimate Partner Violence: A Summary of Findings* (2004)
- Vickers, Lee, 'The Second Closet: Domestic Violence in Lesbian and Gay Relationships: A Western Australian Perspective' (1996) 3(4) *E Law—Murdoch University Electronic Journal of Law*  
<[www.murdoch.edu.au/elaw/issues/v3n4/vickers.html](http://www.murdoch.edu.au/elaw/issues/v3n4/vickers.html)> at 4 August 2004
- Victoria Legal Aid, *Victoria Legal Aid Handbook* (12<sup>th</sup> ed, 2001)
- Victoria Police, *Code of Practice: For the Investigation of Family Violence* (2004)
- Victoria Police Crime Statistics 2003/04* (2004)
- Provisional Crime Statistics 2004/2005* (August 2005)
- Annual Report 2004/2005* (2005)
- Victoria Police Crime Statistics 2004/05* (2005)
- Victorian Attorney-General's Department, *Sentencing: Report of the Victorian Sentencing Committee* (1988)
- Victorian Government, *Victorian Government Response to the Victorian Indigenous Family Violence Task Force Final Report* (2004)
- Victorian Indigenous Family Violence Taskforce, *Victorian Indigenous Family Violence Taskforce Final Report* (Aboriginal Affairs Victoria, Department for Victorian Communities, 2003)
- Victorian Law Reform Commission, *Sexual Offences: Interim Report* (2003)
- Sexual Offences: Law and Procedure: Final Report* (2004)
- Review of Family Violence Laws: Consultation Paper* (2004)
- Family Violence Police Holding Powers: Interim Report* (2005)
- Review of the Bail Act: Consultation Paper* (2005)
- Implementing the Uniform Evidence Act: Report* (2006)
- Violence Against Women Specialist Unit [NSW], *Violence Excluded: A Study into Exclusion Orders South East Sydney*, Key Finding of the Study (2004)

- Violence Excluded: A Study into Exclusion Orders: South East Sydney*, Final Report (2004)
- Wearing, Rosemary, *Monitoring the Impact of the Crimes (Family Violence) Act 1987*, Report (1992)
- Monitoring the Crimes (Family Violence) Act 1987: A Study of Those Who Do Not Proceed*, Report (1996)
- Websdale, Neil, 'Reviewing Domestic Violence Deaths' (2003) Issue 250 *National Institute of Justice Journal* 27
- Websdale, Neil, Sheeran, Maureen and Johnson, Byron, *Reviewing Domestic Violence Fatalities: Summarizing National Developments*, Violence Against Women Online Resources <[www.vaw.umn.edu/documents/fatality/fatality.html](http://www.vaw.umn.edu/documents/fatality/fatality.html)>
- White, Rob and Haines, Fiona, *Crime and Criminology* (Oxford University Press, South Melbourne, 2<sup>nd</sup> ed, 2000)
- Women Tasmania, *Safe at Home* Issue 1 (August 2004)  
<[www.women.tas.gov.au/news/safeathome.html](http://www.women.tas.gov.au/news/safeathome.html)>
- Women with Disabilities Australia, *More than Just a Ramp—A Guide for Women's Refuges to Develop Disability Act Action Plans* <[www.wwda.org.au/cnts.htm](http://www.wwda.org.au/cnts.htm)>
- Women's Domestic Violence Crisis Service of Victoria, *What's Love Got To Do With It? Victorian Women Speak Out About Domestic Violence*, Annual Report 2001–2002 (2003)
- Women's Health Goulburn North East, *A Powerful Journey: A Research Report: Women Reflect on What Helped Them Leave* (2004)
- Women's Health West, *Submission to the Victorian Government's Community Consultation on Human Rights* (2005)
- Women's Legal Service, *An Unacceptable Risk: A Report on Child Contact Arrangements where there is Violence in the Family* (Annerley, Qld, 2002)
- Women's Policy Co-ordination Unit, Department of Premier and Cabinet, *Criminal Assault in the Home: Social and Legal Responses to Domestic Violence*, Discussion Paper (Victoria, 1985)
- Women's Rights Action Network, *Our Rights, Our Voices—The Victorian Community Report on Women* (2004)

- Women's Services Network, *Domestic Violence in Regional Australia: A Literature Review* (Partnerships Against Domestic Violence and Commonwealth Department of Transport and Regional Services, 2000)
- World Health Organization, *World Report on Violence and Health* (Geneva, 2002)
- Young, Margrette, Byles, Julie and Dobson, Annette, *The Effectiveness of Legal Protection in the Prevention of Domestic Violence in the Lives of Young Australians* (Australian Institute of Criminology, 2000)
- Young, Mary Ellen, Nosek, Margaret, Howland, Carol, et al, 'Prevalence of Abuse of Women with Physical Disabilities' (1997) 78 *Archives of Physical Medicine and Rehabilitation* S34

## Index

### A

accountability  
   as underlying principle, 7, 8  
   inclusion in new Act, 6, 77, 79  
 advisory committees, xi–xii, 11  
   Culturally and Linguistically Diverse  
   Communities, xii  
   Family Violence Advisory Committee, xi  
   People With Disabilities, xii  
 age as factor in family violence, 41  
 agency by victims  
   accessing justice system, 35–36  
   conflict with safety needs, 66–67  
   leaving a violent relationship, 36  
 aiding and abetting, penalising victim for,  
 161–63  
 alcohol and drug use as factor in family  
 violence, 29  
 animal abuse  
   as aspect of family violence, 18, 100–2  
   inclusion in new Act, 102  
 associates, 260  
   of perpetrator  
     intervention orders against, 260–63  
     role in harassment of victims, 260–61  
   of victims  
     intervention orders to protect, 264–66  
     role in assisting victims, 264  
 Attorney-General's Justice Statement  
   alternative dispute resolution in, 69  
   provision of legal advice and assistance,  
   189–90

### B

bail conditions  
   breach of, 235, 239

  provision to victim, 235, 239  
 balance of probabilities, standard of proof  
 under, 60  
 behaviour change programs, 376–80  
   advantages and disadvantages of, 377–78  
   aims of, 376  
   evaluation of, 379–80  
   use in Family Violence Court Division,  
   377, 379, 380  
 Beijing Declaration and Platform for  
 Action, 49  
   provision of legal advice and assistance,  
   190  
   rights of immigrant women, 209  
   support for marginalised groups, 143  
   training for judicial officers, 178  
 breach of intervention orders, 60  
   court response to, 371–83  
     'technical' or 'minor' breaches, 373–75  
     behaviour change programs, 376–80  
     current situation, 372–75  
     diversion programs, 380–82  
     sentencing options, 375–76  
     timeliness of, 382–83  
   police response to, 156–64  
     aiding and abetting, 162–64  
     breaches with victim's consent, 160–64  
     breaches without victim's consent, 159  
     false claims of consent, 164  
     multiple breaches, 158–59

### C

case conferencing, 126–28  
 child contact  
   Children's Court power to regulate, 258,  
   259–60

- family violence resulting from, 23, 332–35, 339–42
- magistrates' role in, 335–48
- more effective management of, 338–48
- see also* Family Court orders; intervention orders
- children and young people
  - as perpetrators of violence, xxvi, 24, 53–54
  - appropriate court for, 293, 294–95, 296
  - commission's recommendations regarding, 294–96
  - intervention orders relating to, 289–96
  - Male Adolescent Family Violence Project, 293, 295–96
  - prevalence of, 290
  - risk of homelessness for, 290–95
  - as victims of violence, 22–23, 52–53
  - place of application for orders for, 255–60
- attendance at court
  - safety issues in, 229–30
- best interests of, 23
- effects of family violence on, 43
  - inclusion in new Act, 97–99
  - witnessing violence, 22
- international agreements to protect, 51–54
- protection provisions in other jurisdictions, 73
- see also* child contact; Children's Court; Family Court orders
- Children's Court
  - dealing with young perpetrators of violence, 293–96
  - intervention order applications in, xxvi
    - advantages of, 256, 258
    - contact orders relating to, 259, 260
    - powers to hear adult applications, 255, 256, 258–60
- circle sentencing, 79, 80, 84
- civil response to family violence, 60–62
  - police response, 136–56
    - application for intervention orders, 144–56
    - marginalised groups, 138–44
  - see also* intervention orders
- closed-circuit television (CCTV)
  - giving evidence via, xxv, 387–90
- Code of Practice for the Investigation of Family Violence
  - application for intervention orders, 145, 147–53, 235
  - attitude change, 58, 116–18
  - case conferencing, 126–28
  - crisis response, xxiii
  - cultural sensitivity, 121, 139, 141
  - development of, 4
  - disability issues, 142
  - effect on arrest rates, 56–57, 129
  - enforcement of intervention orders, 157, 159–61, 164
  - evidence gathering, 57, 125
  - monitoring and review of, 116–17
  - new approach to family violence in, 411
  - notifying victim of service of orders, 270–71
  - response to incidents, 58, 121–22, 124, 136–37
  - same-sex issues, 142
  - see also* police
- Committee on the Elimination of all Forms of Discrimination Against Women
  - assistance for rural and isolated women, 190–91
  - criminal and civil response to violence, 59–60
  - prevalence of violence against women, 47–48
  - training for police and court personnel, 172–173, 178
- community legal centres
  - increased role and funding for, xxiv
  - provision of legal advice and assistance by, 186–187

- compensation for victims, 314, 316
- complaint and summons
  - definition of, 234
  - disadvantages of, 235
- complaint and warrant
  - advantages of, 240
  - definition of, 234
  - disadvantages of, 235, 239–40
- consent to breach of intervention orders
  - false claims of, 164
  - police response to, 160–64
- consultation process for report, 9–10
- Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW)
  - Australia's obligations under, 48
- Convention on the Rights of the Child*
  - main principles of, 51–52
  - rights under, 52, 53
- costs of court action, 304–6
  - evidence gathering, 134
  - orders for police to pay, 134–36, 305–6
  - threats by respondents regarding, 304–5
- Crimes (Family Violence) (Holding Powers) Bill 2005, ix, 11, 137, 239–40
- Crimes (Family Violence) Act 1987*
  - aspects considered in terms of reference, xvii
  - background to review of, 2–3
  - conditions included in intervention orders, 312
  - counselling orders, 377
  - deficiencies of, xxii–xxiii, 88–89
  - definition of family member, 107–8
    - associates not included, 260–61, 266
  - duration of orders, 308
  - exclusion orders not mentioned in, 323
  - grounds for intervention orders, 88–89
  - guardian's rights, 266–67
  - interim intervention orders, 234, 239, 242
  - intervention orders involving children, 256
  - lack of purposes and principles in, 71
  - power to amend Family Court orders, 337
  - variation or revocation of orders, 351, 361
- criminal response to family violence, 54–60
  - advantages of, 54, 118–19
  - breach of intervention orders, 156–64
  - failure to enforce, 56–57, 156–58
  - impact on marginalised groups, 119–21
  - limitations of, 55–60
  - not applicable to all forms of violence, 59–60
  - police response, 121–36, 156–64
  - problems of proof, 57
  - prosecution of offences, 126–36, 156–64
  - role of victims in, 57–59
  - submissions regarding, 62–63
  - support for victims, 126–29, 131–33
- crisis situations
  - best response for, 65–67
  - protection for victims, xxiii–xxiv
    - see also* interim orders
- cross-examination by respondent, xxv, 394–400
- cultural change to prevent violence, 410–17
  - death review committees, 417–19
  - in legal system, 417
  - integrated policy and implementation system, 419–21
  - public education campaigns, 411–16
    - in Victoria, 411–12, 415–16
    - international standards, 414–15
    - national campaign, 411, 413–14
    - other states, 412–13
  - recent signs of, 410–11

**D**

death review committees, 417–19  
  aims of, 417  
  composition of, 417–18  
  potential role in preventing family violence, 418–19  
disabilities *see* people with disabilities  
Dispute Settlement Centre of Victoria, 69  
diversion programs, 380–82  
  eligibility for, 380–81  
  lack of information about, 381–82  
drug use *see* alcohol and drug use  
duty lawyer schemes, 186–87  
dynamics of family violence, 25–30  
  control of own actions by perpetrator, 27–29  
  control of victim by perpetrator, 26–27  
  criminal law and, 57  
  inclusion in new Act, 95–97  
  magistrates' understanding of, 175–78, 181–83  
  misunderstood by justice system, 58–59  
  patterns of violence, 30–31  
  registrars' understanding of, 171–75  
  situational factors, 29–30

**E**

economic abuse, 19–20  
elderly people, abuse of, 41, 99  
emotional abuse *see* psychological or emotional abuse  
empowerment as underlying principle, 7, 8  
  inclusion in new Act, 75, 76, 77  
evidence of violence  
  alternative arrangements for victim in court, 386–90  
  lack of facilities for, 390  
  limited use of, 388–89  
  closed hearings for, 391–94  
  advantages and disadvantages of, 392–93  
  magistrates' power to order, 391, 394

  other jurisdictions, 391  
  collection by police, 124–25  
  compelling spouses or partners to provide, 126, 406–7  
  cross-examination by respondent on, 394–400  
  effect on applicants, 394, 396–98  
  legal representation to prevent, 395–96, 399–400  
  other jurisdictions, 396  
  forms of evidence allowable, 400–6  
  expert evidence, 401  
  hearsay evidence, 402–5  
  other jurisdictions, 402–3  
  widening rules for, 403–6  
  written affidavits, 402–3, 405  
exclusion orders, 317–32  
  barriers to obtaining, 320–24  
  attitudes of magistrates, 321–23  
  lack of information, 323–24  
  benefits of, 318–20  
  concern for perpetrator's needs, 321–22, 326, 330–31, 332  
  human rights issues, 324–25  
  information and support provision, 330–32  
  matters for magistrates to consider, 329, 331  
  other jurisdictions, 327–28  
  specific reference in new Act, xxiv, 325, 328–29, 331  
  submissions regarding, 325–27  
  tenancy issues with, 322–23, 327–32

**F**

family conferencing, 79, 84  
Family Court orders  
  child contact orders  
  Children's Court power to alter, 258, 259–60  
  intervention orders and, xxvi, 332–48  
  location orders, 271–72

- magistrates' power to alter, 335–42, 345–46
- Family Violence Act, new
  - application for intervention orders
    - duration of order, 311
    - place of application, 254, 255
  - definition of family member, 107–12, xxiii
    - associates not included, 260
    - Indigenous and CALD communities, 109–10, 112
    - people with disabilities, 110–11, 112
  - definition of family violence, xxii–xxiii, 88–107
    - abuse specific to certain groups, 99
    - animal abuse, 100–2
    - effects on children, 97–99
    - nature and dynamics of violence, 95–97
    - non-physical violence, 92–95
    - reasons for inclusion, 90–91
    - sexual violence, 102–3
  - exclusion orders, 328–30
  - extension of intervention orders, 371
  - grounds for intervention orders, 112–13
  - grounds for varying or revoking orders, 354–57
  - listing conditions for intervention orders, 315–17
  - protection for victim's associates, 266
  - purposes and principles, 71–79, xxii
    - accountability of perpetrators, 75, 76, 79
    - community responsibility, 76–77
    - empowerment of victims, 75–76, 77
    - safety and protection of victims, 74–75, 76, 77–78
    - social change, 77–78
  - tenancy provisions, 329–30
- Family Violence Court Division
  - application form used in, 195, 197–99
  - duration of orders in, 309, 311
  - interim orders in, 243–45
  - arrangements for giving evidence in, 386–87
    - closed hearings, 391
  - behaviour change programs in, 377, 379, 380
  - establishment of, 2, 5
  - expansion of, 181–83
  - features of, 180–81
  - new approach to family violence in, 411
  - review of, 181, 183
  - training for registrars, 173
- Family Violence Court Intervention Project, 5
- Family Violence Police Holding Powers Interim Report*, ix, xxiii, 11
- final orders
  - applications by guardians, 266–69
    - protected person's right to object, 267–69
  - consent by respondent to, 274, 276, 277
  - covering associates, 260–66
    - associates of perpetrator, 260–63
    - associates of victims, 264–66
    - other jurisdictions, 261–62, 263
  - defended hearings, 273–79
  - notice of intention to defend, 273–79
    - alternatives to, 274–75, 277
    - other jurisdictions, 274–75
    - problems with current system, 273–76
    - requirement for respondent to provide, 274–75, 277–79
    - sanction for failure to provide, 277, 279
  - place of application for, 251–55
    - applications involving children, 255–60
    - issues for magistrates to consider, 254–55, 256
    - need for flexibility in, 252–55
  - postponement of hearings for
    - extension of interim orders, 245–48
    - inability to serve respondent, 245–48
    - service on respondents, 269–73

- assistance from government agencies, 271–73
  - current problems with, 269–71
  - notification to victim, 270–71, 272
  - other jurisdictions, 269, 271–72
  - see also* intervention orders; revocation of intervention orders; variation of intervention orders
  - financial control *see* economic abuse
- G**
- gambling and family violence, 314, 315, 316–17
  - gay and lesbian partners
    - family violence by, 41–42
    - inclusion in new Act, 99
  - gender, role of in family violence, 20–22, 29
  - guardians
    - application for intervention orders by, 266–69
    - protected person's right to object, 267–69
    - definitions of, 267, 268
    - role in variation or revocation of orders, 357–60
- H**
- homelessness
    - as result of family violence, 325, 329
    - risk for young offenders, 290–96
  - human rights
    - family violence as violation of, 46–54
    - victim's right to remain in home, 324–25
    - see also* international agreements
- I**
- immigrants and recent arrivals
    - access to legal system, 208–19
    - international standards for, 209
    - problems with, 208–10, 213–16
    - provision of interpreters, 213–19
    - suggestions to improve, 210–12, 216–19
  - additional stresses on, 29–30, 141
  - definition of family members, 109–10, 112
  - distrust of justice system by, 59
  - extent of family violence affecting, 38–39
  - police response to, 140–42
  - visa status of, 141
  - see also* marginalised groups
- Indigenous Family Violence Partnerships Forum, 140, 149
- Indigenous Family Violence Task Force, 6
- Indigenous people
  - access to legal system, 201–5
  - problems in, 201–2
  - suggestions to improve, 202–5
  - additional stresses on, 29–30
  - alternative responses to family violence for, 79–81, 84, 379, 380–81
  - definition of family members, 109–10, 112
  - denigration of spiritual beliefs as family violence, 99
  - distrust of justice system by, 59, 138–39
  - extent of family violence affecting, 37–38
  - government initiatives to assist, 6
  - impact of criminal sanctions on, 120, 122–23
  - police response to, 138–40, 144
  - recruitment as court staff, 204–5, 228
  - safety issues for, 228
  - support recommended for, xxv–xxvi, 140, 149
  - see also* marginalised groups
- interim orders, 233–48
  - advantages of, 239–40
  - after hours access to, 234–42
  - commission's recommendations, 239–41
  - disadvantages of alternatives, 234–35, 239–40

- other jurisdictions, 236–38
- ex parte, on expiration of final orders, 370–71
- extension of, 245–48
  - automatic extension, 246–48
- features of, 234
- in court hours, 242–45
  - improving access to, 243–45
  - victims' awareness of availability, 242–45
- police power to issue, 236–39, 240–41
- see also* final orders; intervention orders
- international agreements
  - guidelines for State action, 50–51
  - rights of immigrant women, 209
  - rights of indigenous women, 201–2
  - to combat violence against women, 46–51
  - to protect children and young people, 51–54
  - training in cultural and gender issues
    - court personnel, 172–73
    - police, 143–44
- interpreter services, provision of, 137, 141
  - in Magistrates' Court, 212–19
    - availability, 213–15, 218–19
    - government's role, 217–19
    - professionalism and independence, 215–17, 218–19
    - requirements of Family Violence and Stalking Protocols, 212
- intervention orders
  - applications for
    - by police, 144–52, 153–56
    - evidence by police, 152–53
    - improved documentation for, 195–99
    - Indigenous Australians, 148, 149
    - legal advice and assistance in, 183–91
    - magistrate's role in, 175–83
    - registrar's role in, 167–75
    - 'splitting' applications, 256–58
    - variation or revocation, 153–56
    - without consent of victim, 149–52, 267–69
  - barriers to access, 192–93, 196–97
    - immigrants and recent arrivals, 208–10, 213–16
    - Indigenous Australians, 201–2
    - people with disabilities, 205–7
  - benefits of, 60–61
  - child contact under, 332–48
    - 'except for child contact' condition, 340–42, 347–48
    - handover arrangements, 334, 340, 341–43, 345–46, 347
    - international standards, 343
    - magistrates' attitude to, 335–38
    - other jurisdictions, 343–44
    - power to change existing orders, 335–42
    - problems with current system, 339–42
    - recommendations for change, 344–48
    - suspension of contact, 338–39
    - use to continue violence, 333–35, 339–42
  - conditions included in, 312–17
  - cross applications for, 279–84
    - current problems with, 281
    - other jurisdictions, 280–81
    - recommendations regarding, 282–84
  - current grounds for obtaining, 88
  - duration of, xxvi, 308–12
    - considerations in deciding, 310, 311–12
    - indefinite, 308–9
    - other jurisdictions, 308
  - extension of, xxiv, 364–71
    - after order has expired, 367–71
    - ensuring knowledge of right to, 368–70
    - ex parte interim orders, 370–71
    - grounds for, 365–67
    - interim orders, 245–48
  - improving access and understanding, xxiv–xxv, 192–219
    - immigrants and new arrivals, 208–19

- Indigenous Australians, 201–5
    - people with disabilities, 205–8
  - limitations of, 61–62
  - mutual orders, 279–84
    - current problems with, 281
    - other jurisdictions, 280
    - recommendations regarding, 282–84
  - provision of information about, 193–95
  - understanding content of, 197, 198–201
    - magistrate's obligation to assist, 199–201
  - see also* breach of intervention orders;  
exclusion orders; final orders; interim  
orders; revocation of intervention  
orders; variation of intervention orders
- L**
- leaving a violent relationship
    - agency by victims, 35–36
    - barriers to, 33–34
    - dangers of, 32–33
  - legal advice and assistance, 183–219
    - commission's recommendations, 191
    - current availability of, 186–90
      - community legal centres, 186–87
      - interstate programs, 188
      - private lawyers, 187–188
      - Victoria Legal Aid, 187
    - international obligation to provide, 190–91
    - need for access to, 183–85, 188–89
    - plain language resources, 184
  - legal responses to family violence, 45–85
    - civil response, 60–62
    - criminal response, 54–60
    - recommended approach, 62–71
      - differentiation from stalking offences, 68–71
      - effective crisis response, 65–67
      - flexibility required, 63–64, 67
      - integrated approach, 64–65
      - medium and long term, 67–68
      - new Family Violence Act, 71–79
      - restorative justice, 79–85
    - lesbian partners *see* gay and lesbian  
partners
- M**
- Magistrates' Court
    - after-hours applications in, xxiii, 234–35,  
238–41
    - duty lawyer schemes in, 186
    - Family Violence and Stalking Protocols*  
(2003)
      - information about interim orders, 244–  
45
      - place of application for orders, 256,  
258–59
      - registrar's role, 167–68
      - requirements for interpreters, 212
      - sentencing options, 375
      - splitting applications, 256, 258
      - undertakings, 297, 301–3
    - final orders in, 249–306
      - applications involving children, 255–60
      - costs orders, 304–6
      - mutual orders and cross applications,  
279–84
      - place of application, 251–60
      - service of documents, 269–73
      - undertakings in lieu of, 296–304
      - vexatious applications, 284–88
    - giving evidence in, xxv, 385–407
      - alternatives ways of, 386–90
      - closed hearings for, 391–94
      - cross-examination by respondent, 394–  
400
      - forms of evidence allowable, 400–6
      - witness compellability, 406–7
    - improving access to, 167–231
    - interim orders in, 234–35, 238–48
    - legal advice and representation in, 183–  
91
    - magistrates
      - attitude to exclusion orders, 321–22

- child contact issues for, 332–48
  - lack of understanding of family violence by, 175–78
  - obligation to explain intervention orders, 199–201
  - power to alter Family Court orders, 335–42, 345–46
  - training required for, 176–78, 182–83, 337–38, 375, 417
  - Male Adolescent Family Violence Project, 293, 295–96
  - Melbourne Magistrates' Court, 254, 255
  - registrars
    - additional support required for, 173–74
    - incorrect advice provided by, 169–70
    - judgmental attitude of, 171
    - problems in dealing with, 168–71
    - providing information on interim orders, 243–45
    - role of, 167–68
    - training required for, 172–75, 417
  - response to breach of orders, 371–83
    - avoiding delay in, 382–83
    - behaviour change programs, 376–80
    - diversion programs, 380–82
    - sentencing options, 375–76
  - safety issues in, xxv, 220–31
    - children, 229–30
    - courtrooms, 227–28
    - current provisions, 221–22
    - disability access, 229
    - entry and exit, 224–25
    - marginalised groups, 228
    - privacy for applications, 226–27
    - security staff, 225–26
    - waiting areas, 222–24
  - specialist family violence list
    - benefits of, 182
    - other jurisdictions, 178–80
    - recommendation for, xxiv, 181, 183
  - vexatious litigation in, 284–89
  - see also* Family Violence Division
  - mandatory responses to violence
    - arrest, 123–24
    - behaviour change programs, 377–78
    - victim participation in prosecution, 127–28
  - marginalised groups
    - specific legal needs of, 185
    - training in issues faced by, 173, 177, 183
    - see also* immigrants and recent arrivals; Indigenous people; people with disabilities
  - men as victims, 24–25
  - Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice see* UN Model Strategies
  - myths about family violence, 32–35
- N**
- nature of family violence *see* dynamics of family violence
  - non-physical violence
    - ignored by justice system, 89
    - inclusion in new Act, 92–95
    - types of, 17–20
  - non-violence as underlying principle, 7–8
- O**
- ouster orders *see* exclusion orders
- P**
- patterns of violence, 30–31
  - people with disabilities
    - access to legal system, 205–8
    - problems with, 205–7
    - safety issues in, 229
    - suggestions to improve, 207–8
  - additional stresses on, 29–30
  - defining carers as family members, 110–11, 112
  - difficulties in leaving a relationship, 34
  - examples of violence towards, 99

- extent of family violence affecting, 39–41
  - physical assault on, 16
  - police attitude to reports from, 57
  - right to object to guardian's application for order, 267–69
  - see also* marginalised groups
  - pet abuse *see* animal abuse
  - physical assault as aspect of family violence, 15–16
  - police
    - attitude to family violence, 56–58, 116–18
    - civil response to family violence, 136–64
      - after-hours orders, 136, 137–38
      - breach of intervention orders, 156–64
      - gay and lesbian partners, 142–43
      - holding powers, 137
      - immigrants and new arrivals, 140–42
      - Indigenous Australians, 138–40
      - intervention order applications, 144–56
      - people with disabilities, 142
    - Code of Practice *see* Code of Practice for the Investigation of Family Violence
    - costs of prosecution, liability for, 135–36, 305–6
    - criminal response to family violence, 115–36
      - case conferencing, 126–28
      - crisis situations, 65–67
      - evidence gathering, 124–25
      - impact on marginalised groups, 119–21
      - importance of, 118–21
      - in other jurisdictions, 123–24
      - proactive and pro-arrest approach, 121–24
      - prosecution of offences, 126–36
      - support for victims, 128–29, 131–34
    - holding powers for, 137, 239, 240
    - power to issue interim orders, 137–38, 236–41
    - special family violence prosecution unit, 128–31, 133
      - other jurisdictions, 129–31
      - provision of evidence via, 153
      - recommended by commission, 133–34
      - submissions regarding, 129
    - training required for, 417
      - dealing with specific groups, 144
      - international agreements, 143–44
  - pornography, use of in family violence, 16–17
  - pregnancy, relationship of family violence to, 41
  - private lawyers, legal advice and assistance from, 187–88
  - property damage as aspect of family violence, 16
  - protected persons *see* people with disabilities
  - protection of victims
    - guiding principle in new Act, 74–78
    - provisions in other jurisdictions, 72–73
  - psychological or emotional abuse as aspect of family violence, 18
- R**
- refugees *see* immigrants and recent arrivals
  - registrars *see* Magistrates' Court
  - respect as underlying principle, 7, 8
  - responsibility as underlying principle, 7, 8
  - restorative justice
    - commission's view of, 84–85
    - definition, 63, 79–80
    - submissions on, 81–84
    - views of Indigenous communities, 79, 80–81, 84
  - revocation of intervention orders
    - application by respondent, 360–64
    - application by victim, 350–60
    - definition of, 153, 350
    - grounds for, 351, 354–57, 361, 363–64
    - guardian's role in, 357–60

- police application for, 153–56
  - simplifying process for, 351–54
  - variation instead of, 350
- S**
- safety of victims
    - in crisis situations, 66–67
    - in Magistrates' Court, 220–31
      - current provisions for, 221–22
      - reality of fears for, 220–21
      - suggestions for improvements to, 222–31
    - police action to protect, 145, 149–52
  - same-sex relationships *see* gay and lesbian partners
  - service of orders
    - appropriate methods for, 269–70
    - government assistance in, 271–73
    - inability to serve respondent, 245–48
    - notifying victim of, 270–71
    - substituted service, 246, 247, 248, 270, 271
  - sexual assault as aspect of family violence, 16–17
    - inclusion in new Act, 102–3
  - social abuse as aspect of family violence, 17
  - specialist family violence courts
    - in Victoria *see* Family Violence Court Division; Magistrates' Court
    - other jurisdictions, 178–80
  - stalking offences
    - alternatives to intervention orders for, 68–71
    - as protection from associates of perpetrator, 262–63
    - effect on court attitudes to family violence orders, 168
  - Statewide Steering Committee to Reduce Family Violence
    - contribution to report, 9
    - guiding principles formulated by, 76–77
    - priorities of, 411
  - role in integrated government response, 420
  - role of, 3–4
  - summary offences
    - definition of, 2
    - heard in Magistrates' Court, 126
  - support for victims
    - during court process, 133–34
    - international agreements on, 132–33
  - survival strategies used by victims, 65
- T**
- temporary protection visa holders, effect of violence on, 141
  - tenancy
    - effect of exclusion orders on, 322–23, 327–28, 329–30, 332
  - terms of reference for report, xvii
  - threats to harm or kill
    - not recognised as violence, 89
    - use of in family violence, 19
  - training recommendations
    - court personnel, xxiv, xxvi, 172–75, 176–78, 181–83
    - police, xxiv, xxvi, 143–144
- U**
- UN *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, 49
  - UN *Declaration on the Elimination of Violence Against Women*
    - rights of immigrant women, 209
    - rights under, 48
    - training for police and court personnel, 173
  - UN Model Strategies, 49
  - UN Special Rapporteur on Violence Against Women, 47, 49
  - undertakings, 296–304
    - advantages and disadvantages of, 297–98
    - current procedures for, 297

distinguishing from intervention orders,  
297, 302, 304  
for young people, 298–99  
legal effect of, 297, 298, 302–4

Women's Safety Strategy, 4, 411–12, 420

## V

values underpinning commission's  
approach, 7–8  
variation of intervention orders  
application by respondent, 360–64  
    other jurisdictions, 361–62  
    restrictions placed on, 361–64  
application by victim, 350–60  
    coercion and safety issues, 351–54  
definition of, 153, 350  
matters to be considered in, 354–57  
    current Act, 351  
    new Act, 354–57  
police application for, 153–56  
role of guardian in, 357–60  
simplifying procedure for, 351–54  
verbal abuse as aspect of family violence,  
18–19  
vexatious litigants, 284–89  
    costs orders against, 304  
    definition, 285  
    power to declare, 287–89  
victim–offender mediation, 79, 84  
Victoria Legal Aid  
    information on intervention orders, 193  
    legal advice and assistance from, 187  
Victorian Aboriginal Legal Service, views  
of  
    criminal response to family violence, 63  
    non-physical forms of family violence, 94  
    use of restorative justice, 79, 81

## W

weapons used in violence  
application to recover, 352  
requirement to dispose of, 312, 313,  
315, 316  
witness compellability, 406–7

## Other VLRC Publications

*Disputes Between Co-owners: Discussion Paper* (June 2001)

*Privacy Law: Options for Reform: Information Paper* (July 2001)

*Sexual Offences: Law and Procedure: Discussion Paper* (September 2001)

*Failure to Appear in Court in Response to Bail: Draft Recommendation Paper* (January 2002)

*Disputes Between Co-owners: Report* (March 2002)

*Criminal Liability for Workplace Death and Serious Injury in the Public Sector: Report* (May 2002)

*Failure to Appear in Court in Response to Bail: Report* (June 2002)

*People with Intellectual Disabilities at Risk: A Legal Framework for Compulsory Care: Discussion Paper* (June 2002)

*What Should the Law Say About People with Intellectual Disabilities Who are at Risk of Hurting Themselves or Other People? Discussion Paper in Easy English* (June 2002)

*Defences to Homicide: Issues Paper* (June 2002)

*Who Kills Whom and Why: Looking Beyond Legal Categories* by Associate Professor Jenny Morgan (June 2002)

*Workplace Privacy: Issues Paper* (October 2002)

*Defining Privacy: Occasional Paper* by Kate Foord (October 2002)

*Sexual Offences: Interim Report* (June 2003)

*Defences to Homicide: Options Paper* (September 2003)

*People with Intellectual Disabilities at Risk: A Legal Framework for Compulsory Care* (November 2003)

*Assisted Reproductive Technology and Adoption: Should the Current Eligibility Criteria in Victoria be Changed? Consultation Paper* (December 2003)

---

*People with Intellectual Disabilities at Risk: A Legal Framework for Compulsory Care: Report in Easy English* (July 2004)

*Sexual Offences: Final Report* (August 2004)

*The Convention on the Rights of the Child: The Rights and Best Interests of Children Conceived Through Assisted Reproduction: Occasional Paper* by John Tobin (September 2004)

*A.R.T., Surrogacy and Legal Parentage: A Comparative Legislative Review: Occasional Paper* by Adjunct Professor John Seymour and Ms Sonia Magri (September 2004)

*Outcomes of Children Born of A.R.T. in a Diverse Range of Families* by Dr Ruth McNair (September 2004)

*Workplace Privacy: Options Paper* (September 2004)

*Defences to Homicide: Final Report* (October 2004)

*Review of Family Violence Laws: Consultation Paper* (November 2004)

*Review of the Laws of Evidence: Information Paper* (February 2005)

*Assisted Reproductive Technology and Adoption: Position Paper One: Access* (May 2005)

*Assisted Reproductive Technology and Adoption: Position Paper Two: Parentage* (July 2005)

*Family Violence Police Holding Powers: Interim Report* (September 2005)

*Workplace Privacy: Final Report* (October 2005)

*Review of the Bail Act: Consultation Paper* (November 2005)

*Have Your Say About Bail Law* (November 2005)

*Assisted Reproductive Technology and Adoption: Position Paper Three: Surrogacy* (November 2005)

*Implementing the Uniform Evidence Act: Report* (February 2006)

*Uniform Evidence Law: Final Report* (February 2006)