

Pathways towards accountability: mapping the journey of perpetrators of family violence – Phase 1.

*Report to Department of Premier and Cabinet
Centre for Innovative Justice, November 2016*

Centre for Innovative Justice

The Centre for Innovative Justice ('the CIJ') was established by RMIT University in 2012 and formally opened in March 2013 by former Prime Minister, Julia Gillard. The CIJ was established to research, advocate, teach and translate into practice innovative approaches to justice. The CIJ is about designing and driving better ways to do justice – ways that better fit the diverse needs of the people who use the system.

Centre for Innovative Justice
RMIT University
Building 97, Level 2
104 Victoria Street
MELBOURNE VIC 3000
Ph: (03) 9925 1139
Email: cij@rmit.edu.au
W: rmit.edu.au/innovativejustice
Twitter: twitter.com/InnovateJustice

Executive Summary

In September 2016, the CIJ was asked to prepare a high level overview of the journey of perpetrators of family violence as the service system becomes aware of their behaviour. Knowledge is limited, of course, about the experience of perpetrators, partly because of their reluctance to engage with services or disclose abuse; as well as a justifiable advocacy and policy focus kept firmly on victims.

As the CIJ has previously explained, however, until we train our lens on the source of the problem, these victims will remain at risk. Training this lens is not about nominating one source as ‘the’ perpetrator intervention. Nor is it about equating ‘perpetrator accountability’ - an overused but under-examined term – with making referrals, imposing an order, or participation in a program. Rather, assumption of accountability by most perpetrators is a lengthy and sporadic journey – one which many may never complete. A service system which clears a path for this journey, therefore, is one which can offer windows onto the risk that a perpetrator poses, and doorways to a suite of effective interventions.

Myriad services can potentially lay steps along this path. At present, however, this potential is not necessarily realised or the experience not often documented. As a result, the CIJ identified six sub-sectors where knowledge is more clearly outlined. These sub-sectors are, in no order of priority:

- General practice/primary health care
- Child protection and family services
- First responder/second responder services
- Civil justice mechanisms
- Criminal justice mechanisms
- Family law.

Of note, Men’s Behaviour Change Programs are not nominated in this snapshot as they are rarely the first doorway that a perpetrator encounters. Specialist women’s services are highlighted for a second phase of work as one of the most useful windows onto risk as well as doorways to effective intervention. This Report describes ways in which these service sub-sectors can function effectively, and highlights examples of promising practice. Crucially, it does so based on a framework of vital dimensions - one designed to prompt service systems to consider how each may function to safest effect and ask themselves whether they:

- Hold doorways open over time (Dimension 1)
- Act as one point on a continuum (Dimension 2)
- Focus on dynamic risk (Dimension 3)
- Tailor interventions to a perpetrator’s patterns of behaviour and his family’s needs (Dimension 4)
- Participate in family violence informed case management (Dimension 5)
- Scaffold accountability (Dimension 6)
- Contribute to inter-agency strengthening of risk management processes (Dimension 7)
- Understand the potential risks associated with the intervention (Dimension 8).

The CIJ offers this brief 'snapshot' to start to identify the doorways and windows available and to face them towards a more concrete and coordinated path.



...all points of the system should function as doors to participation in an appropriate intervention, or at the very least as windows to the risk that the perpetrator poses...

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Background, scope and limitations

In September 2016 the Centre for Innovative Justice (CIJ) was commissioned to do some targeted work to map the journey of perpetrators of family violence when the service system becomes aware of their behaviour. The work is intended to function as a high level overview – a ‘snapshot’ of the things a perpetrator may (or may not) experience when moving through the system, and the people and services which might be encountered along the way. The work is then intended to inform the development of the Premier’s 10 Year Victorian Family Violence Action Plan, as well as the early work of the Expert Committee on Perpetrator Interventions.

This work is **not** intended to fulfill Recommendation 85, which requires that government map ‘*the roles and responsibilities of all government and non-government agencies and service providers that have contact with perpetrators of family violence and confirm the principles that should inform the programs, services and initiatives required to respond to perpetrators... who pose a high, medium and low risk to victims*’. The task of Recommendation 85 therefore seems to be to identify the roles and responsibilities that each organisation may have - not only to the perpetrator, but to each other. Certainly, the CIJ’s work confirms how important it is to understand these links, including where services should step in and where they should stay away.

By contrast, this ‘snapshot’ is intended to draw out the windows onto risks which perpetrators may pose, and the doors which must be held open for perpetrators to pass through. To the extent it can, this work is intended to feature these windows and doors from the perspective of the user, although knowledge of this perspective is limited, given that most perpetrators are not likely to want the attention of the legal and wider service system, or to talk about their experiences. As a targeted piece, therefore, the scope of this work had to be confined so as to capture as much *documented* knowledge as possible, and in a timely way to inform the Premier’s 10 Year Plan. Direct qualitative research with perpetrators was not possible for this report because of the ethical considerations and resulting timeframes involved.

Consequently, the CIJ identified six areas likely to be the most useful in terms of drawing out *existing* knowledge about the experience of perpetrators interacting with the service system, preferring to avoid any cursory discussion which might be mistaken as attempting to ‘cover off’ on other areas in any ‘token’ way. These further areas are listed for a second phase of work in which the wealth of practitioner experience (often acquired in the context of services unfunded to address family violence) might be drawn out.

Men’s Behaviour Change Programs have deliberately *not* been included as a sub-sector in this Report. This is because – despite consistently being construed as the *only* perpetrator intervention, and bearing a crushing and unrealistic burden in the process - MBCPs rarely function as a doorway to system intervention for the majority of perpetrators. Rather, most MBCP participants find themselves in a program via a range of *other* doorways and, while some do call referral lines or program providers directly, for the most part, these calls have been prompted by contact with other practitioners or services along the way. Consequently, the CIJ sees MBCPs as one option along a continuum of interventions to which perpetrators could be directed from any of these broader sub-sectors.

Conversely, the CIJ sees specialist women’s services as a very useful doorway to intervention with perpetrators – one which ensures that victims and children are already supported before this doorway is opened with a victim’s consent. While examples of this are highlighted throughout this Report, this service sub-system is flagged for more considered explanation in any future examination by the CIJ.

Crucial to note, documented knowledge about how perpetrators interact with the service system predominantly concerns the *majority cohort* - being adult males who use violence against their female intimate partners or other family members. This means it does not generally extend to the experience of others who use violence against their family members, such as adolescents; nor to male perpetrators who have disabilities; who are from culturally and linguistically diverse backgrounds; who are of Aboriginal and Torres Strait Islander heritage; or who are from LGBTIQ communities.

Given the historic policy neglect of family violence, efforts to bring the experience of *victims* into focus mean that those working in and around the sector have been understandably reluctant to shift the spotlight (and potentially resources) onto those wielding violence instead. This in part stems from a concern that attempts to understand the experience of perpetrators will inadvertently excuse their behaviour, or potentially collude in any belief they may hold that *they* are the victims (such as of a 'vindictive' partner, or a punitive legal system). Certainly, for many years female victims of family violence have borne the brunt of suggestions from counsellors or family members that it took 'two to tango' and that they should just learn to 'get along'.

As the CIJ's 2015 report, *Opportunities for early intervention: bringing perpetrators of family violence into view* explains, however, 'while victims of family violence must remain our priority, these victims will also remain at risk unless we step back and widen our gaze. In other words, until we adjust the lens and bring those who use violence and coercion more clearly into view – until we intervene at the source of the problem – the cycle of this violence will simply roll on'.¹ The snapshot contained in this current Report reflects one of the few occasions on which understanding across different areas has started to be brought together – keeping in mind throughout that, wherever perpetrator interventions are provided, *victims should always be these services' intended beneficiaries*.

The purpose of 'mapping'

The CIJ's brief scan of relevant literature suggests that there is no 'best practice' in relation either to service mapping or client journey mapping in this kind of context. That said, there are a number of useful examples, some of which group services into thematic areas, while others produce flow-charts or diagrams to document a client's progress through a particular system.

Unsurprisingly, the CIJ found none in relation to perpetrators of family violence, but some do exist in relation to victims which variously identify where a gap in service provision or quality exists; which describe the strength (or otherwise) of relevant relationships;² or which trace the role of each agency or Department along a user's journey through the system.³

¹ Centre for Innovative Justice, *Opportunities for early intervention: bringing perpetrators of family violence into view*, March 2015, RMIT University, p 5.

² The Royal Women's Hospital (Melbourne), 'Tool 5A – Mapping the Partnerships and Connections (Family Violence)' www.haveyoursay.thewomens.org.au/shrfv-project/documents/39227/download

³ United States Department of Health and Human Services, 'Developing a High-Level Process Map and Swim-Lane Diagram' <http://archive.ahrq.gov/professionals/systems/hospital/red/swimlane.html>

One useful example from the ACT describes the range of family violence services available in that jurisdiction.⁴ Using a number of sources to obtain information, the project drew on interviews with practitioners about services they knew of and used and also conducted surveys with some victims who had participated in these services. The purpose of the project was in part to conduct a ‘client journeying’ exercise – being to delineate the ideal service system from a client’s perspective.

The surveys provided a useful insight into the importance of mapping to determine the value of clear and consistent messaging:

‘As interveners, every action we take and every statement we make can and should be aimed at an efficient, consistent, coherent clear message that strips the abuser of his most powerful weapon: his message that ‘they can’t and won’t help you’ ... [women interviewed for the project indicated that] the message that ‘perpetrators will be held accountable’...was seen to be the least effectively sent.’⁵[references removed]

Stripping the perpetrator of his most powerful weapon, the message that the service system ‘can’t and won’t help’ his victim, would seem an especially important task in the context of this current work by the CIJ. This is not only because victims who receive this message from services’ responses are less likely to seek help again, but because replication of this message can *embolden and vindicate* a perpetrator’s sense of entitlement and misguided belief that he is the victim.⁶

Mapping the pathway of a perpetrator through the system

Though evidence remains patchy about the effectiveness of interventions with perpetrators of family violence, even less is known about how perpetrators experience and view these interventions, as well as the service system overall.⁷ For many, their violence and control goes undetected and unchallenged (other than by their family members) and they do not see themselves as having done anything wrong or ‘unjustified’.. Some see themselves as victims of the system; while others are so mired in contact with the justice system and other service sectors as a result of drug addiction, homelessness, mental illness and other factors that their use of violence has become normalised, often in an intergenerational context.

⁴ Community Services Directorate, *ACT Domestic Violence Service System – Final Gap Analysis Report*, May 2016, ACT Government.

⁵ Ibid, p 28.

⁶ Consultations with Magistrates’ Court of Victoria; E Gondolf, *The Future of Batterer Programs: Reassessing Evidence-Based Practice*, Northeastern University Press, 2012; E Gondolf, *Batterer Intervention Systems: Issues, outcomes & recommendations*, SAGE, 2002.

⁷ Ibid, Though there is some research to suggest that certain high risk offenders are particularly resistant to change, ‘perpetrator typology’ research does not necessarily provide the means to classify perpetrators into different categories which determine which pathways or interventions might be useful at particular points of time. Research relating to the application of the well-known ‘Stages of Change Model’ to the family violence context has largely been confined to ‘batterer intervention programs’ and has not focused on pathways to potential engagement. K Scott, ‘Stage of Change as a Predictor of Attrition Among Men in a Batterer Treatment Program’, *Journal of Family Violence*, 2004, Vol 19(1), pp 37-47.

What we *can* know about a perpetrator's experience, therefore, must largely be seen through their interactions with service systems and practitioners. These rarely follow a linear or single pathway and usually involve a journey over a substantial length of time before perpetrators start to increase their family's safety in any sustainable way.⁸ This is because to get to this place, a perpetrator must (amongst other things):

- Acknowledge that he is using violence
- Start to recognise the patterns of violence he is using, rather than a few 'signature' examples
- Develop an internal motivation to change and understand *what it is exactly he's supposed to change*
- Have a capacity to change (for example, issues like homelessness can act as a significant barrier)
- Shift deeply seated attitudes and start to think differently
- Apply these new attitudes in behaviour towards family members
- Discard influences which might work against these revised attitudes
- Start to make some amends for some of the damage caused
- Maintain any change in attitudes and behaviour achieved.

A New Zealand study asked former perpetrators about those supports or factors which assisted them to reduce the risk they posed to their families. These included:

- The capacity to develop self-awareness and awareness of the impact their violence was having;
- The capacity to take responsibility for their actions;
- The fear of losing their children or their partner leaving;
- The presence of a strong group facilitator who balances support and confrontation;
- The opportunity to hear personal stories of change from former perpetrators;
- The availability of a mentor/individual who models non-violent behaviour;
- The provision of support from individuals who 'walked the talk'; and
- The development of new skills.⁹

⁸ Noting that many do not arrive at this place, and remain posing a risk to family members despite the best efforts of service system interventions

⁹ M Roguski & N Gregory, *Former Family Violence Perpetrators' Narratives of Change*, November 2014, 18-19. At http://ndhadeliver.natlib.govt.nz/delivery/DeliveryManagerServlet?dps_pid=IE25596493&dps_custom_att_1=ihsdb.

Most participants reported feeling isolated and nervous about re-engaging in behaviours and attitudes that could lead to family violence.¹⁰

*You're exposed to this world of wellness and you kind of grasp it and it's so awesome, then next minute you're out of there on your own.*¹¹

Perpetrators in a recent South Australian study also suggested the use of 'drop in' centres.

*There need to be more group work programs at various levels, [including]...once the mandated program is over...the more there is the more...[men will be] willing to talk about it.*¹²

A men's worker who participated in the same study commented that:

*...it is not so much the intervention, but ongoing accountability and responsibility ...So the importance is to build a sense of community among the men...to keep them on track.*¹³

Conduct of the project

Given the relative dearth of research regarding perpetrator experiences, (as distinct from studies which document perpetrator recidivism and MBCP completion rates) the CIJ identified six service sub-sectors in which documented research has begun to emerge. To be effective, of course, all doors to intervention and engagement with perpetrators must be inter-related and some of the examples highlighted in this Report indicate that the most promising practices often occur where services intersect.¹⁴

These sub-sectors were not nominated in any order of priority, given that families can encounter the service system at multiple different points, often repeatedly, before any effective intervention occurs, if at all. Ideally, all points of the service system should function as doors to participation in appropriate interventions, or at the very least as windows to the risk that the perpetrator poses, but this is not always the case. These sub-sectors are:

- General practitioners/primary health care;
- Child Protection/Family Services
- Police/First responders and Second Responders;
- Civil Justice systems
- Criminal Justice
- Family Law.

¹⁰ Ibid, p 42.

¹¹ Ibid.

¹² H McLaren and I Goodwin-Smith, *Hearing their voices: perceptions of women and me on reducing men's perpetration of domestic violence*, Australian Centre for Community Services Research, Flinders University, February 2016 p 50.

¹³ Ibid, p 51.

¹⁴ As noted previously, MBCPs are positioned as one option along a continuum of interventions to which perpetrators should be directed. Women's specialist services are flagged for work in any further phase by the CIJ.

To take as comprehensive and timely a ‘snapshot’ as possible, the CIJ’s team:

- Drew on its existing knowledge and expertise which, combined, includes years of working with family violence perpetrators in a range of contexts; experience working at the recent Royal Commission; development and implementation of family violence policy and the production of recent reports in this area which have gained significant traction on a national basis;
- Scanned relevant peer-reviewed and policy literature to ensure this knowledge was as current as possible;
- Conducted *targeted* consultations with a range of stakeholders across the sub-sectors (listed at Appendix 1) to address gaps emerging from the literature scan and to start to pinpoint areas for further research;
- Identified a framework of crucial dimensions through which various sub-sectors should be viewed.

It should be noted that any programs or services described here are not intended to be privileged over other examples, nor necessarily nominated as ‘best practice’ or as meeting the dimensions described below. Rather, they signal contexts which may prove most effective as windows onto risk and doors to intervention, albeit with the appropriate dimensions in place.

A note on terminology

‘Perpetrator’

For consistency with the Royal Commission and relevant recommendations, the term ‘perpetrator’ will be the predominant term used in this report, although others relevant to the specific context (for example, patient, client, respondent, defendant or offender) will also be applied as appropriate. The term ‘perpetrator’ as used here is intended to refer to those who use violence against others within the broad definition of the *Family Violence Protection Act 2008* and is not limited to those against whom protection orders have been made or charges been laid, nor to men who commit intimate partner violence, although given the majority of perpetrators are men, the terms ‘he’ or ‘him’ are frequently employed.¹⁵

That said, one of the messages of the CIJ’s previous work is that those who are violent and controlling towards their families are not homogenous but individuals who, if identified, require a targeted and tailored response.¹⁶ When we homogenise ‘perpetrators’, we can risk losing the nuance required when responding to different groups, such as adolescents, who require a very different but nevertheless specialist response. Similarly, we overlook the fact that many female ‘perpetrators’ may have been wrongly identified as the ‘primary aggressor’ by police, or have been the subject of a ‘cross-application’ by their violent partner. When responding to male victims – some of whom are victims of violence from their female partners, but more often male partners or another male family member – the picture can become further confused. This is especially when support services identify that these men have actually been respondents to protection orders themselves. A level of fluidity, therefore, is useful when using such overarching terms.

¹⁵ Our Watch notes that 95% of victims of interpersonal violence, whether women or men, experience it from male perpetrators. Facts and Figures, <http://www.ourwatch.org.au/Understanding-Violence/Facts-and-figures>

¹⁶ Centre for Innovative Justice, above note 1,

‘Engagement’, ‘intervention’, ‘accountability’

Discussions around work with perpetrators are often framed as if ‘**engagement**’ or ‘**intervention**’ – often in the form of a service referral or justice-related consequence - are end goals of themselves. This is a mistake. A referral to a service or the imposition of an Order may tell us about the *activity* of the relevant provider, but not about the effect it has had on the perpetrator, nor if it has reduced the risk posed to family members. For this reason, this Report emphasises that ‘engagement’ and ‘interventions’ should be viewed at best as doorways – or stepping stones - along perpetrator paths towards accountability and relinquishing control over others. Engagement can mean anything from initiating a conversation about a perpetrator’s use of violence, through to keeping him within view via a judicial monitoring process. In certain cases it may be as much about contributing to an *assessment of risk* as it is about contributing to its reduction.

Similarly, ‘**accountability**’ is a favourite phrase in discussions and policy concerning perpetrators. Again, it is a mistake to assume that a justice-system consequence, or referral to a service, is the same as ‘holding perpetrators to account’. Accountability must be about *all* points of the service system taking responsibility for the ways in which their interactions with the perpetrator can potentially make families safer, ensuring that they do not inadvertently increase the risk he poses instead. It is also about understanding that no service in isolation – including MBCPs, who have borne a crushing burden of expectation that they can ‘change’ a lifetime of attitudes and behaviour in only a few months - are likely to make the necessary difference on their own. Certainly, even though tens of thousands of perpetrators in Victoria interact with one or more service sub-system each year, only around 5% of these commence an MBCP or receive a justice system response.

Rather, ‘perpetrator accountability’ is about delivering a combined community and justice response which, in the case of intimate partner violence, ‘is more powerful than the man’s power in the relationship’.¹⁷ For this to occur, this means every part of the service system being accountable for the way in which they respond and interact with any perpetrator; for the way in which they open doors or build bridges to other interventions; and for the way in which they support that perpetrator’s path towards his own assumption of responsibility.

It also means coming to terms with the reality that family violence is usually a *pattern* of different kinds of coercive and controlling behaviours, not a single incident of wrongdoing. This means that those who use it are unlikely to wake up one day and decide to ‘turn over a new leaf’ or renounce what they have been trying to achieve through their behaviour. Instead, taking responsibility for how they have treated their families or loved ones – often over many years – will be a *journey*, one which may also have to occur over a long period of time and involve a range of different attempts at engagement and intervention by services.

If we accept this conceptualisation, then our expectations of a single intervention, such as an MBCP, are brought into more realistic perspective. Conversely, our recognition of the need to create a broader, more consistent and informed suite of messaging and intervention – the need to open more doorways – *increases*. So does our recognition that intervention for intervention’s sake is never going to be enough and can potentially become dangerous if it is not conducted through a safe, appropriate and family violence informed lens. It is important, therefore, to deliver these interventions within a solid and nuanced frame.

¹⁷ Prof C Humphreys, Dr C Laming & D K Diemer, ‘Are Standalone MBCPs dangerous?’, Workshop Presentation, NTV 2012 Australasian Conference on Responses to Men’s Domestic and Family Violence: Experience, Innovation and Emerging Directions, 2012.

Doorways and windows for intervention – some crucial dimensions

To reflect some of the broad themes emerging through its consultations, the CIJ proposes eight inter-related dimensions through which it suggests any perpetrator intervention should be viewed.

Dimension One: Holding open doorways to intervention and windows onto risk over time

Few perpetrators will develop a readiness to participate in a service, or any readiness to change, of their own accord. When they do, this usually occurs over time and is the result of internal *and* external motivators, including events stemming from their behaviour which bring them into contact with the service system. This makes it essential to use the opportunity created by this crisis - a doorway which can close quickly where perpetrators invest much effort in returning to the status quo, or which may only be open very narrowly to begin with for those who function amidst an otherwise chaotic lifestyle.

Dimension Two: A continuum of interventions

Engagement with perpetrators should occur as part of a continuum which can be viewed in terms of *front end*, *mid-point* and *back end* interventions. Each serve different purposes and none should be a replacement for another. For example, a 'front-end' intervention, such as assertive outreach by a Men's Referral Service, is about augmenting existing assessments of immediate or short-term risk and 'planting a seed' which may encourage longer term contact with the service system. Consequently, it cannot work on the same things as a 'back-end' intervention, such as an MBCP, which is focused on addressing his behavior, and ideally working towards long term change. These should each therefore be part of a continuum which, together, contribute to a perpetrator's readiness to address his behaviour and reduce the risk that he poses to his family.

Dimension Three: A focus on dynamic risk

An understandable focus on 'changing the perpetrator' can sometimes divert attention from short-term, harm minimisation goals related to the acute dynamic risk which he might pose. All interventions must include a focus on identifying and responding to dynamic risk - those factors which can fluctuate over time, such as substance abuse or separation; as well as *acute* dynamic risk factors which can arise over the course of hours or days, such as a court decision about contact with children. Acute dynamic risk reflects spikes in risk that can potentially be predicted if enough is known about the perpetrator's patterns of behaviour.

Dimension Four: Tailoring intervention to fit perpetrator patterns and the specific needs of families

As well as understanding dynamic risk, the aim of 'providing the right intervention at the right time' identified in the *National Outcome Standards for Perpetrator Interventions* requires understanding the perpetrator's specific patterns of behaviour, including the tactics he uses to control and coerce family members and their nature and extent. Much of this information may be obtained through specialist services working with his family members, who know his patterns of behaviour all too well. Through these specialist services family members can report what they need from the system to feel and be safer – needs that will be different from one family to another, and which can help inform the specific intervention goals for each perpetrator.

Dimension Five: Family violence informed, co-ordinated case management

Family violence informed coordinated case management is about encouraging services which are not directly violence-focused to function as stepping stones to addressing, rather than displacing the focus on, family violence. Coordinated case management maximises the potential of all services to play a role, and to have a consistent approach so that perpetrators do not receive mixed messages. This involves collaborating with or obtaining secondary consultations from specialist family violence services.

Dimension Six: Scaffolding pathways to accountability

Family violence service systems can place restraints around a perpetrator's behaviours, using incarceration, monitoring, supervision, assertive contact and other consequences or processes. As discussed, however, this is not the same as perpetrator accountability. Ultimately, accountability needs to be embraced by the individual perpetrator over time, with different services supporting and 'scaffolding' the potential for genuine accountability to develop and be sustained.

Dimension Seven: Contributing to inter-agency strengthening risk management processes

Perpetrator interventions cannot act in isolation. Each can contribute towards keeping the perpetrator within view, by adding to or strengthening existing assessments and by collaborating with other agencies towards a shared approach. For this to occur, agencies need to understand each other's roles and responsibilities; to share information; and to pivot a focus towards the perpetrator in collaborative risk management.

Dimension Eight: Understanding the potential risks associated with the intervention or door to engagement

All perpetrator interventions, at all points in the continuum, potentially come with risks that can compromise the safety of family members. These are numerous, but include the 'punishment' of a partner or former partner who the perpetrator perceives as being responsible for the imposition of a court order; making allegations about that partner to Child Protection; or using participation in an MBCP as a bargaining chip to gain access to children. Key considerations in relation to any potential door to engagement therefore include:

- whether opening a potential door might lead a perpetrator to mistakenly believe that his current or former partner has 'dobbed him in' or is the reason he is being asked about his behaviours;
- whether a perpetrator will respond to attempts to engage him through that door with increased hostility and control towards family members;
- whether the agency providing the particular intervention has the capacity to identify these risks, drawing upon information obtained from other agencies where appropriate;
- whether the relevant agency can collaborate with others to respond to and minimise these risks.

The CIJ has crafted a more detailed discussion of these dimensions to be explored in the future. When all eight dimensions are present, a whole of system approach to perpetrator interventions can start to cover the gaps through which perpetrators of family violence have slipped for so long. It can also start to model the kind of systems-wide accountability referred to earlier, and to send consistent messages - to perpetrators that they are no longer invisible but, most importantly, to victims that, contrary to the message they hear far too often, the system actually '*can and will help*'.

Identifying and opening doorways

The challenge of understanding a perpetrator's 'journey' through the service system was explained earlier. Some of the knowledge we *do* have is just emerging, while some has formed the basis of longer term study, leading to differing amounts of available information reflected in this Report. Regardless, exploration of these areas should be viewed with the framework of dimensions, outlined above, kept firmly in mind.

Doorway 1 – General practice and primary health care

The majority cohort of perpetrators, like men more broadly, are less likely to seek primary health care than women. Certainly, some evaluations of MBCPs reveal that few participants have attended primary health or other community services during their adult life,¹⁸ while the Defendant Health Liaison Service at the Magistrates' Court in Tasmania – a service described later in this report and to which defendants charged with family violence offences are bailed – confirms that the assessment by this service is the first time that the majority of defendants have been asked about their life or wellbeing overall.¹⁹ By contrast, primary health settings – particularly those concerned with pre or ante natal care - are a recognised context in which to deliver safe, specialist and legal support to women experiencing family violence.²⁰

Despite this, emerging research suggests that general practice is a promising setting for engaging with men about their use of violence. One UK study found that men were generally supportive of health practitioners asking about their experience or potentially abusive behaviours and saw doctors as their main source of professional help, though most do not explicitly seek help or spontaneously disclose their abuse.²¹ Other studies have similarly found that a significant number of perpetrators had consulted with their GP either prior to attending a program, or in the six months prior to their arrest.²²

Recent studies have therefore examined the feasibility of general practice-based interventions for perpetrators. The 'Health professionals responding to men for safety' (HERMES) study evaluated training provided to doctors and nurses and found an increase in their preparedness to respond to and address the needs of male patients experiencing or perpetrating abuse.²³

¹⁸ T Brown and R Hampson, *An Evaluation of Interventions with Domestic Violence Perpetrators*, Monash University, 2009, p 39.

¹⁹ Centre for Innovative Justice, above note 1, at 55.

²⁰ *Ibid*, p 26

²¹ K Morgan, E Williamson, M Hester, S Jones, G Feder (September 2014). 'Asking men about domestic violence and abuse in a family medicine context: Help seeking and views on the general practitioner role', *Aggression and Violent Behaviour* 19(637-642), 641.

²² E Williamson, S Jones, G Ferrari, T Debonnaire, G Feder, M Hester (2015). 'Health professionals responding to men for safety (HERMES): feasibility of a general practice training intervention to improve the response to male patients who have experienced or perpetrated domestic violence and abuse', *Primary Health Care Research & Development* 16(281-288), 282, citing M Hester, N Westmarland et al (2006), *Domestic violence perpetrators: identifying needs to inform early intervention*, Bristol, University of Bristol in association with the Northern Rock Foundation and the Home Office. JH Coben and DI Friedman (2002), 'Health care use by perpetrators of domestic violence', *The Journal of Emergency Medicine* 22 313-17.

²³ Medical records in the six month period prior to and after the training revealed a small increase in the number of patients identified as perpetrators. E Williamson, S Jones, G Ferrari, T Debonnaire, G Feder, M Hester (2015). 'Health professionals responding to men for safety (HERMES): feasibility of a general practice training intervention to improve the response to male patients who have experienced or perpetrated domestic violence and abuse', *Primary Health Care Research & Development* 16(281-288), p 284.

Closer to home, ‘the PEARL study’, developed an intervention for general practitioners to improve identification and response to men who use violence against their partners.²⁴ The PEARL team delivered training to general practice staff across six different sites in Victoria, as well as interviewing GPs and holding focus groups with men recruited from MBCPs. Men emphasised the importance of a relationship with a GP who has time to engage and listen, and who does not use language that ‘shut[s] down the discussion’.²⁵ Practitioners reported not having the skills to recognise perpetration, or the confidence to ask questions, but that this confidence had increased following training.²⁶

Some GPs voiced concerns about how to raise use of violence in a non-judgmental way without collusion. They also reported that, beyond the initial disclosure, referrals were generally only made to other services offered within the practice or known to the practitioner (usually drug and alcohol and mental health services) and that specialist services and MBCPs were relatively unknown. The study found that practitioners struggled to identify ‘who was the victim and who was the perpetrator’ but determined that identification, engagement and then referral to services who could do the relevant assessment, was the most important step.²⁷

The PEARL study was also interested in the views of men and GPs on the use of technology, such as a GP-patient collaborative tool. Most men thought it could help to become more ready to accept specialist services, provided that it used language to ‘engage rather than immediately blame’. The GPs were also positive about use of technology, provided that it was developed with extensive input from experts; was evidence-based; used appropriate language; and was locally relevant.²⁸ Based on these findings, the project team developed a model called ‘I-ENGAGE’:

- **Identify** men who use violence through GP training
- **Engage** men through primary care
- **Access** interactive tools for both GPs and male patients to use in partnership or individually
- **Greater** collaboration between primary care and local services
- **Establish** ongoing support for GPs and their male patients through training and resources²⁹

The CIJ cautions here that, while online tools are temptingly affordable and an important *mode* of engagement, they are not a doorway in and of themselves, and cannot substitute for other modes of expert intervention. At best, they should be used as part of a coordinated range of interventions which primarily involve face to face contact and are delivered within the framework of the eight previously described dimensions.

²⁴ K Hegarty, L Tarzia, K Forsdike-Young, R Vlasis, M Flood, G Feder, C Humphreys (March 2016). Final Report: Promoting EARly intervention with men’s use of violence in ReLationships through primary care (PEARL study), APHCRI, Canberra, 5.

²⁵ Ibid, 17.

²⁶ Ibid, 13.

²⁷ Ibid, 19.

²⁸ Ibid 19.

²⁹ Ibid, 20. This model is yet to be subjected to a randomized controlled trial, and more detailed findings arising from the PEARL study are expected to be published later this year. The CIJ consulted with the PEARL research team and drew from the knowledge of one of its own team, who was also a member of the PEARL research team.

Future Directions:

Beyond existing studies, the CIJ was told of a further promising model in the UK, in which specialist women's and men's family violence workers combine with the clinical manager of the local primary healthcare network to train GPs on identifying families experiencing family violence and to support engagement with appropriate specialist services. This team will also train other staff and related practitioners and are intended to stay involved in a consultation-liaison model, visiting the GP practices on a regular basis and strengthening local referral pathways and relationships.³⁰

The CIJ also heard about further potential through tools being used by a Primary Care Partnership in Melbourne's inner north-west. *Identifying Family Violence and Responding to Women and Children* currently supports participating agencies to identify and appropriately respond to female clients experiencing family violence. This process has been carefully developed with all relevant agencies, including specialist family violence services, and is supported by comprehensive policies and ongoing training. It is currently being evaluated and consideration is being given to including a lens on family violence perpetration.

This needs to be done with care, given the potential, amongst other things, for any attempts to screen men for family violence perpetration to lead men to suspect that their partner – who may also be a patient of the service – has disclosed their use of violence. The CIJ heard that it is important, as a first step, for health services to understand 'perpetrator patterns of coercive control' and the impact these can have on victims (such as preventing her from attending an appointment or being able to afford medications). The most important consequence of identifying perpetration of family violence is therefore ensuring that victims of that violence are receiving appropriate support, often *well before* any engagement with the perpetrator is attempted.³¹

Dimensions and Health Care Interventions

The above discussion suggests that GP and primary health care services may be able to function as a doorway to services, or a window on risk and perpetration. The question, however, is whether they satisfy the eight dimensions outlined earlier in this Report. As the system starts to pivot towards an increased focus on perpetration, GP and primary care health services should ask how they can potentially play a part in the system's overall accountability by: holding doors open over time (Dimension 1); acting as a front-end point on a continuum of interventions (Dimension 2) to commence the process of scaffolding accountability step by step (Dimension 6); and, importantly, keep a focus on dynamic risk (Dimension 3). Clearly, careful consideration is required about whether these interactions with perpetrators will inadvertently *increase* the risk posed to victims (Dimension 8). The challenge is to identify ways in which specialist services may work alongside primary health care services to contribute to inter-agency risk management processes (Dimension 7) and, ultimately, tailor the intervention to the family's needs (Dimension 4).

³⁰ Consultation with University of Melbourne. For each health area network, it is important to note that this 'team' may simply involve a women's and men's worker each attached to the protect for one or two days per week.

³¹ Consultation with Inner North Primary Care Partnership.

Doorway 2 – Family services and child protection

Perpetrators of family violence have historically been ‘invisible’ in child protection systems. Child protection practices which have contributed to this invisibility include:

- formal reports which fail to mention family violence, despite it being the reason for referral;
- family violence being described as something else, such as ‘family conflict’ or ‘marital argument’;
- identifying the problem as mental health or substance abuse, rather than family violence; and
- the lack of focus on the perpetrator and his patterns and tactics of coercive control in assessment, making his actions invisible.³²

Rather than focus on the perpetrator’s responsibility to stop his use of violence, and the effects of his behaviour on the family’s safety, child protection authorities have tended to focus on the mother’s ability to protect the children. Much has been written about the unfair burden this places on women who, at the same time as dealing with the consequences of the violence, must demonstrate to authorities they are acting ‘protectively’ while the source of the risk to the family’s safety escapes any scrutiny.³³

A recent South Australian qualitative study indicates that this attitude can still prevail:

*Because Families SA don’t hold the men responsible for anything, men **get the message** that they can get away with what they are doing....³⁴ [female participant] (emphasis added)*

Families SA put everything on the mother. They never see the father.³⁵ [female participant]

The reluctance of child protection workers to engage with perpetrators may be because they have not received adequate training to work with violent men.³⁶ Certainly, it will not always be safe or appropriate for child protection to engage with a perpetrator without the presence of police, or at all.

Notwithstanding these challenges, opportunities remain for child protection to engage with perpetrators to emphasise their responsibility for their own behaviour; focus on dynamic risk and scaffold accountability; and strengthen risk management and safety planning. In addition, child protection is another pathway for perpetrators to be referred to men’s behaviour change or family-violence informed fathering programs.

³² C Humphreys, ‘Domestic Violence and Child Protection: Challenging directions for practice’, Australian Domestic and Family Violence Clearinghouse, Issues Paper 13, May 2007, 8. See also C Humphreys and D Absler, ‘History repeating: child protection responses to domestic violence’, *Child and Family Social Work*, 2011, 16, 464–473.

³³ See for example, J Edelson, ‘Responsible Mothers and Invisible Men: Child protection in the case of adult domestic violence’, *Journal of Interpersonal Violence*, 1998, 13(2), 294–298; N Stanley and C Humphreys, ‘Multi-agency risk assessment and management for children and families experiencing domestic violence’, *Children and Youth Services Review*, 47 (2014) 78–85; C Humphreys and D Absler, above, p 464–473.

³⁴ McLaren et al, above note 12, 35.

³⁵ Ibid, 35.

³⁶ Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume II, 178.

What do men think about child protection?

Little qualitative research exists concerning perpetrators' experiences of child protection authorities. One study found that men's relationships with child protection was 'almost universally adversarial':³⁷

*They [child protection] came to the hospital. There was about five of them against me and my partner...they've always been against me from day one.*³⁸

*Yes, just because every time Child Protection said something to me, I'd fire up....I'm just sick of the allegations, so I cracked the shits and walked out and told them all to go and get F---ed.*³⁹

*I thought, oh well, they're the Department of Human Services. Surely they're used to people abusing them.*⁴⁰

The men in this study viewed child protection as 'an impersonal agency holding power over them' and many used child protection involvement to deflect responsibility and portray themselves as victims.⁴¹ Researchers reported that this adversarial relationship 'created resistance to engaging in the change process'.⁴²

Some child protection authorities in recent years have taken steps to engage perpetrators more proactively.⁴³ Ways of child protection workers engaging perpetrators through their casework include:

- interviewing a man as part of an assessment and developing a case plan;
- talking to a man about his responsibility for his behaviour and the harm it causes his family; and
- referring a man to a men's behaviour change program or other services which may assist him.⁴⁴

Some practitioners have highlighted that child protection case conferences can play an important role in harnessing a man's motivation to change,⁴⁵ although this may not always be safe.

³⁷ J Smith, *Consequences, accountability and responsibility by men for their violence against women and their children* (December 2013), Industry Partner Summary Report of PhD thesis provided to CIJ by the author, 17.

³⁸ Ibid.

³⁹ C Humphreys, *Responding to the needs of children living with family violence*, presentation to Northern Integrated Family Violence Services forum, March 2015, available at <http://www.nifvs.org.au/wp-content/uploads/2015/04/Cathy-Humphreys-Vulnerable-Childrens-Forum-Presentation-24.3.15.pdf>.

⁴⁰ Ibid.

⁴¹ J Smith, above note 36, p 17.

⁴² J Smith and C Humphreys, *Fathering, Child Protection and MBC programs*, presentation at No To Violence conference, November 2012, available at http://ntv.org.au/conference/wp-content/uploads/150428-Joanie_Smith_Fathering-CP-and-MBCPs-Fathering-Challenges-conference.pdf

⁴³ Department for Child Protection, *Perpetrator Accountability in Child Protection Practice: A resource for child protection workers about engaging and responding to perpetrators of family and domestic violence*, 2013, Western Australian Government; Department of Human Services, *Working with families where an adult is violent: Best interests case practice model specialist practice resource*, 2014, Victorian Government,

⁴⁴ Department for Child Protection, WA, above note 42, p 44-45.

⁴⁵ S Goff, 'The participation of fathers in child protection conferences: a practitioner's perspective', *Child Abuse Review*, 2012, 21, 283; J Scourfield, 'The challenges of engaging fathers in the child protection process', *Critical Social Policy*, 2006, 26(2), 447.

In Gippsland, the *Changing Family Futures* initiative co-locates child protection and police teams to provide families with timely and targeted assessment and ongoing case management.⁴⁶ Feedback indicates that it has enabled ‘information exchange, joint planning...on recidivist cases, and timely and coordinated mobilization.’⁴⁷

This said, the PATRICIA project’s recent examination of inter-agency working between child protection authorities, specialist family violence services and family law found that, despite efforts to increase collaboration between service systems, ‘there were several instances where child protection involvement and the interests of children were reported to be inadequate.’

In the US, David Mandel’s ‘Safe and Together’ model is a ‘perpetrator pattern-based, child centred, survivor strengths approach’, meaning that family violence is approached ‘through the lens of the perpetrator’s behaviour pattern as the source of child risk and safety concerns’.⁴⁸ The model is based on three principles: keeping the child ‘safe and together’ with the non-offending parent; services partnering with the non-offending parent; and intervening with the perpetrator to reduce risk of harm to the child. Mandel argues that pursuing strategies in isolation may be ‘piecemeal, token or actually harmful to adult and child survivors’ if there is not a foundational shift in understanding family violence as a child welfare issue.⁴⁹

In Scotland, meanwhile, the Caledonian model is an integrated response system comprising men’s, women’s and children’s services. In many cases, a children’s plan is developed in collaboration with relevant professionals and family members, including the perpetrator. Attending a perpetrator intervention program is often part of a child’s plan, with the program running for at least two years, including a group component of 25 sessions, and involves a module of children and fathering.⁵⁰ Facilitators of the men’s program also contribute to children’s risk assessments by providing information about the perpetrator’s progress and level of risk.⁵¹

⁴⁶ Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume II, 261.

⁴⁷ Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume II, 261.

⁴⁸ See <http://endingviolence.com/2015/07/definitions-and-key-markers-associated-with-domestic-violence-informed-practice/>.

⁴⁹ David Mandel, ‘The Safe and Together Model A field tested approach to helping child welfare and its partners to make good decisions for children impacted by domestic violence perpetrators’, available at http://endingviolence.com/wp-content/uploads/2013/01/st_model.pdf. David Mandel, ‘Beyond domestic violence perpetrator accountability in child welfare systems’, *No To Violence Journal*, Spring 2014, 51, available at <http://ntv.org.au/conference/wp-content/uploads/2015-dm-NTV-Journal-Spring-2014-David-Mandel-article.pdf>.

The results of an evaluation of this model in Ohio showed ‘strong changes in on-the-ground practice’ including less victim blaming, improved screening and assessment and better assessment and documentation of the impact of the perpetrator’s behaviour on children. S Jones and K Steinman, ‘Ohio Intimate Partner Violence Collaborative: Final Evaluation Report of the Safe and Together™ Training Program’, March 2014, 2, available at <http://endingviolence.com/wp-content/uploads/2014/04/Ohio-Safe-and-Together-Model-Training-Final-Evaluation-Report-March-2014.pdf>

⁵⁰ Australia’s National Research Organisation for Women’s Safety, Perpetrator interventions in Australia: Part one - Literature review, November 2015, 19. See <http://www.gov.scot/Topics/People/Equality/violence-women/CaledonianSystem>.

⁵¹ Ibid, see also p 19.

Family-violence informed fathering programs

In addition to efforts specific to child protection, interventions designed to engage with men through harnessing their role as fathers are also emerging.⁵² Certainly, studies have identified how a relationship with their children can be a motivator for perpetrators to contemplate taking responsibility for their behaviour.

*My eight-year-old son...said, "You know I can hear you if you don't shout". Stopped me dead in my tracks. ...*⁵³

*...I could see the cycle continuing and ...I didn't want my son and daughter to grow up in pain.*⁵⁴

Caring Dads is a mid-point intervention for men who have abused or neglected their children, exposed their children to domestic violence or are assessed to be at high risk for these behaviours.⁵⁵ *Caring Dads* programs operate in a range of jurisdictions,⁵⁶ and include:

- A 17 week **fathering group**, including 15 group sessions, 2 individual sessions and intake interview;
- **Mother contact** to ensure safety, assess risk and provide referral to services if necessary; and
- **Collaborative case management and ongoing risk assessment** between services.⁵⁷

Evaluations of *Caring Dads* programs have indicated positive changes to men's parenting and co-parenting, including men's respect for the commitment and judgment of mothers;⁵⁸ fewer incidents of violence reported by fathers and partners;⁵⁹ and substantially increased contact between men and their families' child protection workers.⁶⁰

⁵² See, for example, G Perel and W Peled, 'The Fathering of Violent Men: Constriction and Yearning', *Violence Against Women*, April 2008, 14(4), 478; G Fox, J Sayers and C Bruce, 'Beyond Bravado: Redemption and Rehabilitation in the Fathering Accounts of Men Who Batter', *Marriage & Family Review*, 2001, 32(3/4), 159; K Walker and E Bowen, 'Mentoring serial and high-risk perpetrators of intimate partner violence in the community: Engagement and initiating change', *Criminal Behaviour and Mental Health*, 2015(25), 299, 309. R O'Malley, CollaborACTION,... Carina Holmquist, *Dads Putting Kids First Program*, presentation at No To Violence conference, November 2012, available at <http://ntv.org.au/conference/wp-content/uploads/2012-ntv-conference-workshop-3j.pdf>.

⁵³ C Humphreys, C Laming and J Smith, *Look both ways: Fatherhood in the context of intimate partner violence*, summary of workshop at No To Violence conference, November 2012, 5, available at <http://ntv.org.au/conference/wp-content/uploads/2012-ntv-conference-workshop-2e.pdf>.

⁵⁴ Roguski et al, above note 9.

⁵⁵ Men who have sexually abused their children are screened out of the program.

⁵⁶ See Children's Protection Society: <http://www.cps.org.au/cps-launches-new-family-violence-programs/>. The CIJ understands that a trial of the *Caring Dads* program is commencing in Victoria this year.

⁵⁷ See *Caring Dads*: <http://www.caringdads.org/m-overview.htm>.

⁵⁸ K Scott and V Lishak, 'Intervention for maltreating fathers: Statistically and clinically significant change', *Child Abuse and Neglect*, 36(2012), 683.

⁵⁹ Ibid

⁶⁰ Royal Commission into Family Violence, Witness statement of Dr Katreena Scott, 15 July 2015, 10[20].

A unique aspect of *Caring Dads* is that, unlike other ‘fathering after violence’ programs, it does not require men to have completed an MBCP. Dr Scott argues that requiring MBCP completion ‘excessively, unnecessarily, and sometimes dangerously’ limits the range of men who can participate.⁶¹ By having more flexible eligibility requirements, *Caring Dads* opens a door to work with a cohort of perpetrators who may not be willing or mandated to attend an MBCP, but are prepared to focus first on being a father.

This said, fathering programs are *not* a replacement for MBCPs. Deciding which intervention is most appropriate should be based on assessing which family members are most at risk; the family’s most pressing needs; and the man’s current motivation for change. Draft guidelines for working at the intersection of family violence and fathering currently being developed as part of the Fathering Challenges project - led by the University of Melbourne and due for completion in mid-2017 - will shed further light on the experiences of perpetrators attending fathering programs and how participation may have assisted them to address their use of violence. It will also provide guidance to service providers about intake and referral procedures.

Family services

Family services aims to divert potential cases from child protection by working with families to address concerns before they escalate. Although family violence is not the sole focus, many family services clients have been experiencing quite severe abuse for a long time. Family services also often work with families where the perpetrator is still living in the home.⁶² Concerns are sometimes raised about the capacity of family services to respond effectively to family violence, especially given staff do not receive specialised family violence training⁶³ and may over-estimate their capacity to provide effective interventions.⁶⁴ Approached with care, however, family services are a site of potential intervention. The CIJ’s consultations revealed promising practices at the intersection of family services, specialist women’s and men’s services, and child protection.⁶⁵

Berry Street is currently trialing inclusion of specialist men’s and women’s workers in outreach with child protection. Where able to engage, the men’s worker then sees the man on average one to two times per week for around six weeks, with the aim of providing a short-term bridging service to refer clients to longer term interventions such as MBCPs or a *Caring Dads* program that Berry Street will commence in 2017.⁶⁶ Berry Street conceives this as short-term work and emphasises that ‘getting in quickly is key’, before the client’s window of crisis closes. So far, most perpetrators referred to the program have engaged, and those who have not engaged have been identified as reoffending, suggesting that failure to engage is a valuable red flag to note in terms of risk management.⁶⁷

⁶¹ K Scott, *Parenting interventions for men who batter*, June 2012, 6, available at http://www.vawnet.org/assoc_files_vawnet/ar_parentinginterventions.pdf.

⁶² Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume II, 24, 249.

⁶³ Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume II, 249.

⁶⁴ The introduction of a single integrated intake point which includes integrated family services as part of the Commission’s recommended Support and Safety Hubs will help to build the capacity of this workforce to respond to family violence, including by engaging perpetrators, if supported by specialist services.

⁶⁵ These include some no longer in operation due to funding shortfalls, as is so often the case in this area.

⁶⁶ Consultations indicated that a number of these men had participated in MBCPs and did not have a positive view of them, drawing benefit instead from others they had met in the program. Consultation with Berry Street.

⁶⁷ Consultation with Men’s Practitioner, Berry Street. Consultations with Anglicare also revealed efforts to harness the potential of better links between family services and perpetrator intervention specialists.

A further example of promising practice is the Families@Home model delivered by Kildonan UnitingCare. This model involves family services and other providers referring women and children to Kildonan's integrated specialist family violence service where they identify a need. As part of this process, the women's and children's case manager asks the victim whether she would like Kildonan to engage the perpetrator as well. Her goals are discussed, such as whether she is hoping that the relationship can continue but wants his violence to stop (this applies to many of the families); what her goals are for herself and her family; and whether Kildonan engaging with her current/former partner would assist in her reaching these goals, or creates unacceptable risks. Where the woman gives her consent, Kildonan's men's practitioner contacts the perpetrator and invites him to come in for an assessment. If he agrees, the service then works with him on a case management basis, addressing criminogenic needs and trying to engage him on his use of violence. In some cases, the worker can then refer clients to Kildonan's MBCP.

The CIJ heard that Kildonan works very closely with family services as part of this approach.⁶⁸ Though engagement rates – as in any family violence context – are likely to be low, intervention delivered this way enables it to be guided by and tailored to the specific perpetrator's patterns of behaviour, as well as the family's specific needs. A further – and absolutely crucial - aspect of this model is that the family violence response commences with support for the women and children and, based on her goals and views about whether engaging the perpetrator would help, he might then be engaged through case management. In this way, the door to perpetrator engagement is indirectly opened by family services, through Kildonan's specialist FV service and the victim's consent. This echoes other examples in which specialist women's family violence services become the door to perpetrator intervention – a door better equipped with information about the risk he might pose, and only opened when the victim gives the 'green light'.⁶⁹

Dimensions and Child Protection/Fathering Programs/Family Services

The question again becomes the extent to which the above examples satisfy the dimensions outlined by the CIJ. Arguably, they reveal a range of different ways in which the role of perpetrators as parents can function as a window onto risk and a doorway to a continuum of interventions (Dimension 2). For this to happen effectively, however, each intervention must scaffold accountability (Dimension 6) in its own way, and not attempt to take the place of another. Rather, by holding the door open over a period of time (Dimension 1), and by taking a family violence informed case management approach (Dimension 5), child protection, fathering programs and family services can potentially engage with perpetrators in a way that addresses his patterns of behavior and his family's needs (Dimension 4), as well as focusing on the dynamic risk which he may pose (Dimension 3). If they can leverage his desire to have a relationship with his children so as to edge him towards longer term interventions; and if they can keep him within view along the way, these services can contribute to stronger risk management processes (Dimension 7) which always keep the potential for escalation of risk (Dimension 8) firmly in mind.

⁶⁸ Consultation with Kildonan UnitingCare

⁶⁹ Kildonan also employ a specialist 'fathering engagement worker' who work alongside the service's MBCP, increasing the service's capacity to engage the perpetrator through a range of different doorways.

Doorway 3 – First responder law enforcement/telephone-based second responder interventions

Police are often the first responders to a family violence incident, but there is very little published literature examining perpetrator perspectives when they come into contact with police as a result of their use of family violence. Certainly, many experienced in this field caution against over-zealous pro-arrest policies which may have the unintended consequence of increasing risk (through retaliation) in the short term and therefore deterring women from reporting family violence who may just want the violence to stop.⁷⁰

Certainly, research has found significant variation in police response to perpetrators, depending on the particular station and responding officers. These inconsistencies facilitated some men's minimisation and denial of their violence⁷¹ and, in the case of perpetrators who had a mental illness or drug and alcohol issues, resulted in these men (and their families) 'slipping through the cracks'.⁷²

Although men in this study did not necessarily see police as a 'strong accountability mechanism', contact with police generally led to their continued engagement with other parts of the service system, with police response being an early step on a pathway to further involvement with the criminal justice system.⁷³ One participant said that time sitting in a police cell was a wake-up call:

Yeah, there was a bit of denial going on for me...There was a bit of I don't deserve this, but I have to say I had some epiphanies, sitting in a locked police station not knowing if I was going to get out, not knowing if I was going to be able to go to work the next day, not knowing if I was going to go to jail, and I realised then I was in the system. I was responsible, it was my fault and I could have avoided it.⁷⁴

To this end, the CIJ's consultations also highlighted creative attempts at engagement by Western Australia's Men's Domestic Violence Helpline. A small trial in Perth in 2015 involved police encouraging men who had been taken to the station for processing to call the DV Helpline from the station. The trial found that those who had just been arrested were too firmly in denial to take up the offer on the spot. Where men remained in a watchhouse, however, (such as over the weekend) officers found they were more interested in taking up the opportunity. The helpline practitioner would then get the man's permission to call again once he was released and, in many cases, this second conversation enabled some degree of risk assessment to occur.⁷⁵

⁷⁰ Ibid.

⁷¹ J Smith, *Consequences, accountability and responsibility by men for their violence against women and their children* (December 2013), Industry Partner Summary Report of PhD thesis provided to the CIJ by the author, 11.

⁷² Ibid, p 13.

⁷³ Ibid, p 11.

⁷⁴ J Smith, *Consequences for men who use violence? Perspectives of men attending men's behaviour change programs and women from partner/ex-partner contact programs*, workshop presentation, 2011, available at http://www.cfecfw.asn.au/sites/default/files/Smith_2011_UNIMELBPostGrad_coloquium_Methodology_datatrian_gulation.pdf.

⁷⁵ The CIJ was told that, despite a police evaluation indicating positive outcomes, this pilot has not continued.

Proactive policing strategies

Certainly, evidence on the success of pro arrest policies is mixed. While some studies have found that perpetrators who were arrested were significantly less likely to reoffend six months later than those not arrested, others have found that arrest has only a modest impact and can in fact lead to an *increase* in violence in the long-term.⁷⁶ To this end, Dr Michael Salter cautions that 'it has a limited deterrent effect *on its own* and may prove harmful to victims if poorly managed by the police and criminal justice system.'⁷⁷

Where positioned within a continuum of criminal and civil justice strategies, however, pro-arrest policies can send a clear message to perpetrators that their behavior will not be tolerated. For example, in Dandenong, (part of the police division with the highest rate of reported family violence incidents in Victoria)⁷⁸ suspected recidivist perpetrators are arrested and detained in custody for four hours, allowing police time to provide support to the victim and investigate whether to lay charges.⁷⁹ Assistant Commissioner Cornelius reports that the policy 'takes control away from [perpetrators] and makes clear that their conduct is criminal'.⁸⁰

It's the difference between a suspected offender sitting in the comfort of an interview room or that person spending time in a police cell alongside a drug dealer and a car thief. If we do this stuff to car thieves and drug dealers, we should absolutely be doing it to family violence offenders. They need to be in the same boat as any other common suspected criminal.⁸¹

Coupled with other strategies to avoid an increase in short-term risk and retaliation, such as fast-tracked prosecution and regular unannounced visits to a perpetrator's home, Victoria Police report that the pro-arrest approach has also seen a 'highly significant reduction in recidivism and repeat victimisation' in Dandenong.⁸²

Other opportunities opened by a police response include a more targeted risk assessment, such as the tool the CIJ was told is currently being trialed in Melbourne's west. In this trial, when attending a family violence incident, general duties police apply an actuarial tool to screen out cases which do not appear to need a fully blown response, or perhaps need a different response, such as when adolescent violence is involved. Where cases proceed to the next level of assessment, further screening is applied and, where this results in a score above a certain number, the case is automatically referred to the relevant specialist family violence unit.⁸³ Where perpetrators are charged, bail conditions which specify regular reporting to police then enable them to be more involved, to visit perpetrators regularly and keep them within view.

⁷⁶ Ibid

⁷⁷ Ibid, 10.

⁷⁸ Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume III, 59.

⁷⁹ Royal Commission into Family Violence, Witness statement of Assistant Commissioner Cornelius, 27 July 2015, 16 [62].

⁸⁰ Ibid.

⁸¹ Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume III, 60.

⁸² Ibid. the Royal Commission suggested Victoria Police consider expanding the Dandenong pro-arrest policy to other divisions, but only after it has been evaluated and the effect on police resources has been considered, p 100.

⁸³ Consultation with Victoria Police.

Other opportunities include regular visits by police to those perpetrators who they are not able to charge, but who police are nonetheless concerned about, particularly in relation to dynamic risk. Where specialist services accompany police, the doorway to useful intervention is opened more effectively. For example, Berry Street's men's practitioner has started to take direct referrals from police for recidivist offenders. Berry Street report that it takes two or three visits for these men to start trusting the men's worker, but once they do, the worker starts to help them scaffold accountability and work towards longer term interventions on the continuum.⁸⁴

Developed on a more formal basis, an approach known as Taskforce Alexis targets families involved in repeat police callouts. In most cases these are families who remain living together and who have not engaged via conventional outreach from specialist women's and men's services.⁸⁵ Eligible families are triaged and police then attend the household, accompanied by a 'key worker' from the Salvation Army, who provide the region's specialist women's service. During the visit, the key worker will identify whether the victim is engaged with a relevant service. Where she is not, the worker will focus on the victim and potentially also facilitate other referrals for the children.

Where the victim is already engaged, the worker will determine whether to engage the perpetrator on a short term basis – initially to refer him to services which may address factors potentially exacerbating risk, and then eventually to connect him with a Men's Family Violence Case Management worker. The key worker and MCM worker then visit the perpetrator together to build a bridge to this next phase of engagement.⁸⁶ In this process, police continue to provide the perpetrator with the consistent message that taking up the offer of services can direct him along a different pathway than the one on which he might otherwise be heading. For example, police may conduct visits to ensure that he is not intoxicated and knowledge gained can then help the key worker to offer him a chance to work on this issue.⁸⁷

Front end outreach services

A further opportunity lies in police referral to specialist men's telephone and assertive outreach services. This includes DV Connect in Queensland and WA Domestic Violence Men's Helpline, as well as After Hours Services delivered by No to Violence/Men's Referral Service which originated in Victoria and has recently been contracted to deliver services in NSW and Tasmania. It also includes Enhanced Intake Services provided by local MBCPs during the course of the week. Formal referrals to these services are provided by police via 'faxback' processes, at which point the relevant service attempts to make contact as soon as possible and - where this is successful and the man agrees to participate in a conversation - to attempt to reinforce the unacceptability of the man's behaviour; to listen out for any new information relevant to the ongoing safety of his partner and children; and, where possible, to provide him with direct referrals and information.⁸⁸

⁸⁴ Consultation with Berry Street.

⁸⁵ Important to note, around 40% involve violence from adult dependent children. Centre for Innovative Justice, *Multidisciplinary Response Models – Report to the Southern Melbourne Integrated Family Violence Partnership*, September 2016, RMIT University. At <http://mams.rmit.edu.au/6wooo0a8hnua.pdf>

⁸⁶ Victoria Police caution that any repeat visits to an intransigent perpetrator might have the potential to increase risk. Where appropriate, however, it can send a strong message that police will continue to be heavily involved. Consultation with Victoria Police and Salvation Army. See also Centre for Innovative Justice, above note 84.

⁸⁷ Consultation with Salvation Army.

⁸⁸ No to Violence, 'Enhancing front-end work of responding to police active referrals for men', *Ending Men's Violence Against Women and Children: the No to Violence Journal* Spring edition, 2014. *Evolution of a men's active referral service*, Workshop, No to Violence Conference, Melbourne, November 2012.

Overall, the objective is to connect men to a community response as early as possible and to start the series of consistent messages that they need to hear.⁸⁹ Given that this is an assertive outreach service, rather than a voluntary telephone counselling and advice line, the men who *can* be contacted (which are a minority of referrals) are usually in 'pre-contemplation' and have not begun to consider the effects of their behaviour. A conversation with a trained professional as soon as possible after an intervention from police might help them to 'inch forward' towards contemplating change. Important to note, men assessed by police to be family violence victims are currently referred to the Victim's Support Agency for intake and assessment. The CIJ heard that work by MRS in NSW demonstrates, however, that specialist intake work in this context is also a doorway for screening those who have actually used violence themselves.

Further to this, intake workers try to encourage further contact where men may not be ready to participate in a face-to-face assessment for an MBCP but might appear sufficiently interested to accept a second call at a later time. Services identify this as particularly important, in order to seize the opportunities which potentially present in the first two to three weeks being:

- One to three days following police attendance, at which stage a man is likely to be in a state of crisis and may be in immediate need of housing if police have imposed an exclusion order;
- Within a few to several days after attending court, at which point the reality of the situation may have sunk in and the man has (ideally) heard a Magistrate reinforce the unacceptability of his behaviour;
- Two to three weeks after police attendance, at which point any openness to change might be closing.⁹⁰

More broadly, WA Domestic Violence Men's Helpline have also been conducting assertive follow up with men who have spoken particularly negatively and persistently about their partner during the call, or who sound aggressive or agitated. Other men are targeted for follow-up when a particular aspect of their life, such as temporary homelessness, might increase dynamic risk. Where this is the case the Helpline calls them regularly to attempt to conduct some monitoring; address immediate risk factors, and connect men with services which may address them. This intervention is not about attempting behaviour change. Instead, the goals are far more immediate, including eliciting new information that may prove valuable in assessing risk.⁹¹ Communicare, another WA service, also conducts assertive outreach.⁹²

Unsurprisingly, the need for a data system to track perpetrator journeys through the justice and related system was emphasised throughout consultations. The CIJ heard that No to Violence/Men's Referral Service is exploring the development of software with potential to perform this task, which could enable stakeholders with a role in strengthening risk management around the perpetrator to 'peer in' to the perpetrator's history of engagement with services. The Central Information Point recommended by the Royal Commission will go some way to addressing this challenge as well.

⁸⁹ Ibid

⁹⁰ J Edleson, *Promising practices with men who batter: report to King County Domestic Violence Council*, January 2008.

⁹¹ Consultation with WA Men's Domestic Violence Helpline.

⁹² Centre for Innovative Justice, above note 1, p 48

More broadly, the CIJ heard that second responders at this front-end would like the capacity to build a bridge from their initial involvement with a perpetrator, through his experience at court; to his potential participation in an MBCP or other back-end service. Where a service such as DV Connect Queensland or even Men's Referral Service could make an active or 'warm' referral to an MBCP – potentially in a situation when a caller is showing some signs of responsiveness – this service would like to be able to 'stay on the line' and ensure that an appointment for an intake assessment is made; or even that an initial conversation with an MBCP practitioner could occur. Current resourcing for MBCP services, of course, make this an unrealistic proposition.

Looking ahead to the implementation of the Royal Commission's recommendations, the Support and Safety Hubs could provide an important opportunity for this 'bridging' tool. Though still in the co-design process, as described by the Royal Commission the Hubs have the potential to support local multi-agency or joined-up triage, intake and post-intake/follow up processes involving specialist women's and men's services; family services providers; Child First; police and Corrections. These could operate not only to support women and children, but also with a strengthening risk management lens which pivots the focus to the perpetrator and associated dynamic risk. Due to the involvement of specialist women's and children's services, the Hubs could potentially support front-end and mid-point interventions with perpetrators based on an understanding of what his family needs and a multi-agency assessment of risk. This arrangement would also support such interventions to be cognizant of the risks associated with attempted engagement with the perpetrator.

Dimensions and First-responder/Second-responder interventions

Regardless of how the Hubs evolve, the need for this continuum of interventions (Dimension 2) – ones which are family violence informed, (Dimension 5) which understand dynamic risk (Dimension 3) and which can 'scaffold' accountability (Dimension 6) for each individual perpetrator to meet his family's needs (Dimension 4) – was a constant theme during the CIJ's consultations. This included the need for a 'reciprocal loop' between second responder services (such as MRS, DV Connect Queensland or WA Domestic Violence Men's Helpline) and back-end MBCPs to enable closer collaboration and information sharing, with second responder services not only helping to bridge a perpetrator to an MBCP, but also conducting follow up to support the integration and any maintenance of any reduction in risk achieved; and holding a door open over time to his involvement in the system and potential for change (Dimension 1). Where first responders like police can contribute to this continuum – potentially through tools such as arrest, while having an eye to any increase in risk this can create (Dimension 8), as well as through proactive policing measures such as regular visits and more targeted risk assessments (Dimension 7), the messages which the system sends to the perpetrator might start to grow in consistency and volume.

Doorway 3 – Civil Justice mechanisms

Civil intervention orders

Civil intervention orders, also known as ‘restraining orders’ and ‘protection orders’, have been the predominant legal response to family violence in most Australian states and territories since the 1980s.⁹³ The broad aim of these orders is to protect affected family members from further acts or threats of family violence by prohibiting or restricting the perpetrator’s conduct for a period of time.⁹⁴ Perpetrator attitudes to these orders, however, often reflect confusion at best.

Yeah, I'm not supposed to go within 50 metres of her ...[but] family law orders ... counteracts it. So it's a waste of time really because I can go down and say I want to talk to [my child]...and the cops can't do nothing.⁹⁵

...and clearly my case was a minor one even though I had 17 breaches, I didn't go in there with a baseball bat, I just knocked on the door and said hello, I love you.⁹⁶

Perpetrator engagement at court

Men presenting at court for an intervention order hearing are often angry, agitated and confused about the court process, highlighting the potential for an increase in risk. Research and practitioner experience suggests that men often do not understand the terms of an order, the basis upon which it has been made, or the consequences of breaching it.⁹⁷ Respondent support workers (Family Violence Respondent Practitioners in Victoria) can help to diffuse a respondent’s agitation by familiarising him with court processes and explaining the terms of the intervention order, which in turn can reduce risk. As one practitioner explained:

My aim is to help reduce the respondent's initial anxiety. If they are calm, they are more rational... I try to challenge the respondent's thinking without being judgmental. My philosophy is that giving appropriate attention to the perpetrator will ultimately help the applicant. ...

The numbers of Respondent Practitioners will expand upon the increase of specialist court divisions.

⁹³ H Douglas and H Nancarrow, ‘Perils of using law: a critique of protection orders for responding to intimate partner violence’ in H Johnson et al (eds.) *Critical perspectives on violence against women: international perspectives and promising strategies*, Routledge, 2015, 77. Civil protection orders are also common in European countries and in most Canadian provinces. C Hagemann-White, C Humphreys, L Tutty, K Diemer, ‘Overview of current policies on arrest, prosecution and protection by the police and the justice system as responses to domestic violence’, in H Johnson et al (eds.) *Critical perspectives on violence against women: international perspectives and promising strategies*, Routledge, 2015, 59.

⁹⁴ Australia’s National Research Organisation for Women’s Safety (ANROWS), *Perpetrator interventions in Australia: Key findings and future directions*, November 2015, 6.

⁹⁵ J Smith, *Consequences and Accountability in Men's Behaviour Change - Workshopping the Results*, workshop presentation, 2010, available at http://www.cfecfw.asn.au/sites/default/files/Smith_2010_workshopping-the-results-Consequences-Accountability-in-MBC.pdf.

⁹⁶ Ibid.

⁹⁷ Curtin University, Communicare and Department of Child Protection and Family Support, *Breaching Safety: Improving the effectiveness of violence restraining orders for victims of family and domestic violence*, 2014, 2 available at <http://ntv.org.au/wp-content/uploads/2014-Breaching-Safety-Final-Report.pdf>; J Smith, above note 36; *Engaging men at court*, Summarised from workshops at the No To Violence Conference, Melbourne, November 2012, at <http://ntv.org.au/conference/wp-content/uploads/2012-ntv-conference-workshops-7a-and-8a-engaging-men-at-court.pdf>.

DV Connect Queensland provides a similar service through its Men's Court Support Service which operates from five Brisbane Magistrates' Courts. Current practice in these courts is to require all FV respondents to see the support worker *before* they see the Queensland Legal Aid Duty Solicitor. While respondents are usually impatient to see the lawyer, police prosecutors and all court staff know that the procedure is for the respondent worker to see the respondent first. The worker then speaks with the respondent about what is on the police summary and asks him about the events.

The main objective of this intervention is to increase the likelihood that the respondent will consent to the order and to de-escalate his aggression - not just to make the court proceedings run more smoothly, but to make it more likely that he complies with an order and less likely that he engages in revengeful violence. The respondent worker has a strong focus on contributing to risk assessment and, if the respondent directly or indirectly indicates risk, the worker will share this information with relevant agencies. During this exchange the worker also seeks the respondent's permission to call him back, offering some (albeit limited) follow-up family violence informed case management work.

The respondent then sees the duty lawyer, all of whom have been trained to some extent in family violence. Given the previous engagement with the respondent worker, the meeting with the lawyer can proceed more smoothly, with the lawyer able to highlight the value of complying with an order and prioritising family safety, while still acting in the legal interests of their client at the time. The CIJ heard that one Brisbane Magistrate in particular will build on this scaffolding process by asking a respondent about these exchanges once he is in court and then encouraging him to go into an adjacent room with the respondent worker and make an appointment with the local MBCP there and then.⁹⁸

The CIJ heard that an extension of this scaffolding process would be to provide respondent worker interventions at the point of breach proceedings as well, enabling the perpetrator to interact with the same worker and to explore his non-compliance with the order. The absence of separate lists for breach proceedings, however, make this impractical at this stage, but could be something for consideration.

Highlighting the need for extensions of his kind, a recent Western Australian study, *Breaching Safety*, revealed the dismissive attitudes of respondents towards the role and purpose of protection orders, with many commonly stating the orders were 'just a piece of paper' and that 'anyone can get one'.⁹⁹ Participants also sought to minimise or deflect responsibility for their use of violence, and these attitudes were reinforced when breaches of the order did not result in police investigation or charges. Most felt confused about the imposition of the order and did not understand the process leading up to it and following service, variously describing feeling 'lost and confused', 'like in a void', at 'crisis point', going into 'self-destruct' mode¹⁰⁰ and some choosing to manage these feelings by contacting their family member, despite knowing that this was not permitted.¹⁰¹ Men stated that they would have found it useful to have a contact to ring and explain the next steps in the protection order process, as well as offer advice and answer any questions.¹⁰²

⁹⁸ Consultations with DV Connect, Queensland.

⁹⁹ Curtin University et al, above note 96.

¹⁰⁰ Ibid, p 18

¹⁰¹ Ibid.

¹⁰² Ibid.

The study recommended that the violence restraining order¹⁰³ process be improved by the introduction of a 'proactive contact and information service' to contact all respondents 24 hours after being served with an order to provide information, answer questions, assess risk and be an ongoing point of contact.¹⁰⁴ Professor Donna Chung elaborated on the benefits of such a service in her evidence to the Royal Commission:

*... an important addition...would be to implement a program of risk assessment, support and supervision for perpetrators following these [intervention] orders being served... Having a case manager who can provide this information in simple language as well as undertake a continuing risk assessment would offer a much more informed assessment of the perpetrator's risk and appropriateness and readiness for further interventions...This information would be of much greater depth than is currently provided to the courts. Additionally, the perpetrator has a source of early information and referral so he has no reason to be contacting his partner...*¹⁰⁵

One of the current challenges is the lapse in time between initial police call-out and any consequences, including attendance at a MBCP, with some waiting lists in Victoria extending to several months.¹⁰⁶ Gondolf's US study suggests that early connection with and entry into programs is key, given that the longer the lapse of time, the less likely it is that participation will reduce the perpetrator's risk of reoffending.¹⁰⁷

Research also points to the benefits of providing respondents with legal advice. Evaluations of schemes which provide duty lawyer legal services to respondents have shown that the provision of legal advice improves the respondent's knowledge of an Order's conditions and the consequences of a breach.¹⁰⁸ In appropriate circumstances lawyers can also help respondents to negotiate 'tailored' conditions with which they are more likely to comply, thereby giving applicants more confidence in the orders as well.¹⁰⁹ Lawyers can also play an important role in 'challenging and encouraging clients... to make decisions that support rehabilitation...'¹¹⁰

Civil justice system as entry point into MBCPs

Of course, the civil justice system can also serve as a pathway to MBCPs. The Magistrates' Court can mandate attendance at a MBCP by making it a condition of an intervention or counselling order. Currently in Victoria only four Magistrates' courts have power to make such orders, but the Royal Commission recommended that all headquarter courts be empowered to mandate attendance at perpetrator programs. Recognising that this will likely prompt increased demand for programs, the Commission also recommended an expansion in the range of approved service providers, and that the Court work together with MBCP providers and government to develop an improved process for monitoring and reporting perpetrator participation in these programs.¹¹¹

¹⁰³ This is how protection orders are described in WA. Specific family violence orders are being developed.

¹⁰⁴ Ibid, p 21.

¹⁰⁵ Royal Commission into Family Violence, Witness statement of Professor Donna Chung, 16 July 2015, 4-5 [20].

¹⁰⁶ Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume III, 289.

¹⁰⁷ E Gondolf, *The Future of Batterer Programs: Reassessing Evidence-Based Practice*, Northeastern University Press, 2012; E Gondolf, *Batterer Intervention Systems: Issues, outcomes & recommendations*, SAGE, 2002.

¹⁰⁸ Victoria Legal Aid, *Research brief: Does providing legal advice to respondents reduce the likelihood of breaching a family violence order?*, December 2015, 4, available at <https://www.legalaid.vic.gov.au/about-us/research-and-analysis/does-providing-legal-advice-to-respondents-reduce-likelihood-of-breaching-family-violence>.

¹⁰⁹ Ibid, p 2.

¹¹⁰ Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume III, 142, quoting Ms Helen Fatouros, Director, Criminal Law Services, Victoria Legal Aid.

¹¹¹ The Commission also recommended a review of No to Violence Minimum Standards which currently only require MBCP providers to give limited information to court about a man's participation. This is in part a

Voluntary Intervention Orders in Queensland

In Queensland, courts can order a perpetrator's attendance at an MBCP and/or counselling, provided that the perpetrator agrees for the mandate to apply. This is known as a 'voluntary intervention order' (VIO). The provider is required to report to the court and police on the perpetrator's assessment for suitability, contravention of the order and completion.¹¹² There are minimal practical consequences, however, if a perpetrator contravenes a VIO – the police and court will be notified, and the court may take it into account in any further proceedings.¹¹³

Use of VIOs has varied across the state, with one recent examination indicating that use is higher at courts where there is active support for the scheme from the Magistrate, Judicial Registrars, lawyers, police prosecutors and men's workers.¹¹⁴ Some Magistrates reported that the 'voluntary' nature of these orders restricts the number of orders which can be made.¹¹⁵ The peak body for services and practitioners working with perpetrators of family violence in Queensland reports that, in areas where VIOs are being made, there has been a significant increase in demand for men's behaviour change programs.¹¹⁶

A recent examination by the Magistrates' Court of Queensland emphasises the importance of an intensive case management approach in ensuring compliance with VIOs. This approach includes respondent court workers and men's workers from DVConnect directly engaging with men at court; making an appointment for the respondent to be assessed for eligibility for a MBCP at the time of making the VIO; clear explanations to the respondent about the program; the obligations on the provider to report; and consequences for contraventions such as non-attendance or non-completion. Preliminary data suggests that this approach has been effective in reducing the rate of contravention of VIOs, with the rate of contravention at the Brisbane Magistrates' Court more than halving in 2014, and the number of respondents contravening a VIO by failing to make contact with the program provider reducing from 14 per cent to 6 per cent.¹¹⁷

Proposed legislative changes will require courts to consider a respondent's non-compliance when deciding whether to make a protection order or vary a domestic violence order; prevent courts from refusing to make a protection order or domestic violence order merely because a respondent has complied with a VIO; and require that VIOs be referred to simply as 'intervention orders' to clarify that, once the respondent has agreed to the order, it must be complied with in the same way as any other order of the court.¹¹⁸

recognition of concerns that assessment of risk, rather than reports of 'progress' should be the focus. D Shephard-Bayly, 'Working with men who use violence: the problem of reporting 'progress'', *Australian Domestic and Family Violence Clearinghouse*, Newsletter No 39, Summer 2010, 1-2, available at <http://ntv.org.au/wp-content/uploads/2010-adfvc-workingwithmen.pdf>.

¹¹² *Domestic and Family Violence Protection Act 2012* (Qld), ss 72-74.

¹¹³ *Domestic and Family Violence Protection Act 2012* (Qld), ss 70, 73.

¹¹⁴ Magistrates' Court of Queensland, *Domestic and Family Violence Protection Act 2012, Best Practice Report*, 2015, 26-29, available at http://www.courts.qld.gov.au/data/assets/pdf_file/0015/435030/dv-best-practice-report-2015.pdf.

¹¹⁵ *Ibid*, p 29.

¹¹⁶ Consultation with SPEAQ.

¹¹⁷ Magistrates' Court of Queensland, above note 114, p 30.

¹¹⁸ *Domestic and Family Violence Protection and Other Legislation Amendment Bill 2016*, Explanatory Notes, 6-7.

Future Directions

A major theme of the CIJ's consultations around civil (and criminal) justice interventions was the need for a much faster, more agile continuum of responses which can bridge perpetrators to family violence informed case management. This includes for those with no degree of readiness to participate, as well as those who have some degree of readiness, which then vanishes when levers are not used (or are not available) and consequences not enforced. What's more, referral to a service in which he will not participate for two or three months gives a respondent the message that the system is not taking his behaviour seriously.

More leverage of the kind used in therapeutic criminal justice approaches was seen as essential. This could include Respondent Practitioners receiving information from the local After Hours Service about any further incidents which may have occurred and adopting more of a case management role, with workers contacting the respondent regularly to signal that the court has an active interest in his program participation. Within the context of the specialist court division, it was suggested that the sanction mechanism for non-compliance should activate more readily, with the capacity to breach a respondent as soon as a single unexplained absence from a session occurs, for example. Bringing respondents back to court at an earlier point would not only encourage them to account for their compliance, but also provide the court with relevant information as to dynamic risk. This can only occur effectively if programs are willing to provide a court with information.

Overall, the CIJ heard that respondents need to receive a clear message that the judicial system will play an active role in their compliance. Where courts cannot provide this monitoring, this creates a question around what conditions should be included in an order and reflects the reluctance of some Magistrates to require participation in an MBCP outside the context of specialist courts. However, the 'court craft' of many Magistrates often extends to the inclusion of conditions which are more practical to enforce. An example includes the use of conditions which otherwise allow the respondent to attend and/or reside at the protected person's home *unless* he has consumed alcohol (where this is a relevant dynamic risk factor). Another example might potentially include the requirement that he agree to a self-exclusion order from a local gaming venue if problem gambling is relevant. In such a situation, the partner can report a breach that he is at her home while intoxicated, or is currently at the local gaming venue, without having to wait until he resorts to physical violence. In this situation, the message the respondent then receives depends on the willingness of the police to respond to this breach.

Dimensions and Civil Justice Mechanisms

Civil justice mechanisms were introduced as a crucial support to women who sought protection but did not necessarily want the perpetrator arrested. Clearly, they can function as a point along a continuum of interventions (Dimension 2). Only when backed with a strong criminal justice response upon breach, however, can they hold a doorway open over time (Dimension 1), assess dynamic risk (Dimension 3), and scaffold accountability (Dimension 6). Where an order is crafted carefully, it can also tailor the intervention to the perpetrator's patterns and the victim's needs (Dimension 4). Like an arrest, however, the imposition of an Intervention Order can increase risk (Dimension 8) if it is not supported by an inter-agency response which can contribute to strengthening risk management processes (Dimension 7). Civil justice responses, therefore, must not operate in isolation, but must start to take a family violence informed case management approach (Dimension 5) if these vital tools are going to work as they are intended.

Doorway 5 - Criminal justice mechanisms

In Victoria, perpetrators commonly enter the criminal justice system by being charged with breach of a family violence intervention order or family violence safety notice, or being charged with a family violence-related crime, such as assault. Existing and emerging opportunities for engaging perpetrators through the criminal justice system include individualised treatment approaches; strategic use of community corrections orders and parole; and active judicial case management.

Bail

A perpetrator who has been charged with a criminal offence and held in custody may apply for bail. In granting bail, the court can attach certain conditions such as regular attendance at a police station, as described previously, or requiring participation in a specified treatment or program. In Western Australia, Magistrates have had the option to call for protective bail risk assessment reports when concerned about bailing defendants they may perceive as dangerous. Services are asked to provide more relevant information so that a more informed decision about bailing a defendant can be made.¹¹⁹

In Tasmania, the court requires a defendant to make and attend an appointment with the Defendant Health Liaison Service, which assesses perpetrators' health and other needs (such as accommodation and Centrelink) and helps them to access appropriate services.¹²⁰ The DHLS does not report on a defendant's progress unless or until a guilty plea is recorded and the defendant agrees to engage with the service. In this event, the DHLS will report to the court on the services or programs accessed and/or completed which will be taken into account as part of sentencing considerations. As referred to in sub-section 1, this intervention is often the first time men have been asked about their behaviour or personal circumstances in any way.¹²¹ A similar service operates in Canada in the Yukon Domestic Violence Treatment Option.¹²²

In Victoria, some of these functions are performed by the Court Integrated Services Program (CISP) which currently operates from three Magistrates' Courts across Victoria. CISP is a four-month case management program designed to reduce the likelihood of re-offending and to address its underlying causes by providing services and support to an accused person.¹²³

¹¹⁹ Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws*, Final Report, 2014. See also Centre for Innovative Justice, above note 1, at p 55.

¹²⁰ Centre for Innovative Justice, above note 1, p 65. See also 'Making a difference: evidence based practice and early intervention. Working with perpetrators...are we doing enough?', Jacqui West at No To Violence conference, 2012, available at <http://ntv.org.au/conference/wp-content/uploads/2012-ntv-conference-workshop-9h.pdf>.

¹²¹ Centre for Innovative Justice, above note 1, p 65. See also T Brown & R Hampson, *An Evaluation of Interventions with Domestic Violence Perpetrators*, 2009. Department of Social Work, Monash University, Caulfield Campus, 39, available at https://www.lifeworks.com.au/files/ResearchReport_FV.pdf.

¹²² L Tutty, J Ursel & F Douglas, 'Specialised Domestic Violence Courts: A Comparison of Models', in J Ursel, L Tutty & Lemaistre (eds) *What's Law Got to Do with It? The Law, Specialised Courts & Domestic Violence in Canada* 2011.

¹²³ See <https://www.magistratescourt.vic.gov.au/court-support-services/court-integrated-services-program-cisp>.

To be eligible for CISP, an accused must have one or more of a physical or mental disability or illness; drug and alcohol issues or inadequate social, family and economic support that contributes to the frequency or severity of their offending.¹²⁴ CISP then assesses and refers an accused to a relevant service, including MBCPs, and reports progress to the court.¹²⁵

CISP is not a family violence-specific program, but routinely assists family violence perpetrators.¹²⁶ The question is the extent to which a family violence informed lens is currently applied. The CIJ heard that CISP is overwhelmed by volume and, as a result, has been shifting its focus to the higher risk/sharper end, often to offenders on remand. The CIJ also heard that, while the value of CISP as an active assessment and referral service is important, this model is creating lag times and/or gaps through which offenders may fall, such as when referrals for interventions focusing on criminogenic needs are not accepted because they do not meet the necessary threshold.

Echoed in the discussion around civil justice interventions, consultations emphasised the need for bridging family violence informed case management interventions in the days immediately after a court appearance where, rather than simply assess him and refer him out, case managers conduct some direct, individualized work with the perpetrator on some issues related to risk – building readiness for more intensive interventions. The CIJ stresses the value of creating this opportunity if the case manager has the sufficient skill set – using an initial focus on choices about use of alcohol, for example, to pivot to a focus on use of violence.

Certainly, CISP workers acknowledge that, given the program's four-month duration, it is not possible to address all of an accused's health and welfare needs. Rather, CISP workers suggest that the program 'seeks to initiate a range of interventions in the hope of shifting the trajectory for offenders.'¹²⁷ If seen in this way, this can be a valuable part of scaffolding accountability towards longer term intervention and risk management.

¹²⁴ Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume III, 269.

¹²⁵ Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume III, 269.

¹²⁶ As at 30 April 2015, 19% of all CISP assessments involved family violence. Royal Commission into Family Violence, Final report and recommendations, March 2016, Volume III, 269.

¹²⁷ Royal Commission into Family Violence, Witness statement of Joanne de Lacy and Glenn Rutter, 27 July 2015, 5 [28], available at <http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Statements/WIT-0085-001-0001-De-Lacy-and-Rutter-13.pdf>. There is some evidence to suggest that the program reduces reoffending – an independent evaluation completed in 2009 reported that 'compared with offenders at other court venues, offenders who completed CISP showed a significantly lower rate of re-offending in the months after they exited the program.'¹²⁷ The evaluation found that 50.5 per cent of CISP participants incurred no further criminal charges, compared to 37.5 per cent in the control group. University of Melbourne, Evaluation of the Court Integrated Services Program, Final report, December 2009, 114, available at https://www.magistratescourt.vic.gov.au/sites/default/files/Default/CISP_Evaluation_Report.pdf.

The evaluation followed CISP participants and offenders in the control group for between 400 and 900 days and recorded any further offences or new charges.

Other jurisdictions have also explored ways of engaging perpetrators who have been charged with a criminal offence but not remanded in custody. One program in Ontario, Canada provided a 'second-responder' intervention for men charged with assaulting their intimate partner (but not remanded into custody) and who were assessed as being at moderate to high risk for re-offending.¹²⁸ The program was based on the Risk Needs Responsivity (RNR) framework and involved men attending individual appointments with a practitioner from a local MBCP provider. After completing a risk assessment, the practitioner provided men with clear and direct feedback on their assessed level of risk and invited them to attend further sessions to specifically address identified dynamic risk factors.

Some of the services provided included referral to housing and legal services, referral to mental health and drug and alcohol services, and short-term, bridging, cognitive behavioural therapy. The program also included support for the man's partner through an established specialist family violence service, recognising that intervention without corresponding partner supports can heighten risk. Evaluation results showed that recidivism rates for men who attended the intervention was less than half of those who did not participate at both the one year and two year follow up.¹²⁹ Comparison of intake and exit interviews also revealed that men had better insight into the risk they posed to their partners and had increased their connection to services that could be of assistance to them.¹³⁰

Diversion or prosecution

In some jurisdictions, courts are trialing ways to divert offenders who are assessed as 'first time' or 'low risk' away from the criminal justice system. A number of courts in Canada, for example, offer 'early intervention streams' which emphasise swift access to treatment for offenders who have no prior history and who have (as far as is known) not caused significant harm to the victim. If bail conditions are breached, the individual is processed by a second stream which emphasises vigorous prosecution.¹³¹ Somewhat similarly, Calgary's Homefront scheme stays the charges for low risk offenders with a 'peace bond', placing an emphasis on early connection to treatment, seeing offenders commence treatment within days of having attended the court.¹³²

Similarly, Project CARA in the UK¹³³ allows men who accept a 'conditional caution' for a low severity or first domestic abuse related offence to be referred, as a condition, to a Domestic Abuse Awareness Raising Course (DAARC). This consists of two structured workshops and a month's reflection period and focuses on increasing awareness and potential for participation in longer-term programs.¹³⁴ Early findings from a controlled trial indicate those attending the course are 46% less likely to re-offend than those who do not.¹³⁵

¹²⁸ K Scott, L Heslop, T Kelly & K Wiggins, 'Intervening to Prevent Repeat Offending Among Moderate- to High- Risk Domestic Violence Offenders: A Second-Responder Program for Men', *International Journal of Offender Therapy and Comparative Criminology*, 2015, 59(3), 273-294.

¹²⁹ *Ibid*, p 273.

¹³⁰ Final Evaluation Report, provided to the CIJ by the project team.

¹³¹ L Tutty, K Wylie, P Abbott, J Mackenzie, EJ Ursel, J Koshan, *The Justice Response to Domestic Violence: A Literature Review*, 2008. See also Tutty et al, above note 144.

¹³² *Ibid*

¹³³ See 'The Hampshire Experiment', available at <http://www.crim.cam.ac.uk/events/conferences/ebp/2012/hampshireexperiment.pdf>.

¹³⁴ *Ibid*, p 3.

¹³⁵ *Ibid*, 1. See also <http://www.crim.cam.ac.uk/events/conferences/ebp/2014/slides/112%20-%20TUES%20-%20Project%20CARA%20-%20Hampshire.pdf>.

The NSW Government has expressed interest in piloting a DAARC-type intervention.¹³⁶ It is crucial here to distinguish DAARC, which is a short-term, front-end intervention aimed at reducing risk, from behaviour change interventions, which are longer-term and focused on a perpetrator's violent and controlling behaviour. Legitimate concerns have been raised that the DAARC (as currently proposed) will be understood as a pseudo MBCP and give rise to unrealistic expectations about what it can achieve. This could potentially contribute to a false sense of reduced risk because the perpetrator has participated in a 'program'.

Another UK initiative known as the Drive program is focused on providing a coordinated, multi-agency response¹³⁷ which targets high-risk and serial perpetrators who are not in custody, and whose case has been referred to a Multi-Agency Risk Assessment Conference (MARAC).¹³⁸ Case managers work with perpetrators on a one-to-one basis for up to 10 months, and victims will be offered support for the full period of the Drive intervention.¹³⁹ Similarly, *Making Safe* is a multi-agency initiative from the UK designed to support victims to remain in their own homes by providing a coordinated response from 12 different statutory agencies, including accommodation for men removed from the family home.¹⁴⁰

As suggested above, decisions about whether to direct a perpetrator to an early intervention stream or to impose a more intensive response need to be supported by as much information as possible. In consultations, the CIJ heard of examples in which perpetrators were appearing at various stages in the criminal prosecution process, with it then emerging that they had other family violence offences against the same victim pending in other court lists. In these examples, it was only when the Magistrate inquired about whether there were any other matters and then insisted that these be 'called in', that the pieces of the puzzle began to be put together and the Magistrate was able to deliver a stronger and more tailored intervention.

The CIJ heard that this case management approach was crucial to the criminal justice system acting as an effective doorway. Of note, however, these examples also suggest that opportunities exist for prosecutors to contribute to the continuum of interventions as well – using their contact with an offender to identify whether there are other relevant matters that should be being dealt with in a more rigorous way.

¹³⁶ New South Wales Department of Justice, Discussion Paper: Trial of Brief Interventions based on Behavioural Insights for Domestic Violence Perpetrators, June 2016, 7.

¹³⁷ See <http://driveproject.org.uk/about/frequently-asked-questions-about-drive/>.

¹³⁸ Ibid and <http://www.safelives.org.uk/sites/default/files/resources/The%20Drive%20project%20-%20service%20specification.pdf>. A MARAC is a high risk information sharing meeting akin to RAMPS.

¹³⁹ Ibid

¹⁴⁰ A Clarke and S Wydall, 'Making Safe: A Coordinated Community Response to Empowering Victims and Tackling Perpetrators of Domestic Violence', *Social Policy & Society*, 2013 12(3), 396. The CIJ has previously observed the value of residential programs which combine therapeutic and 'lifeskills' interventions, such as *Breathing Space* run by Communicare in Western Australia, CIJ above note 1, at 52. The ACT Government has also funded the specialist women's and children's agency in the territory, the Domestic Violence Crisis Service, to establish a perpetrator intervention program including a residential component for some of the participants, though using a different model than Breathing Space. ACT Government Response to Family Violence, June 2016. At http://www.cmd.act.gov.au/_data/assets/pdf_file/0008/883484/ACT-Government-Response_family_violence.pdf

Corrections

Further down the continuum, Corrections represents a relatively under used doorway to perpetrator interventions. This includes programs for offenders in prison (determined after assessment of risk and subsequent treatment needs) as well as those on community-based orders (in Victoria known as CCOs). Community correctional officers (also called probation and parole officers in some jurisdictions) play an important role in supervising offenders on CCOs and released on parole.

The role of a community correctional officer is like a case manager, as they coordinate the provision of services that an offender may need, and work to ensure that he meets the Order's requirements.¹⁴¹ Research into case management in community corrections settings generally suggests that models most likely to be effective are those informed by the principles of RNR; those which support officers with appropriate training in engagement processes such as motivational interviewing; and those which encourage officers to form 'strong and meaningful' relationships, often known as a 'therapeutic alliance', with their clients.¹⁴²

Certainly, an evaluation of a specialised domestic violence probation supervision unit in the US found that lower-risk perpetrators (those with no prior arrests or history of drug and alcohol abuse) supervised by a specialist unit 'were significantly less likely to be rearrested for domestic violence and nondomestic violence crimes' than those supervised as part of 'regular' caseloads.¹⁴³ The specialised supervision differed from 'regular supervision' in that the probation officers had more frequent contact with the perpetrator; increased contact with the victim; and were more likely to return the offender to court for technical violations.¹⁴⁴

The CIJ's consultations confirmed, however, that significant barriers exist in terms of the value of the Community Corrections environment as a doorway to effective intervention. One includes the fact that so many offenders have other issues, such as alcohol or drug misuse, mental illness, or housing instability, which prevent them from contemplating being responsible for their use of family violence. Given that offenders are more likely to take a voluntary referral to an AOD service than an MBCP, the potential exists for this pathway to bridge an offender to specific family violence intervention. These other providers, however, need to have the same approach to family violence risk and perpetration, which is currently not always the case.

Another limitation includes the fact that many perpetrators slip through the cracks when prosecuted for an index offence other than family violence, but who are perpetrators of family violence nonetheless. That said, the CIJ heard that Corrections environments are becoming more proactive not only about treating, but identifying, offenders who have used family violence, with General Offenders, Sexual Offenders and Serious Violent Offenders now also screened for family violence on intake.¹⁴⁵

¹⁴¹ A Day, L Hardcastle and A Birgden, 'Case Management in Community Corrections: Current Status and Future Directions', *Journal of Offender Rehabilitation*, 2012, 51:484-495, 485.

¹⁴² *Ibid*, p 493.

¹⁴³ A R Klein and A Crowe, 'Findings From an Outcome Examination of Rhode Island's Specialized Domestic Violence Probation Supervision Program Do Specialized Supervision Programs of Batterers Reduce Reabuse?', *Violence Against Women*, 2008 14(2), 226. See also A R Klein et al, Evaluation of the Rhode Island Probation Specialized Domestic Violence Supervision Unit, May 2008, 3.

¹⁴⁴ Klein et al, above note 177, p 243. It should be noted that there was no significant impact on rates of recidivism amongst *high-risk* perpetrators who were supervised by the specialist unit.

¹⁴⁵ Consultations with Corrections Victoria; see also Statement to the Royal Commission by Andrew Reaper, 17 July 2015, pp 8 – 9.

Recognised as best practice, the Gold Coast Domestic Violence Integrated Response (DVIR) involves agencies working together to provide interventions which are coordinated, appropriate and consistent. The DVIR meets on a monthly basis and its member agencies include the Gold Coast Domestic Violence Prevention Centre, Queensland Corrective Services, Queensland Police Service, Southport and Coolangatta Magistrates' Courts, Department of Child Safety, Department of Housing, local women's refuges, Gold Coast and Robina Hospitals, Legal Aid and Centrecare.¹⁴⁶

The DVIR includes a men's domestic violence intervention and education program which runs for a minimum of 24 weeks, in addition to a subsequent family violence informed fathering intervention program.¹⁴⁷ Perpetrators are mandated to attend this program through the courts or parole board. Probation and Parole Officers from Queensland Corrective Services supervise men who are mandated to attend MBCPs and complete a comprehensive assessment to address the perpetrator's needs. The PPOs also forward an 'Assessment Pack' to the women's service that includes a copy of the probation or parole order; the police report in relation to the perpetrator's current offenses; criminal history information based on an interview conducted with the offender; and any relevant psychological or pre-sentence reports.¹⁴⁸ Attendance at the program is reviewed at six, twelve and eighteen weeks and provides an opportunity to assess the risk currently posed, provide feedback on the man's participation and address any compliance issues.¹⁴⁹

Since 2012, a new offender management model has allowed Probation and Parole Officers to identify and refer offenders to MBCPs who may have a history of family violence, but who have not been convicted of domestic violence offences. As part of the standard terms of a parole or probation order, the PPO can 'reasonably direct' the offender to participate in the program, and this then becomes part of compliance with the order.¹⁵⁰ This presents an opportunity for engagement with perpetrators whose use of family violence may not have come to the attention of the criminal justice system.

Future Directions

It is crucial to recognise that many elements of the approaches described in the court context – such as the imposition of conditional cautions and 'peace bonds' are already available to Magistrates in Victoria. A judicial supervision approach can be applied in mainstream courts either pre-plea while an accused is on bail or post-plea through a deferral of sentence. Further, CCOs allow for judicial monitoring as a condition, enabling the court to bring an offender back on a regular basis. Combined with active case management – including ensuring that all relevant matters are before the court as described above; the full disclosure of a prosecution case; 'fast-tracking'; allowing only productive adjournments; and the availability of sentence indications and discounts can all go a long way to 'incentivising' an offender.¹⁵¹ This solution-focused approach is one which the CIJ believes should be adopted on a more widespread basis.

¹⁴⁶ R O'Malley, 'CollaborACTION', Summary of a workshop at the No To Violence conference, Melbourne, November 2012, 3.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid, p 4.

¹⁴⁹ Ibid, p 5-6.

¹⁵⁰ Ibid, p 9-10.

¹⁵¹ Magistrate P Spencer, 'Strengthening the Web of Accountability: Criminal Courts and Family Violence Offenders', (provided to the CIJ in consultations).

Similarly, in the Corrections sphere, a promising development in the Victorian environment may be the recruitment of 'advanced case managers'. The CIJ heard that, in the wake of a review into management of serious sex and serious violent offenders,¹⁵² Corrections intends to recruit social workers, AOD practitioners and other experienced practitioners into these roles, rather than relying on entry level staff. Each of these advanced case managers will have a small caseload to enable more intensive work with high risk clients, including those using family violence. While these roles will not have an exclusive focus on family violence, these positions will facilitate ongoing assessment of criminogenic needs and potentially incorporate a more nuanced understanding of family violence into the work.

Returning to the idea of the cyclical pathway or 'loop', the CIJ suggests that ongoing men's case management for all relevant offenders following release – even those not on a supervision or detention order – may be a further option for consideration. Given the value of ongoing 'check in' opportunities following the completion of an MBCP or other treatment program, the CIJ heard that men often seek ongoing support once a Corrections order lapses, but do so through services which are not family violence informed.

To this end, community-based organisations such as the Victorian Association for the Care and Resettlement of Offenders (VACRO) and others provide vital support to offenders released on supervision orders, as well as on parole and straight release. The regular contact that these organisations have with offenders – including through home visits and outings in the community – provide a vital window to ongoing and acute dynamic risk which a perpetrator may present. Certainly, recent work by the CIJ confirms the extent to which family violence is a constant backdrop in the lives of the majority of offenders.¹⁵³ Supported with appropriate training, these organisations could play a vital role in the continuum of interventions – holding a door open over even a significant period of time; being alive to dynamic risk; scaffolding their client's accountability; and contributing to stronger risk management and family violence informed case management approach.

Research indicates the value of strong, pro-social networks in contributing to a high-risk offender's desistance from further offending. Harnessing this knowledge, Circles of Support and Accountability (COSA) apply a therapeutic, community based approach to the reintegration of sexual offenders through harnessing local community supports, and providing post-release sexual offenders, or 'core members', with a 'circle' of trained volunteers who scaffold¹⁵⁴ pro-social behaviour and help core members to remain accountable for their behaviour.¹⁵⁵ Core members participate voluntarily and must have demonstrated an understanding of the harm caused by their offending, as well as a desire to prevent its reoccurrence. The circle meets regularly during the initial post-release period before the needs of the core member are re-assessed. Volunteers are expected to report any increased risk of offending behaviour to the relevant authorities.¹⁵⁶

¹⁵² Complex Adult Victim Sex Offender Management Review Panel, *Advice on the Legislative and Governance Models under the Serious Sex Offenders (Detention and Supervision) Act 2009 (Vic)*, ('the Harper Review') November 2015.

¹⁵³ Centre for Innovative Justice, *Community-based support for serious violent offenders – Report to the Victorian Association for the Care and Resettlement of Offenders*, RMIT University, Melbourne (forthcoming)

¹⁵⁴ Harper Review, above note 152, p 249

¹⁵⁵ S Hannem and M Petunik, 'Canada's circles of support and accountability: A community justice initiative for high-risk sex offenders' (2004) 66(7) *Corrections Today*, 98-101.

¹⁵⁶ K Richards, 'The Australian Capital Territory (ACT) Government Office for Women Audrey Fagan Churchill Fellowship to study Circles of Support and Accountability' (201) 10-11.

Originating in Canada, the COSA model now operates across a number of Canadian, NZ, US, UK and European jurisdictions, where studies suggest they have significant community support.¹⁵⁷ Evaluations of the original Canadian project found a significant reduction in recidivism, as well as improvements in the reintegration of offenders and public perceptions of safety.¹⁵⁸ Reviews of COSA pilots operating in the UK also found that they supported risk management and compliance as well as reducing an offender's isolation.¹⁵⁹ Circle members and probation officers also help the core member to identify where risks might spike at a particular outing.

A study currently underway by Professor Kathleen Fox in Vermont, USA, has applied the COSA model to sexual offenders, serious violent offenders (which includes high risk generalised and family violence offenders) and 'general' offenders (who have generally committed drug related offences). Though not publicly available, the CIJ understands that the program has been found to be just as effective for serious violent offenders (including family violence offenders) as it is for sex offenders. Professor Fox explained that this may be because, in the cohort of offenders with whom she was working, generalised serious violent offenders had almost no history of belonging to a functional community structure of any kind and therefore respond to an even greater extent than other offenders who may have more pro-social tendencies and lower recidivism rates generally. The CIJ heard, however, that drug or alcohol issues, or mental illness, must be addressed before offenders of any kind are able and willing to engage.¹⁶⁰

Although Victoria has not yet ventured into any trials of COSA, the CIJ notes with interest that Corrections Victoria has started to provide a 'Support and Awareness Group' designed to engage offenders' existing support networks in treatment. A recent review of the supervision and detention scheme of high risk offenders in Victoria noted that:

*On its own, the necessary step of reducing dynamic risk factors through effective treatment programs will be unable to bridge the gap between the scaffolded environment of a treatment program to the reality of the outside world. Initiatives such as SAAG are intended to create transitions to better lives by building protective social bonds around offenders, ones that will help them to gradually reintegrate.*¹⁶¹

¹⁵⁷ M Höing, R Petrina, L Duke, B Völlm and B Vogelvang, 'Community Support for Sex Offender Rehabilitation in Europe' (2016) 13(4) *European Journal of Criminology* 491

¹⁵⁸ Ibid 17-24

¹⁵⁹ K McCartan, H Kemshall, S Westwood, J Solle, G MacKenzie, J Cattel and A Pollard, 'Circles of Support and Accountability (COSA): A Case File Review of Two Pilots', (2014) Ministry of Justice, 1. At https://www.gov.uk/government/uploads/system/uploads/attachement_data/file/289300/cosa-research-summary.pdf; A Bates, R Saunders and C Wilson, 'Doing something about it: A follow up study of sex offenders participating in Thames Valley circles of support and accountability' (2007) 5(1) *British Journal of Community Justice*, 19-42.

¹⁶⁰ Emails to Elena Campbell, CIJ, from Professor Kathryn Fox, University of Vermont, dated 10 August 2016; 12 August 2016 and 5 September 2016.

¹⁶¹ Harper Review, above note 152, p 142.

The review also noted that the program has similar objectives to COSA, as it aims to identify those people who are prepared to act as members of the offender's support networks and to assist them to work towards an offence free future. The distinction is obviously that COSA rely on trained volunteers who usually have no prior connection with the offender, whereas the SAAG draws on members of the offenders' known networks.

The CIJ suggests that, for many high risk and complex offenders, few known associates will be able to function as pro-social examples which can help them to reintegrate into the community. However, recent research suggests the benefits of harnessing the rehabilitative role of ex-prisoners/offenders as peer mentors. A recent Churchill Fellowship study of programs in the UK, Ireland, Sweden and the USA, highlighted a range of programs which engaged former offenders as mentors in the rehabilitative process. Arguing that 'those closest to the problem are closest to the solution, but furthest from resources and power',¹⁶² the study recommended that reformed offenders be appointed to offender related Boards and be engaged as peer mentors while offenders are in prison, as well as once they are released.¹⁶³

Dimensions and Criminal Justice System Interventions

Clearly, the criminal justice system represents many potential doorways to intervention and windows onto risk. The question remains the extent to which these doorways satisfy the dimensions outlined above – the extent to which they are kept open or opened sufficiently widely, for example, (Dimension 1), or whether the windows are peered through at all. The criminal justice system contains multiple points along a continuum of interventions (Dimension 2) which, in combination, can potentially scaffold accountability (Dimension 6). Where possible, each intervention – such as the imposition of bail conditions or a CCO – needs to be tailored to the patterns of the perpetrator and the needs of his family (Dimension 4) and be alive to the potential that intervention may increase risk instead (Dimension 8). Where police, Magistrates, court personnel, Corrections and even community-based support organisations are operating with a family violence informed case management approach (Dimension 5) however – maintaining a focus on dynamic risk (Dimension 3) and leveraging the authority of the justice system - this combination of doorways can contribute to inter-agency risk management (Dimension 7) in a genuinely meaningful way.

¹⁶² Glenn Martin, JustLeadershipUSA, at <https://www.justleadershipusa.org/about-us>

¹⁶³ Claire Seppings, Churchill Fellowship Report to *Study the Rehabilitative Role of Ex-Prisoners/Offenders as Peer Mentors in Reintegration Models – in the UK, Republic of Ireland, Sweden and the USA*. January 2016. See also K Walker and E Bowen, 'Mentoring serial and high-risk perpetrators of intimate partner violence in the community: Engagement and initiating change', *Criminal Behaviour and Mental Health*, 2015(25), 300.

Doorway 6 – Family law

The Fathering Challenges ARC Linkage and PACT ANROWS projects confirm that perpetrators continue to use the family law system as a further form of abuse in many cases.¹⁶⁴ In particular, research with separated families revealed that a quarter of men involved had been through a MBCP, with most partners knowing little about the man's participation. Women reported that perpetrators used this participation, however, as 'evidence' of being a 'good father', which courts tended to find persuasive. Further, courts had facilitated increased contact with children where men previously had minimal parental involvement. With unsupervised access over their children, many perpetrators could not cope with the resulting parenting demands, this in turn contributing to an escalation in risk.¹⁶⁵

Efforts to improve the identification and response to family violence within the family law system, include:

- the introduction of Best Practice Principles to guide decision making in cases involving family violence;¹⁶⁶
- amendments to the *Family Law Act 1975* (Cth) in 2012 intended to support better identification of and responses to family violence and safety concerns;
- introduction of a risk screening tool known as the Family Law Detection of Overall Risk Screen (DOORS);
- introduction of a mandatory Notice of Risk form in the Federal Circuit Court;
- co-location of child protection practitioners at the Melbourne and Dandenong court registries.

However, substantial gaps remain in the current response to families with complex needs (including families experiencing family violence).¹⁶⁷ These include the lack of a consistent process for identifying and assessing risk, with research indicating that the DOORS tool has had a 'mixed reception and limited take-up'.¹⁶⁸

¹⁶⁴ For example, one study found that, of the parents who used court, 85% reported emotional abuse and 54% reported physical violence. Of those accessing family dispute resolution (FDR), 74% reported physical violence and 27% emotional abuse. R Kaspiew, R Carson et al, *Evaluation of the 2012 family violence amendments: Synthesis report*, Australian Institute of Family Studies, October 2015, 16.

¹⁶⁵ Consultations with University of Melbourne, ARC Fathering Challenges research team.

¹⁶⁶ Federal Court of Australia and Federal Circuit Court of Australia, *Family violence best practice principles*, Edition 3.2, December 2015, available at http://www.familycourt.gov.au/wps/wcm/connect/d9871c17-4c5d-4545-8f12-9c6062a59b34/FVBPP_3.2+December2015_web.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE-d9871c17-4c5d-4545-8f12-9c6062a59b34-lrukF1y.

¹⁶⁷ Family Law Council, *Families with Complex Needs and the Intersection of the Family Law and Child Protection Systems: Final report*, June 2016, 117.

¹⁶⁸ Kaspiew et al, above note 198, p x. To this end, 46% of professionals reported that the system does not adequately screen for family violence and child safety concerns. Australian Institute of Family Studies, 'Separated parents and the family law system: what does the evidence say?', <https://aifs.gov.au/cfca/2016/08/03/separated-parents-and-family-law-system-what-does-evidence-say>. 30% of parents who used FDR, lawyers and courts said they had not been asked about family violence or safety concerns. Kaspiew et al, above note 169, p 33.

Opportunities in family relationship services

'Family relationship services' refers to a broad suite of post-separation services such as family dispute resolution ('FDR', sometimes also referred to as 'family mediation'), family counselling, post-separation parenting programs and children's contact services. Together with the family courts, these services form part of the 'family law system', with FDR being used at an increasing rate. Data from the Australian Institute of Family Studies indicates that the proportion of all families using this mechanism grew from 3 per cent in 2006 to 10 per cent in 2014.¹⁶⁹

FDR involves individual sessions between each partner and the mediator before mediation commences, often on separate days. Theoretically this provides an opportunity to screen for family violence, in which case mediation may or may not proceed, or may occur through shuttle mediation. As part of the FDR process, a mediator may potentially indicate to any party identified as a perpetrator that participation in an MBCP is a requirement for the FDR process to be applicable. The skills of the mediator to be able to provide a safe environment for disclosures and to screen for family violence are therefore crucial, as are the motivational interviewing techniques necessary to engage with the perpetrator about referral options.

Strong relationships between FDR and family violence services, such as MBCPs, shorten this referral bridge and make this process more straightforward, though the CIJ heard that an additional challenge is the fact that separating couples accessing FDR usually want a very quick outcome to do with property and child contact, making it difficult even for highly skilled workers to engage clients around the existence of family violence. Recent collaborative approaches which have involved a women's legal service; family violence specialist support service; men's service; and a FDR service may represent a potential engagement doorway.¹⁷⁰

The Family Law Council has recommended that FDR practitioners be obligated to, amongst other things, make referrals to MBCPs and other services in cases where an assessment that FDR should not proceed is made or where risk is identified.¹⁷¹ The Council further recommended a 'case managed integrated services approach attached to family dispute resolution and men's behaviour change programs across the whole family relationship services sector.'¹⁷² Implementation of these recommendations, together with the Council's recommendations on improved risk assessment practices, would increase the likelihood that family violence is both identified during FDR and that appropriate referrals for all family members are made.

Relationships Australia Victoria's Family Safety Model involves dedicated Family Safety Practitioners working holistically to coordinate services for men, women and children from the point of engagement through the FDR process. This work includes risk and needs assessments; planning therapeutic case management and legal assistance interventions; and delivery of services to address multiple needs.¹⁷³ Importantly, the Family Safety Practitioner coordinates and tracks the family's engagement with other services, including the family law system, to provide an integrated and coordinated practice response.

¹⁶⁹ Australian Institute of Family Studies, 'Separated parents and the family law system: what does the evidence say?', <https://aifs.gov.au/cfca/2016/08/03/separated-parents-and-family-law-system-what-does-evidence-say>.

¹⁷⁰ R Kaspiew, J De Maio, J Deblaquiere & B Horsfall, *Evaluation of a pilot of legally assisted and supported family dispute resolution in family violence cases*, Final Report, December 2012, x, Australian Institute of Family Studies.

¹⁷¹ Family Law Council, above note 202, p 13.

¹⁷² Family Law Council, above note 202, p 14.

¹⁷³ Ibid

The CIJ's consultations indicate that part of the value of this role is that it remains engaged with the whole family in a mid-point case management role whereas other services are not necessarily designed to do so. Another important element is the capacity of the practitioner to link perpetrators with services over time – building a bridge to a range of services, including to an MBCP. This referral then minimises the risk of the referral – or the perpetrator – falling through the cracks.¹⁷⁴

Child contact centres

Another potential door to engagement within the family law system is through children's contact centres. These are designed to provide a safe, supervised environment for children to spend time with a parent; or to facilitate the transfer of children from one parent to another, where parents are not able to collaborate. Families who use these services 'tend to be experiencing high levels of conflict and multiple and complex issues such as family violence, mental health problems and substance abuse'.¹⁷⁵ One survey found that 'domestic violence was reported in 45% of families and alleged or substantiated child abuse by the non-residential parent had occurred in 33% of families surveyed'.¹⁷⁶

In some jurisdictions, supervised visitation centres have been moving in this direction. For example, in Florida, 45% of Children's Contact Services provide active community referrals and 26% offering parenting education classes.¹⁷⁷ Elsewhere in the US, 'Safe Haven' programs for supervised visitation and safe exchange of children have developed practice guidance for supervising workers.¹⁷⁸

Implementation of the Family Law Council's recommendations would improve the capacity of these services to respond effectively and ensure that families are connected with services.

Opportunities at court

One of the key themes emerging from the Family Law Council's recent report is the need for the family law system to better integrate with MBCPs. The Council notes that, unlike other jurisdictions such as the UK, MBCPs in Australia receive very few referrals from family courts,¹⁷⁹ and opportunities for them to order attendance at a program and seek an assessment report before concluding the hearing should be applied more consistently.¹⁸⁰

¹⁷⁴ Consultations with Relationships Australia Victoria.

¹⁷⁵ J Commerford and C Hunter, *Children's Contact Services: Key issues*, Child Family Community Australia, Paper No. 35, 2015, 2.

¹⁷⁶ G Sheehan, R Carson, B Fehlberg, R Hunter, A Tomison, R Ip & J Dewar, J, *Children's contact services: Expectations and experience. Final report*, 2005, Attorney-General's Department, 40.

¹⁷⁷ Ibid, 13, citing W Crook & K Oehme, 'Characteristics of supervised visitation programs serving child maltreatment and other cases', *Brief Treatment and Crisis Intervention*, 2007 7(4), 291–304.

¹⁷⁸ See, for example, *Guiding Principles Safe Havens: Supervised Visitation and Safe Exchange Grant Program*, December 2007, available at https://safehavensonline.org/media/com_library/resources/24-guiding-principles-svp.pdf and Family Violence Prevention Fund, *Fathering After Violence: Working with Abusive Fathers in Supervised Visitation*, 2008, available at https://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/fathering_after_violence.pdf.

¹⁷⁹ Family Law Council, above note 202, 63.

¹⁸⁰ Ibid, p 128.

More broadly, the Council recognised that the expertise of family violence services needs to be embedded in the family law system. The Council did not form a view on the best way to achieve this goal, but suggested that the following models (either alone, or in combination) be considered:

- Funding family violence services which provide embedded services in state and territory courts to continue to support clients when they move across to the family law system;
- Embedding specialist family violence workers in family courts and family relationship centres;
- Creating a dedicated family safety service within the family law system to provide independent risk assessment and safety planning, including court reports and referrals to relevant services.¹⁸¹

The Children and Family Court Advisory and Support Service (Cafcass) operates in England and Wales to provide ongoing assistance to families at various stages of the family law process. Cafcass is a non-government organisation with statutory responsibility for 'safeguarding the welfare of children and providing advice to the family courts in family law proceedings'.¹⁸² Cafcass conducts specialist screening where an application for parenting orders is made, and will inform the court if the child or family is known to police or child protection authorities, as well as conducting a risk assessment. Cafcass will also make referrals to services such as perpetrator programs, and has developed guidelines to assist workers with these referrals. When these referrals are due to a court order, Cafcass will monitor compliance and prepare a report to the court.¹⁸³

When considering this option in the Australian environment, the CIJ heard that a number of caveats applied. The first is the need to clarify the referral process, as currently referrals of perpetrators by the Federal Circuit Court are often made to non-specific services without necessarily identifying which service is appropriate. Training and judicial education would therefore be required. The second caveat concerns the role of a MBCP being requested to provide the family law system with advice on the perpetrator's safe parenting capacity. Where joint, collaborative assessments with child protection could occur, this may be appropriate. An MBCP is not equipped, however, to make a judgment about a man's safe parenting capacity entirely on its own and the CIJ agrees that it is important to guard against the default assumption that MBCPs are 'the' perpetrator intervention or, as explained at the outset, that a referral to an MBCP equals 'perpetrator accountability'. Certainly, the involvement of MBCPs - or any earlier, front-end intervention, for that matter - should not relieve other parts of the system from the obligation to play their own part in laying a path for a perpetrator's journey towards some degree of accountability. As this Report has tried to suggest, every part of the service and legal system needs to understand the doorways it can open and the windows onto risk it can create if it approaches its day-to-day work with perpetrators firmly in view.

Dimensions and Family Law

The family law system is a series of doorways over which state jurisdictions have little control. Clearly, however, it could and *should* play a vital part in the continuum of interventions (Dimension 2) and contribute to family violence informed case management (Dimension 5). Currently it often functions as an intervention which increases risk (Dimension 8) and perpetuates the abuse, rather than scaffolding accountability (Dimension 6). With promising practices starting to emerge and dynamic risk beginning to become the focus in some areas (Dimension 3), other sub-sectors must continue to encourage those family law services with whom they interact to hold doors open over time (Dimension 1) and contribute to inter-agency and cross-system processes which can eventually strengthen risk management (Dimension 7) and family safety.

What are the other doorways which need to be identified, opened and stepped through?

The above brief discussion and its exploration of certain sub-sectors identifies a range of windows onto risk and doorways to intervention through which perpetrators might interact with the service system. In doing so it does not suggest that those examples nominated here meet all the dimensions described by the CIJ, but instead highlights the extent to which all are dependent upon each other if they are to *begin* to be effective.

Equally crucial is the inter-relationship between these sub-sectors and a vast array of *other* service doorways. These doorways include:

- Specialist family violence services for women and children
- Men's Behaviour Change Programs
- Publicly funded and private lawyers
- Mental health services
- Alcohol and drug services
- Gambler's help providers
- Financial counsellors
- Emergency and supported accommodation
- Education services
- Psychologists/psychiatrists with MBCP experience now working in private practice
- Aged care
- CALD community organisations
- Aboriginal community controlled organisations
- Disability sector organisations
- LGBTIQ organisations
- Faith-based organisations
- Youth services and adolescent violence programs
- Commonwealth funded welfare assistance agencies (Centrelink, Medicare, Child Support Agency, Veterans' Support and Department of Immigration and Border Protection)

That said, it is not a matter of just adding these to the mix. As is evident even in discussion about the legal and family focused sub-systems above, many different approaches and objectives are at play. Certainly, many of the potential doorways identified above which may be appropriate for the majority cohort of perpetrators will not be appropriate at all for others, such as adolescents who use violence against their families; or Aboriginal and Torres Strait Islander men, who are already so disproportionately criminalised by the justice system.

Equally, the aim of an AOD service to work with a client around alcohol abuse may be seen to conflict with any attempts to raise questions about his potential use of violence, with services concerned that this may prompt clients to disengage. The CIJ's preliminary research and consultations, however, indicate that promising practices are emerging at the intersection of multiple forms of service provision. This includes a program which the CIJ understands will commence at Kildonan in 2017 which involves an AOD practitioner co-facilitating some of the MBCP group sessions. Innovations like this are just the tip of the iceberg. The CIJ suggests, therefore, that a broader mapping exercise be conducted, building on the dimensions identified here and involving direct research with perpetrators to test the conclusions and ideas advanced.

Conclusion – the beginning, not the end.

As former Coroner, Judge Ian Gray, highlighted in his findings in the Inquest into the Death of Luke Batty:

...the perpetrator ultimately controls the risks of family violence. Therefore it is critical that perpetrators become engaged, or are forced to engage, with the family violence system and the criminal justice system at every possible opportunity to ensure they are not only held to account for their behaviour but also to ensure they receive appropriate treatment, counselling and management to assist them to change that behaviour.¹⁸⁴

While this report has encouraged readers to consider these ambitions in a more realistic way, the fact remains that to be ‘held to account’ or ‘to change that behaviour’ is not going to be achievable for most perpetrators while doorways into these systems are not identifiable, nor held open in any sustainable and integrated way.

It is time, therefore, for a systems-wide conversation – one which is based, the CIJ suggests, on the framework of dimensions outlined in this Report. It is no longer sufficient to open a door at one point of the system and simply hope a perpetrator walks through. Nor is it sufficient to shut the door if the offer has not been taken up immediately, or to shrug if a perpetrator does not seize the opportunity that has been made available. Where a perpetrator does not walk through that doorway, a system which pivots to the perpetrator can still act as a window to the risk that he poses, augmenting existing risk assessments to strengthen the response overall.

Equally, each part of the system needs to reach past service and funding boundaries – through those doorways and windows - and onto the street. Services need to see the perpetrator and to see each other, identifying how they can link the doorways they represent into a concrete and coordinated path. The implementation of Recommendation 85 will go some way to achieving this objective, with the development of agreed roles and responsibilities. Ideally this will not only help services to identify how they might extend their practice, or ‘lean in’ to help build that pathway – but also to relieve them of the expectation that one intervention alone can ‘change’ a lifetime of perpetrator attitudes and behaviour.

The dimensions outlined in this Report are intended to function as a guide to consider how each doorway to intervention and window to risk might function more effectively. These explain that opportunities can be seized at particular points over time (Dimension 1) and understand where they sit on a broader continuum (Dimension 2) – each serving an important potential role, but none operating as a replacement for any other. After all, the journey of a perpetrator towards even *contemplating* accountability can be a long, sporadic and frequently unsuccessful one. Each point of the service system must therefore scaffold this accountability (Dimension 5), tailoring interventions to each individual, as well as the particular needs of his family (Dimension 4) and sending consistent messages that the system ‘can and will help’.

This cannot occur unless all services have shared understanding and practice – a family violence case management approach (Dimension 5) which can contribute to inter-agency strengthening of risk management processes (Dimension 7). Without this shared understanding and a focus on dynamic risk (Dimension 3), intervention for intervention’s sake may simply increase risk instead (Dimension 8). When everyone lends a hand, however, and when everyone can see where the next stone needs to be laid, the path can become clearer to all concerned.

¹⁸⁴ Coroners Court of Victoria ‘Finding into Death with Inquest: Luke Geoffrey Batty’ (28 September 2015) 84 [467].

Appendix 1 – Organisations consulted.

As indicated above, to provide a timely piece of work which could inform the development of the Premier's 10 Year Plan, the CIJ limited itself to very targeted consultations in this first phase of work. This process was essentially to 'check' the project team's existing knowledge and the lessons from the available literature with contemporary knowledge in the field. Individuals have not been named here, nor comments attributed. However, agencies consulted by the CIJ included:

- No to Violence/Men's Referral Service
- DV Connect Queensland
- WA Men's Domestic Violence Helpline
- Berry Street
- Kildonan UnitingCare
- Anglicare
- Salvation Army
- Relationships Australia Victoria
- Magistrates' Court of Victoria
 - Magistrates
 - Court personnel (CISP and Family Violence staff)
- Victoria Police
- Corrections Victoria (Community Corrections and Programs)
- University of Melbourne (Fathering Challenges project, PATRICIA Project, PEARL study)
- Inner North West Primary Care Partnership
- Queensland Department of Communities, Child Safety and Disability Services

The CIJ project team

Rodney Vlasis

Consultant, registered psychologist, former MBCP facilitator and former Acting CEO, No to Violence.

Clare Parsons

Consultant and former researcher, Royal Commission into Family Violence

Elena Campbell

Associate Director – Research, Advocacy and Policy, Centre for Innovative Justice and author:

Opportunities for early intervention: bringing perpetrators of family violence into view