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Inquiry into family violence orders

House of Representatives

Standing Committee on Social Policy and Legal Affairs

February 2025

CANBERRA

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Foreword

Australia has been tackling gendered violence and reviewing and updating the laws and responses that are intended to keep women and children safe. There have been 1,733 female victims of intimate partner homicide in Australia between July 1989 and December 2024, including 35 women who were murdered by their current or former partners in 2024. Despite legislative reforms and other measures, the system we have is failing these women and their children.

This inquiry heard from victim-survivors of family, domestic and sexual violence, and the individuals and organisations who support and advocate for them, about how serious and unacceptable the consequences of inadequate laws and responses can be. The Committee examined barriers to safety and fairness for victim-survivors in the state and territory family violence order (FVO) system and the federal family law system, the important intersections between jurisdictions, and the accessibility of services and supports that victim-survivors need to navigate both systems safely and fairly.

Women leaving abusive relationships must navigate two separate court systems to be protected by FVOs under state and territory law and to resolve parenting or property disputes arising from separation through the family law courts. This dual system can be time consuming, confusing, costly and retraumatising for victim-survivors, and can put them at risk and anchor them to their abusers. For example, once an FVO is obtained, the family law courts may then override the FVO and put victim-survivors in harm's way by granting perpetrators access to children. Furthermore, the presence of an FVO is no guarantee of safety. Current or historical FVOs were evident in over 40 per cent of 224 cases where a male intimate partner murdered a female intimate partner between 2010 and 2018.

There have already been significant recent reforms to the way that the family law courts manage and respond to family violence and child abuse risk and share information with state and territory courts and agencies, with more reforms planned. The Australian Government provides a range of programs supporting victim-survivors, as well in partnership with the states and territories, including legal and non-legal support in the family law system, assisting victim-survivors through the social security and child support systems, and providing safe and secure housing.

The Australian Government has recently announced its largest ever investment in legal assistance, the \$3.9 billion National Access to Justice Partnership. This builds on measures already announced to improve access to critical legal and non-legal support for victim-survivors, including a renewed, five-year Family, Domestic and Sexual Violence National Partnership. This will deliver more than \$700 million in new matched investments from the Australian and state and territory governments, including funding to support specialist services for women, and services supporting children to heal and recover from abuse and violence. Funding is also being directed towards men's behaviour change programs for perpetrators of gendered violence. However, more needs to be done.

The inquiry found that the degree of variation in relevant state and territory laws and police responses to family, domestic and sexual violence across Australia is unreasonable and a barrier to safety and justice for victim-survivors. Australians have a right to expect access to the same protections, regardless of where they live, but this is not currently the case. Variations in the protection of children, the duration of FVOs, the effectiveness of information sharing, the recognition of coercive control and police responses mean different outcomes for victim-survivors depending on where they live — it also makes it difficult to understand how FVOs will work when victim-survivors flee to a different state or territory to escape abuse.

The Committee found that a long-term, systematic approach must be adopted across all jurisdictions to increase safety for women and children as they navigate family separation and to realise the ambition of the *National Plan to End Violence against Women and Children 2022–2032* to end violence against women and children over the next 10 years. Building an effective, systematic and national approach, as outlined in this report's 11 recommendations, must start with harmonised definitions of family, domestic and sexual violence, best practice and consistent FVO laws and police responses, and enhanced information sharing and risk assessment across jurisdictions, so that all key decision-makers, agencies and services are speaking the same language about risk. A long-term systematic approach to increase safety for women and children will require all jurisdictions and agencies, including courts, police and other services to work together.

Victim-survivors of family, domestic and sexual violence are usually advised to seek FVOs through a state or territory magistrates court, or from police, before attempting to resolve parenting or property matters in the federal family law courts. This is because of the serious risk of escalation in the violent and abusive behaviours of perpetrators during family law proceedings, particularly in cases involving coercive control where a perpetrator's sense of power and dominance is threatened. The period of elevated risk is extended because family law matters are slow, complex, adversarial and expensive, and perpetrators often manipulate the system as an extension of their control and abuse. Most applications to the family law courts involve multiple family violence and child abuse risk factors.

The Committee has made recommendations that will build on the Australian Government's significant reforms over the past two years that have made the family law system safer and fairer for victim-survivors of family, domestic and sexual violence, including:

- increasing the capacity of the Federal Circuit and Family Court of Australia to identify, respond and expedite high-risk family violence and child abuse matters, including reducing wait times and overall costs for victim-survivors
- making court appearances safer
- making proceedings more accessible and providing more support to people with low English and/or digital literacy or who are living with disability, to First Nations and culturally and linguistically diverse people, and to Australians who live outside of the major cities
- improving the capacity of the family law courts to make orders for the protection of victim-survivors, known as personal protection injunctions, and making these orders more effective

- piloting a children's advocate role to help ensure children are protected and their views are represented safely
- eliminating opportunities for systems abuse in both the family law and state and territory FVO systems. Police, the judiciary and legal professionals must have a deep understanding of the nature and dynamics of family, domestic and sexual violence, including coercive control, and how systems can be used to perpetrate further abuse.

Navigating the complex legal system is not something women should be expected to tackle alone. The Committee heard of many community organisations who successfully help victim survivors navigate the many complex aspects of separating from their abusers, including legal, financial and safety aspects as they impact on each individual case. The inquiry found that many of these services are forced to turn away people, who may be in absolute crisis, due to current funding constraints. The National Access to Justice Partnership, commencing July 2025, and other measures, are intended to address these issues to ensure support services are put on a sustainable footing. It was not possible for this inquiry to determine whether the combination of new and existing measures will address funding shortfalls, however it is the Committee's view that adequate, ongoing and sustainable funding for wrap-around, legal and non-legal services is critical.

Further work to explore a single advocacy support model for victim-survivors is needed. Victim-survivors need someone to *walk with them* from the moment they decide to reach out for help — to guide them safely through separation, to advocate for them and to connect them with the services they need.

This report would not have been possible without the bravery of many victim-survivors who shared their stories with the Committee, and those who dedicate their lives to preventing and responding to family, domestic and sexual violence, and support victim-survivors to safely navigate separation. We acknowledge your strength and courage, and we thank you for sharing your lived experiences and advocacy.

Ms Susan Templeman MP
Chair

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Abbreviations

ACCO	Aboriginal Community-Controlled Organisation
AGD	Attorney-General's Department
AIFS	Australian Institute of Family Studies
ALRC	Australian Law Reform Commission
ANROWS	Australia's National Research Organisation for Women's Safety
ASRC	Asylum Seeker Resource Centre
ATSILS	Aboriginal and Torres Strait Islander Legal Service
BPIFVP and SMFVRIC	Bayside Peninsula Integrated Family Violence Partnership and the Southern Melbourne Family Violence Regional Integration Committee
CALD	Culturally and linguistically diverse
CLC	Community legal centre
CLO	Cultural Liaison Officer
CPD	Continuing professional development
CSMC	Council of Single Mothers and their Children
DLO	Disability Liaison Officer
DSS	Department of Social Services
DVAA	Domestic Violence Advocacy Australia
DVU	Domestic Violence Unit
FASS	Family Advocacy and Support Service
FCFCOA	Federal Circuit and Family Court of Australia
FCLCV	Federation of Community Legal Centres Victoria
FCWA	Family Court of Western Australia

FDSV	Family, domestic and sexual violence
FLPA	Family Law Practitioners Association of Queensland
FRSA	Family and Relationship Services Australia
FVItC	Family Violence in the Court
FVO	Family Violence Order
FVPLS	Family Violence Prevention Legal Services
HJA	Health Justice Australia
HJP	Health justice partnership
HRCLS	Hume Riverina Community Legal Service
ICL	Independent Children's Lawyer
IFLO	Indigenous Family Liaison Officer
Information Sharing Act	<i>Family Law Amendment (Information Sharing) Act 2023</i>
LAC	Legal aid commissions
LCA	Law Council of Australia
MARAM	Multi-Agency Risk Assessment and Management Framework
NAJP	National Access to Justice Partnership
National Plan	<i>National Plan to End Violence against Women and Children 2022–2032</i>
National Principles	<i>National Principles to Address Coercive Control in Family and Domestic Violence</i>
NATSIWA	National Aboriginal and Torres Strait Islander Women's Alliance
NCLC	Northern Community Legal Centre
NDVOS	National Domestic Violence Order Scheme
NLA	National Legal Aid
NLAP	National Legal Assistance Partnership 2020-25
NWSA	National Women's Safety Alliance

PCLC	Peninsula Community Legal Centre
PCLS	Pilbara Community Legal Service
PM&C	Department of the Prime Minister and Cabinet
PPI	Personal Protection Injunction
QIFVLS	Queensland Indigenous Family Violence Legal Service
SCAG	Standing Council of Attorneys-General
SMLS	South-East Monash Legal Service
The Act	<i>Family Law Act 1975</i>
VALS	Victorian Aboriginal Legal Service
WLSA	Women's Legal Services Australia



Members

Chair

Ms Susan Templeman MP

Macquarie, NSW

Deputy Chair

Mr Pat Conaghan MP

Cowper, NSW

Members

Ms Kate Chaney MP

Curtin, WA

Ms Mary Doyle MP

Aston, VIC

Mr Sam Lim MP

Tangney, WA

Ms Louise Miller-Frost MP

Boothby, SA

Hon Shayne Neumann MP

Blair, QLD

Ms Jenny Ware MP

Hughes, NSW

Mr Keith Wolahan MP

Menzies, VIC



Terms of reference

The Committee will inquire into and report on how to provide better access for victim-survivors in the family law system to family violence orders (FVO) and the effective enforcement of those orders. The inquiry will have regard to:

- 1 The risk of an escalation in the aggressive and violent behaviour of the perpetrator and heightened risk to the partner and children during family court proceedings.
- 2 The current barriers for litigants in the family law system to obtain and enforce FVOs, including but not limited to:
 - a. the additional difficulty for victims of violence in the family law system to attend multiple courts for their family law order proceedings and an FVO
 - b. the intersection between FVOs and parenting orders, including that a family court parenting order may override an FVO
 - c. the availability of wrap-around support services and security for victims of violence.
- 3 How FVOs could be more accessible for victims of violence going through the family law system, including but not limited to:
 - a. making it easier to apply for and enforce an FVO
 - b. co-location arrangements that would allow an application or enforcement of an FVO to be heard in the same physical location as the Federal Circuit and Family Court of Australia
 - c. the legal and non-legal support services required to promote early identification of and response to family violence.
- 4 Any other reform that would make it safer and fairer for victims of violence in the family law system who need the protection of FVOs.

List of recommendations

Recommendation 1

- 2.100** The Committee recommends that, in the next Parliament, the Australian Government work with the states and territories to increase the visibility of violent offenders across jurisdictions through the National Domestic Violence Order Scheme (NDVOS). NDVOS should enable and require real-time updating of family violence orders (FVOs), conditions and breaches.

Recommendation 2

- 2.102** The Committee recommends that, in the next Parliament, the Attorney-General work with the states and territories to develop and implement a community education program to raise awareness of how FVOs are recognised and enforced across Australia through NDVOS, and the legal intersection between FVOs and parenting orders.

Recommendation 3

- 2.109** The Committee recommends that, in the next Parliament, the Attorney-General advocate for, and assist all states and territories to:
- adopt nationally harmonised:
 - legal definitions of family, domestic and sexual violence (FDSV)
 - family violence laws and consistency in access, application processes and enforcement, and messaging of FVO requirements
 - allow children and young people to apply for FVOs and to be named as protected persons on FVOs
 - rapidly improve police responses to reports of FDSV and police recognition of coercive control, including:
 - the capacity of police to make own-motion FVOs
 - minimising the risk of misidentification of victim-survivors as primary perpetrators and systems abuse
 - implementing culturally safe and trauma informed models of response
 - improving knowledge of the legal intersection between FVOs and parenting orders, and the obligation for police to assist victim-survivors

to obtain FVOs and respond to breaches of FVOs in matters involving children where the statutory basis is met

- ensure information, application forms and court proceedings are accessible for First Nations and culturally or linguistically diverse people, those with low digital literacy skills or poor online access, or who are living with disability
- make court proceedings safer by:
 - supporting all applicants to participate in hearings remotely if they wish
 - ensuring there are safe entrances and waiting areas, and safety protocols in all courts for applicants in FDSV matters
- make amendments to laws to require courts making or varying an FVO to consider varying parenting orders to prioritise the safety of victim-survivors and children under section 68R of the *Family Law Act 1975*, and to notify the court that made the original parenting order if the parenting order is varied
- include an option to apply for changes to parenting orders in application forms for FVOs.

Recommendation 4

3.123 The Committee recommends that, in the next Parliament, the Australian Government increase the Federal Circuit and Family Court of Australia (FCFCOA)'s capacity to identify, respond and expedite high-risk FDSV and child abuse matters, including:

- reducing wait times and overall costs for victim-survivors
- extending Lighthouse and the co-location program
- enhancing the support provided in Evatt List matters
- supporting research into the circumstances where re-screening for FDSV risk in Lighthouse would be appropriate.

Recommendation 5

3.125 The Committee recommends the Australian Government continue to lead the development and implementation of an enhanced national FDSV risk and information sharing framework, with the goal of establishing, in the next Parliament, a live dashboard that all decision-makers in FDSV and child abuse matters can access, noting:

- the information sharing framework should go beyond court-initiated orders and the self-disclosure of parties and include existing FVOs and breaches, criminal matters, child protection issues, family law orders, and other information relating to FDSV and child abuse risks

- the risk assessment principles and framework must address systems abuse and the abuse or risk of harm to animals, and provide strong referral pathways
- consideration should be given to expanding information-sharing beyond current information-sharing protocols, with appropriate safeguards.

Recommendation 6

3.127 The Committee recommends that, in the next Parliament, the Australian Government introduce measures to improve the safety of victim-survivors of FDSV at court during family law proceedings, including:

- ensuring victim-survivors can attend court appointments remotely where there are safety concerns
- meeting accessibility requirements for people with disability
- ensure court facilities have adequate safe rooms, safe zones and security staff
- enhanced protocols and training about safety planning for victim-survivors of FDSV.

Recommendation 7

3.130 The Committee recommends that, in the next Parliament, the Australian Government introduce measures to improve the accessibility of FCFCOA proceedings and the support provided to vulnerable groups, including:

- supporting individuals with low English and/or digital literacy to complete relevant online forms such as the Lighthouse triage tool and to fully engage in court proceedings, including:
 - access to interpreters when needed to ensure safety and procedural fairness
 - the translation of information resources into key languages
- expanding the number of Indigenous Family Liaison Officer positions to meet demand
- piloting and evaluating Disability Liaison Officer and Cultural Liaison Officer positions within the family law jurisdiction.

Recommendation 8

3.135 The Committee recommends that, during the next Parliament, the Australian Government amend section 114AB of the *Family Law Act 1975* to ensure that the family law courts are empowered to make personal protection injunctions (PPIs) where necessary to protect victim-survivors and children.

- 3.136 The Australian Government should work with the states and territories to resolve enforceability issues and consider developing amendments to the Act that criminalise breaches of PPIs.**

Recommendation 9

- 3.138 The Committee recommends that, in the next Parliament, the Australian Government pilot and evaluate a children’s advocate position in FCFCOA to support Independent Children’s Lawyers and ensure children’s voices are heard during parenting matters.**

Recommendation 10

- 3.145 The Committee recommends that, in the next Parliament, the Australian Government lead the development and implementation of a package of reforms to eliminate opportunities for systems abuse in the family law and state and territory FVO systems. Development of the reforms should consider:**

- **evaluating the effectiveness of recent reforms to the *Family Law Act 1975* and whether further changes are needed, for example clarifying that systems abuse is family violence in section 4AB**
- **developing comprehensive, culturally safe, and trauma-informed training and resources for judicial officers and legal professionals on the dynamics, complexities, identification and appropriate responses to FDSV, including financial and legal systems abuse and animal abuse, that:**
 - **is created and delivered by subject matter experts and those with lived experience and be regularly evaluated**
 - **includes specific First Nations training which is designed and delivered in partnership with Aboriginal Community-Controlled Organisations, as well as specific training on the unique issues that migrant and refugee women experience**
- **implementing mandatory continuing professional development for all legal professionals engaged in FVO and family law matters**
- **establishing a capacity-building service for judicial officers and other court staff**
- **implementing a screening tool that identifies systems abuse and unmeritorious applications, and developing specialised processes and interventions that enable courts to intervene to protect victim-survivors in high-risk matters involving systems abuse**
- **conducting research into the extent and impacts of misidentification at the intersection of FVO and family law proceedings and designing measures to strengthen the early identification and response to systems abuse**
- **implementing a national outcomes measurement framework to monitor the outcomes of the family law courts’ decisions to determine the impact on**

victim-survivors. This could include reviewing decisions for instances of systems abuse and misidentification.

Recommendation 11

- 4.49** The Committee recommends that, in the next Parliament, the Australian Government undertake a scoping study to explore the benefits and feasibility of a single advocacy support model for victim-survivors of FDSV.



1. Introduction

Content warning, information and support

- 1.1 This report includes material that is confronting and disturbing. Words can trigger traumatic memories and cause sadness and distress. Sometimes these responses can be overwhelming. If you need to talk to someone, you can call Lifeline on 131 114 at any time.
- 1.2 If you are a victim-survivor of family, domestic and sexual violence, you can contact 1800 Respect for confidential information, counselling and support (including an on-demand video counselling service):
 - Call 1800 737 732
 - text 0458 737 732
 - chat online at www.1800respect.org.au/online-chat-1800respect.
- 1.3 Other Australia-wide support services include:
 - Full Stop Australia 1800 385 578
 - Relationships Australia 1300 364 277
 - Kids Helpline 1800 551 800
 - Mensline Australia 1300 789 978
 - Men's Referral Service 1300 766 491.
- 1.4 There are also dedicated crisis lines providing family violence support in most states and territories:
 - New South Wales Domestic Violence Line 1800 656 463
 - Queensland DVConnect Womensline 1800 811 811
 - Victoria Safe Steps crisis response line 1800 015 188
 - Australian Capital Territory Domestic Violence Crisis Service 02 6280 0900
 - Tasmania Family Violence Counselling and Support Service 1800 608 122
 - South Australia Domestic Violence Crisis Line 1800 800 098
 - Western Australia Women's Domestic Violence Helpline 1800 007 339.

- 1.5 Regional support services are available in the Northern Territory.¹

Scope and conduct of this inquiry

- 1.6 The Committee adopted an inquiry into family violence orders on 4 June 2024, following a referral from the Attorney-General, the Hon Mark Dreyfus KC MP.
- 1.7 The terms of reference for the inquiry are provided in the front pages of this report and are available on the inquiry webpage at www.aph.gov.au/familyviolenceorders.
- 1.8 The terms acknowledge the risk of an escalation in the aggressive and violent behaviour of the perpetrator and heightened risk to the family and children during family court proceedings. The Committee is aware that significant reform has taken place in this area, with more reform foreshadowed. Many inquiry participants observed that new systems and processes are still to be fully evaluated; the Committee has therefore given consideration to finding the right balance between consolidation of recent reforms and ensuring that further reform will deliver improvements for victim-survivors of family, domestic and sexual violence.
- 1.9 The Committee called for written submissions from individuals and organisations relating to any or all the inquiry terms of reference by Friday, 19 July 2024. Further submissions were received after this date.
- 1.10 The Committee did not publish contributions that focussed on individual cases or court orders because it was focussed on systemic issues. Parliamentary committees cannot investigate individual cases and avoid referring to matters before the courts. However, the Committee did receive personal submissions as confidential evidence because it was important that the lived experience of victim-survivors informed how the system and supports can be improved.
- 1.11 The Committee published some personal submissions anonymously, where these highlighted systemic issues, and case studies with redactions to remove information that could potentially identify victim-survivors to their perpetrators.
- 1.12 The Committee wrote to all state and territory Attorneys-General and police ministers seeking submissions to inform the inquiry. The Western Australian and Tasmanian Attorneys-General, and South Australia Police, responded with written submissions, while the Western Australian Government was the only state and territory jurisdiction to participate in a public hearing.
- 1.13 The Committee received 69 public submissions, 24 confidential submission, one exhibit and held three public hearings. The list of public submissions is provided at Appendix A. The list of public hearings and witnesses is provided at Appendix B. An exhibits list is provided at Appendix C.

¹ Northern Territory Government, *Get help for domestic, family and sexual violence*, www.nt.gov.au/law/crime/domestic-family-and-sexual-violence/get-help-for-domestic-family-and-sexual-violence, accessed 2 July 2024.

- 1.14 Testimony provided at public hearings is referenced in this report to the proof, unedited transcript because of delays in the production of final transcripts.
- 1.15 The Committee is grateful to all the individuals and organisations who contributed their time, experience, and expertise in making submissions and appearing at public hearings. The experiences of victim-survivors of family, domestic and sexual violence strongly informed the findings and recommendations of this inquiry, and the Committee acknowledges the courage and strength of those who provided evidence.

Terminology

- 1.16 This report uses the term ‘family, domestic and sexual violence (FDSV)’ to talk about a range of abusive behaviours that are directed towards former and current partners, children and other family members by perpetrators. Abusive behaviours are not limited to aggressive and violent incidents and may include coercive control, stalking, financial, systems and emotional abuse and neglect.²

Incidence of FDSV

- 1.17 FDSV is an epidemic³ in Australia and too often it leads to the murder of women and children. In 2022-23, there were 38 intimate partner homicides in Australia and 34 of the victims were women. Eleven children were murdered by a parent.⁴ Between the start of January and the end of September 2024, there were at least 26 female victims of intimate partner homicides in Australia.⁵
- 1.18 First Nations and migrant and refugee women, and women from regional, rural and remote areas are disproportionately affected by FDSV:
- FDSV is an acute crisis affecting many First Nations communities and is a key barrier to achieving multiple Closing the Gap targets. First Nations women are more than 33 times more likely to be hospitalised, and six times more likely to die from assault related to family violence than non-First Nations women.⁶

² Australia's National Research Organisation for Women's Safety (ANROWS), *Submission 62*, page 5; National Aboriginal and Torres Strait Islander Women's Alliance (NATSIWA), *Submission 60*, page 7. Domestic Violence Advocacy Australia (DVAA) prefers the term 'family abuse'. DVAA, *Submission 38*, page 3.

³ Department of Social Services (DSS), *National Plan to End Violence against Women and Children 2022–2032*, October 2022, page 20; South-East Monash Legal Service, *Submission 80*, page 15; In Touch Women's Legal Centre, *Submission 84*, page 21.

⁴ H Miles and S Bricknell, 'Homicide in Australia 2022–23' *Statistical Report no. 46*, Australian Institute of Criminology (AIC), Canberra, June 2024, pages 10-11.

⁵ AIC, *Intimate partner homicide dashboard*, www.aic.gov.au/statistics/homicide-in-australia, accessed 29 November 2024. The AIC launched the dashboard in June 2024 and data will be updated quarterly in collaboration with all state and territory jurisdictions. This data includes what the AIC refer to as 'cleared incidents' only, and estimates based on media reporting are much higher.

⁶ NATSIWA, *Submission 60*, pages 3 and 8.

- Rates of FDSV are higher in regional, rural and remote areas. In 2021–22, the rate of hospitalisations due to family violence for people aged 15 and over living in very remote areas was 48 times higher than the rate in major cities.⁷
- A 2020 survey found that one in three migrant and refugee women had experienced family violence, and that temporary visa holders consistently experience higher level of violence.⁸

- 1.19 There is an increased risk of escalation in the aggressive and violent behaviours of perpetrators of violence towards partners and children during and after relationship breakdown.⁹ Most (83 per cent) initiating applications for parenting or parenting and property related orders filed in the Federal Circuit and Family Court of Australia (FCFCOA) in 2022-23 contained allegations of violence by one or both parties, and 78 per cent of matters were mandatorily referred to child welfare agencies due to allegations of child abuse and/or violence.¹⁰
- 1.20 This inquiry focussed on what the Australian Government can do to make applying for family violence orders (FVOs) easier for victim-survivors navigating the family law system, how those orders can more effectively keep victim-survivors safe, and how the family law system can be safer and fairer for victim-survivors who need the protection of FVOs.

FVOs within a complex system

- 1.21 FVOs are court orders made under a state or territory civil law to protect a person from violence. Depending on where a person lives in Australia, they can also be called apprehended domestic violence orders, domestic violence orders, intervention orders or family violence restraining orders.¹¹ Individuals who are experiencing violence in a domestic or family relationship can apply for an FVO, or the police may do so on their behalf, through a local or magistrates' court. Breaches of FVOs are enforced by the police and may result in arrest and criminal charges.¹²
- 1.22 FVOs intersect with the federal family law system through the *Family Law Act 1975* (the Act). The Act is the primary federal legislation dealing with issues such as divorce, property, arrangements for children after separation, and spousal and child maintenance. It contains several provisions relating to the protection of parties and

⁷ Federal Circuit and Family Court of Australia (FCFCOA), *Submission 54.1*, page 4.

⁸ Asylum Seeker Resource Centre, *Submission 42*, page 4.

⁹ ANROWS, *Submission 62*, page 8.

¹⁰ Attorney-General's Department (AGD), *Submission 15*, page 5. In 2023-24, more than 8,400 applications were made to FCFCOA for final orders. See: FCFCOA, *Submission 54*, page 8.

¹¹ The following terms are used in each jurisdiction: Family Violence Restraining Orders (Western Australia); Apprehended Domestic Violence Orders (New South Wales); Domestic Violence Orders (Queensland and Northern Territory); Intervention Orders (Victoria and South Australia); and Family Violence Orders (Australian Capital Territory and Tasmania).

¹² The *Family Law Act 1975*, section 4 defines all state and territory orders to protect a person from family violence as 'family violence orders'.

children from FDSV. However, the Act also enables the family law courts¹³ to make orders or injunctions that are inconsistent with state or territory FVOs, for example to grant access to children, which may not adequately protect victim-survivors.¹⁴

- 1.23 Victim-survivors of FDSV must therefore navigate two separate court systems to be protected by FVOs under state and territory law and to resolve parenting or property disputes arising from separation through the federal family law system. This fragmentation can be time consuming, confusing, costly, retraumatising and needlessly difficult for victim-survivors.¹⁵
- 1.24 While most families can resolve separations without court, the matters that do proceed to the family law courts for resolution are complex.¹⁶ For many victim-survivors, the adversarial nature of the family law system is inherently difficult and can be prohibitively expensive and drawn-out.¹⁷ Furthermore, adversarial proceedings can lead to escalating aggressive and violent behaviours of perpetrators of FDSV, particularly in cases involving coercive control where a perpetrator's sense of power and control is threatened.¹⁸

Victim-survivors are not being adequately protected

- 1.25 Tragically, the presence of an FVO is no guarantee of safety for a victim-survivor of FDSV. Current or historical FVOs were evident in over 40 per cent of 224 cases where a male intimate partner murdered a female intimate partner between 2010 and 2018.¹⁹

¹³ FCFCOA and Family Court of Western Australia exercise primary jurisdiction under the Act and are referred to as the family law courts in this report.

¹⁴ See, for example, National Women's Safety Alliance (NWSA), *Submission 50*, pages 3-5; Council of Single Mothers and their Children, *Submission 37*, page 4; NATSIWA, *Submission 60*, page 7.

¹⁵ Law Council of Australia, *Submission 67*, page 5; Women's Legal Services Australia (WLSA), *Submission 69*, page 10; Australian Institute of Family Studies (AIFS), *Submission 52*, page 7; Dr Rachel Carson, Executive Manager, Family Law, Family Violence and Elder Abuse Research Program, AIFS, *Committee Hansard*, 23 August 2024, page 5; Mr Nick Tebbey, National Executive Director, Relationships Australia, *Committee Hansard*, 23 August 2024, page 35; Uniting Vic. Tas, *Submission 65*, page 9.

¹⁶ AGD, *Submission 15*, page 4; AIFS, *Parenting arrangements after separation*, October 2019, page 1. AIFS found that 3 per cent of separated parents use courts as their main pathway to make parenting arrangements, while 16 per cent are assisted by family dispute resolution services or lawyers. Significantly, court ordered arrangements were less likely (3 per cent) to involve no contact between children and their father compared to the general separated population (9 per cent), and arrangements where children spend most of their time with their father were more common in orders made where litigation occurs (10–19 per cent) than in the separated population generally (2 per cent).

¹⁷ Ms Bronwyn Pike, Chief Executive Officer, Uniting Victoria Tasmania, *Committee Hansard*, 23 August 2024, page 35; Name withheld, *Submission 43*, page 3; Ms Lara Glasson, Director and Secretary, DVAA, *Committee Hansard*, 23 August 2024, page 14.

¹⁸ WLSA, *Submission 69*, page 3.

¹⁹ ANROWS, 'Intimate partner violence homicides 2010–2018', *Australian Domestic and Family Violence Death Review Network Data Report*, Second edition, 2022, page 14.

- 1.26 The systems and services that should be keeping women and children safe from male violence have failed to do so on too many occasions. A study of 235 cases of intimate partner femicide in Australia found:
- the majority (71 per cent) were committed by perpetrators with at least two prior interactions with police, the legal system or child protection
 - nearly one in five perpetrators was subject to an FVO at the time (18 per cent), and about the same number had previously been subject to an FVO (19 per cent)
 - one in six perpetrators had a prior recorded FVO breach (16 per cent).²⁰
- 1.27 National Women's Safety Alliance commented:
- We have people falling through the gaps along each point of their interactions with services. We take the case of Kelly Wilkinson, which is horrific ... She was engaged with not only a domestic and family violence service but a sexual violence specialist service. She went to five police stations. She had family violence orders, and she was murdered. This case is so horrific it beggars belief, but we hear consistently that this is still happening.²¹
- 1.28 The Committee heard privately from victim-survivors of FDSV who shared concerns the current system is not keeping them safe. Confidential submissions described:
- horrific experiences of physical and sexual assault, coercive control, stalking and surveillance, intimidation and harassment, vandalism and destruction of property, financial abuse and fraud
 - victim-survivors having their safety put at risk by family law parenting orders granting perpetrators contact and access to their children, despite FVOs being in place
 - opportunities for perpetrators to abuse the family law system and to use children, lawyers and the courts as weapons to further control and terrorise their victims (referred to as 'systems abuse' in this report)
 - police being dismissive of allegations of FDSV, particularly non-physical forms of abuse, making assumptions about the behaviour of victims, and misidentifying victim-survivors as the primary perpetrators
 - police not enforcing breaches of FVOs and perpetrators being able to continue to abuse their victims without consequences
 - allegations that a police officer perpetrated FDSV, which hindered the victim-survivor's efforts to escape abuse and achieve fair outcomes in the family law

²⁰ Full Stop Australia, *Submission 14*, page 2. To be included in the dataset of this study, the sentence was required to have been delivered within a 10-year window between January 2007 and December 2016. See: K Fitz-Gibbon, S Walklate and J Maher et al, *Securing women's lives: examining system interactions and perpetrator risk in intimate femicide sentencing judgments over a decade in Australia*, Monash University and University of Liverpool, 2024, page 8.

²¹ Ms Katherine Berney, Executive Director, NWSA, *Committee Hansard*, 23 August 2024, page 9. Kelly Wilkinson was repeatedly stabbed and then set on fire by her estranged husband in 2021.

system, and allegations that a perpetrator knew police and this resulted in the misidentification of the victims as primary perpetrators

- responses from members of the judiciary and other court staff, and lawyers that indicate inadequate knowledge about the dynamics of FDSV and coercive control, and a lack of trauma-informed practices in working with victim-survivors of FDSV
- victim-survivors paying expensive private legal fees for unsatisfactory, unsafe or no outcomes
- the legal services supporting victim-survivors being unable to keep up with demand and turning desperate people away.²²

1.29 A selection of views shared publicly by anonymous victim-survivors is provided in the following text box.

The current system is neither safe nor fair for many victim-survivors

The impact the Family Court's decisions have had on both my life and that of my daughter are profound and deeply unsettling. I vividly recall a moment when, after yet another hearing that disregarded my concerns, I tried to explain to my daughter why I couldn't be with her as much as we both wanted. The confusion and sadness in her eyes cut deep—it was as if the court's rulings had stolen a piece of her childhood, a time that should be filled with love, security, and stability. Instead, we've been left navigating a system that seems to prioritize process over people, stripping us of our rightful connection. The decisions made by the court have placed us in further[ed] (and preventable) vulnerable and harmful situations. The ongoing coercion and control exerted over our lives by the perpetrators, which the court has failed to properly address, has left us trapped and powerless. These are not just legal oversights; they are personal injuries that have left lasting scars on both of us.²³

I believe family violence against women (and children) is technically illegal, but practically tolerated under present practices. I believe that the laws, the FVOs needed to protect women and children already exist but there is a lack of will, commitment or practical application of those laws and FVOs that continues to endanger women and their children. Repeatedly I was told by the Police and by lawyers that I had to be careful, that this man was a danger to me, that I should move house, move neighbourhood, move State, get security, change where I shopped, where I walked, where I worked, move my kids' schools, change my name, change my car. Yet at the same time telling me they could do nothing more, it was too hard or too expensive to prosecute him, that the Courts would probably let him off anyway, he'll just hire a good lawyer and keep you in Court for years, that charging him would endanger me, that arresting him for a restraining order breach would have him off the streets for 24 hours but further provoke his rage toward me.²⁴

²² Confidential submissions 17-34, 89-90, 93-96. As noted earlier, the Committee did not publish material which focussed on individual cases but received some submissions as confidential evidence. Some personal submissions were published anonymously, where systemic issues were highlighted.

²³ Name withheld, *Submission 85*, pages 5-6.

²⁴ Name withheld, *Submission 43*, page 1.

More needs to be done, so that these perpetrators are dealt with in a way that will make them cease harassing their victims. It is a travesty that more often than not, orders are not sought, as a piece of paper does nothing to prevent these perpetrators from continuing their abuse in all its forms.²⁵

Administrative framework for FDSV and FVO policies

- 1.30 The Australian Government is responsible for the family law system. The Attorney-General's Department (AGD) administers the Act, as well as delivering broader programs and policies to maintain and improve Australia's law and justice framework.
- 1.31 The states and territories are responsible for most laws relating to FDSV, including FVO laws, the enforcement of FVOs by police under criminal law, and laws relating to child protection. FCFCOA and the Family Court of Western Australia (FCWA) are the family law courts.²⁶ FCFCOA was established under the Act (as the Family Court of Australia)²⁷, which also made provision for each state to establish its own state family court. Western Australia was the only state to do so. The FCWA was established in 1976 pursuant to the *Family Court Act 1997* (Western Australia).²⁸
- 1.32 At the national level, the Department of Social Services (DSS) is responsible for designing and implementing national programs and initiatives, including the *National Plan to End Violence against Women and Children 2022–2032* (National Plan) as well as building the evidence base in relation to women and children's safety. The National Plan is discussed further below.
- 1.33 Additionally at the national level, the Office for Women in the Department of the Prime Minister and Cabinet works across government to place women and gender equality at the centre of policy and decision-making. This includes leading development of *Working for Women: A Strategy for Gender Equality* and supporting the independent Women's Economic Equality Taskforce.²⁹
- 1.34 The Australian Government works with the states and territories through National Cabinet on national initiatives, including to progress the National Plan and to address the national crisis of gender-based violence.³⁰

²⁵ Name withheld, *Submission 1*, page 1.

²⁶ Other states and territories have courts of summary jurisdiction, that is, local or magistrates courts, which have limited jurisdiction under the Act and generally deal with less complex matters.

²⁷ The Family Court of Australia and the Federal Circuit Court of Australia were merged in 2020 to create FCFCOA.

²⁸ Family Court of Western Australia, *Submission 10*, page 1.

²⁹ Department of the Prime Minister and Cabinet, Office for Women, *Our work*, www.pmc.gov.au/office-women/our-work, accessed 4 July 2024.

³⁰ The Hon Anthony Albanese MP, Prime Minister of Australia, 'Meeting of National Cabinet on gender-based violence', *Media release*, 1 May 2024.

- 1.35 The Standing Council of Attorneys-General³¹ progresses work relating to maintaining and promoting best practice in law reform across Australian jurisdictions, for example through the development of the *National Principles to Address Coercive Control in Family and Domestic Violence* (National Principles). The National Principles were released in September 2023 and set out a shared understanding of common features and impacts of coercive control, and considerations to inform effective responses.³²
- 1.36 The complexity of legislative arrangements, including reforms and amendments, and the many departmental agencies with responsibility for funding and program delivery, compound the challenges for victim-survivors in navigating the system and this was a constant theme throughout this inquiry.

Reforms to relevant legislation

- 1.37 The *Family Law Amendment Act 2024*, passed by both Houses in November 2024, will enable the family law courts to take FDSV into account in property settlements for separating families, including by:
- ensuring the economic impact of family violence is considered where relevant when dividing property and finances
 - ensuring the care and housing needs of children are considered in financial and property decisions
 - ensuring financial information is disclosed at the earliest opportunity to promote the early resolution of disputes
 - expanding the court's ability to use less adversarial approaches in all types of proceedings
 - establishing a regulatory framework for Children's Contact Services to ensure the provision of safe and child-focussed services for children whose families are unable to safely manage contact arrangements on their own
 - ensuring a range of factors, including family violence, are considered when determining ownership of pets to better protect everyone in the family.³³
- 1.38 The *Family Law Amendment Act 2023* removed the presumption of equal shared parental responsibility³⁴ to clarify that all decisions about parenting arrangements should be based on what arrangements best meet the needs of the individual child. The amendments require the family law courts to specifically consider any history of

³¹ The Standing Council of Attorneys-General (SCAG) convenes quarterly, and comprises Attorneys-General from the Australian Government, all states and territories, and the New Zealand Minister for Justice. Its purpose is to implement a national and trans-Tasman focus on maintaining and promoting best practice in law reform.

³² AGD, *Submission 15*, page 14. Standing Council of Attorneys-General (SCAG), *Communique*, 22 September 2023; AGD, *National Principles to Address Coercive Control in Family and Domestic Violence*, September 2023.

³³ The Hon Mark Dreyfus KC MP, Attorney-General, 'More reform delivers a simpler, safer and fairer family law system', *Media release*, 29 November 2024.

³⁴ The presumption of equal and shared responsibility was introduced in the *Family Law Amendment (Shared Parental Responsibility) Act 2006*.

FDSV when determining what is in the best interests of the child, rather than only being required to consider current FVOs.³⁵

- 1.39 The *Family Law Amendment Act 2023* also provided the family law courts with a new power to issue a 'harmful proceedings order', which is intended to reduce systems abuse in FDSV matters.³⁶
- 1.40 The *Family Law Amendment (Information Sharing) Act 2023* (Information Sharing Act) broadened the scope of information that can be shared between the family law courts and state and territory policing, firearms and child protection agencies. The Information Sharing Act aimed to enhance the family law courts' ability to consider disparate information in a holistic way to better identify FDSV risks. It gave effect to key aspects of the *National Strategic Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems*.³⁷
- 1.41 The *Family Law Amendment (Family Violence and Cross-examination of Parties) Act 2018* provided protections for victims of FDSV from direct cross-examination by alleged perpetrators in family law proceedings. Direct cross-examination is prohibited in certain circumstances and must instead be conducted by a legal representative. Where direct cross-examination is not prohibited, the court must apply other appropriate protections for the victim (such as using video link or screens).³⁸
- 1.42 The Australian Government is consulting on options to enhance civil protections and remedies for forced marriage.³⁹
- 1.43 The previous government proposed reforms to criminalise breaches of personal protection injunctions made by the family law courts, and to establish a federal FVO framework, however these reforms did not proceed.

National Plan to End Violence against Women and Children 2022–2032

- 1.44 The National Plan will guide Australia's actions towards ending violence against women and children over the next 10 years⁴⁰, or, according to DSS, 'in one generation'.⁴¹ It follows the *National Plan to Reduce Violence against Women and their Children 2010-2022*, which was established to coordinate efforts across all

³⁵ AGD, *Submission 15*, page 6.

³⁶ AGD, *Submission 15*, page 6.

³⁷ AGD, *Submission 15*, page 7. The *National Strategic Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems* was endorsed by all Australian, state and territory Attorneys-General in November 2021.

³⁸ AGD, Family Violence, www.ag.gov.au/families-and-marriage/families/family-violence, accessed 24 June 2024.

³⁹ AGD, *Submission 15*, page 8.

⁴⁰ DSS, *National Plan to End Violence against Women and Children 2022–2032*, October 2022, page 20.

⁴¹ DSS, *National Plan to End Violence against Women and Children 2022–2032*, October 2022; DSS, *Ending gender-based violence*, www.dss.gov.au/our-responsibilities/ending-gender-based-violence, accessed 2 July 2024.

levels of governments to address violence against women.⁴² The current National Plan:

... builds upon a history of leadership and action by victim-survivors, advocates and women's and community organisations including legal services, health care professionals, Aboriginal and Torres Strait Islander community controlled organisations, the family, domestic and sexual violence sector, academics, law enforcement, agencies, the justice sector, and all governments and community members.⁴³

- 1.45 The current National Plan outlines how all parts of society, including governments, businesses and workplaces, media, schools and educational institutions, the FDSV sector, communities and all individuals, must work together to achieve the shared vision of ending gender-based violence in one generation. It notes that the previous National Plan 2010-2022 did not result in a reduction in violence against women and children.⁴⁴
- 1.46 As part of the National Plan, the Australian Government announced in October 2022 that it would provide \$169.4 million over four years from 2022-23 to fund 500 new frontline service and community workers to support people experiencing FDSV. According to the three ministers making the announcement, the funds will be distributed to states and territories to support them to target areas of need.⁴⁵
- 1.47 The Australian Government is currently developing a First Nations National Plan for Family Safety with the First Nations National Plan Steering Committee, which will guide a whole-of-society approach to addressing the unacceptable rates of violence against First Nations women and children.⁴⁶
- 1.48 The National Domestic, Family and Sexual Violence Commission was established in July 2022 as an independent agency focussed on practical ways to measure progress towards the objectives outlined in the National Plan.⁴⁷

Rapid Review of Prevention Approaches

- 1.49 An expert panel was appointed in May 2024 to provide advice to governments on further, practical ways to prevent gender-based violence, in addition to the work

⁴² DSS, *National Plan to End Violence against Women and Children 2022-2032*, p. 15.

⁴³ DSS, *National Plan to End Violence against Women and Children 2022-2032*, p. 18.

⁴⁴ DSS, *National Plan to End Violence against Women and Children 2022-2032*, October 2022, page 16. The National Plan suggests that an increase in reporting on family violence may have influenced prevalence statistics.

⁴⁵ Senator the Hon Katy Gallagher, Minister for Women, The Hon Amanda Rishworth MP, Minister for Social Services and The Hon Justine Elliot MP, Assistant Minister for the Prevention of Family Violence, 'Increased support to end violence against women and children', *Joint Media Release*, 25 October 2022; See also: DSS, *Submission 16*, page 17.

⁴⁶ DSS, *Submission 16.1*, page 8.

⁴⁷ National Domestic, Family and Sexual Violence Commission, *About us*, www.dfsvc.gov.au/about, accessed 11 October 2024.

already underway under the National Plan.⁴⁸ The expert panel delivered its report in August 2024, which contained 21 recommendations across six key areas for action by the Australian, state and territory governments.⁴⁹

- 1.50 The National Cabinet meeting in September 2024 considered the recommendations of the report and First Ministers agreed to use the Rapid Review's recommendations to inform and strengthen efforts to deliver the National Plan, with the collective governments' response to the recommendations in the report to be overseen by Women and Women's Safety Ministerial Council.⁵⁰

Current Australian Government support for victim-survivors

- 1.51 A range of programs supporting victim-survivors of FDSV is provided by the Australian Government by its own departments and agencies, and in partnership with the states and territories, including legal and non-legal support in the family law system, assisting victim-survivors through the social security and child support systems, and providing safe and secure housing.⁵¹

Legal and non-legal support in the family law system

- 1.52 AGD administers funding for key legal and non-legal support services for children and families through the National Legal Assistance Partnership 2020-25 (NLAP) and the Family Relationships Services Program (FRSP), and supports programs and initiatives within FCFCOA, such as Lighthouse.⁵²
- 1.53 The NLAP is an agreement between all Australian governments, under which the Commonwealth provides funds to the states and territories for disbursement to legal assistance providers.⁵³
- 1.54 The adequacy of Australian Government legal assistance funding was considered by an independent review of NLAP, conducted by Dr Warren Mundy, and which

⁴⁸ Department of the Prime Minister and Cabinet (PM&C), *Rapid Review of Prevention Approaches*, www.pmc.gov.au/office-women/womens-safety/rapid-review-prevention-approaches, accessed 2 July 2024.

⁴⁹ One of the recommendations of the expert panel was to review and amend gambling regulation to prioritise the prevention of gender-based violence, including banning all gambling advertising. A phased, total ban on gambling advertising was a recommendation of this Committee's inquiry into online gambling and its impacts on those experiencing gambling harm. See: PM&C, *Unlocking the Prevention Potential: accelerating action to end domestic, family and sexual violence*, August 2024, pages 12 and 109; Standing Committee on Social Policy and Legal Affairs, *You win some, you lose more*, June 2023, page 127.

⁵⁰ DSS, *Submission 16.1*, pages 3-4.

⁵¹ Chapter four provides further information about relevant existing and new programs and funding commitments. See also: AGD, *Submission 15* and *Submission 15.1*; DSS, *Submission 16*, *Submission 16.1* and *Submission 16.2*.

⁵² AGD, *Submission 15*, page 8. Lighthouse is an approach used by FCFCOA to screen for and manage the risk of FDSV and other safety risks and is examined in chapter three.

⁵³ AGD, *Independent Review of the National Legal Assistance Partnership Final Report*, March 2024. Not all legal assistance funding is provided through NLAP.

included a public submissions process and stakeholder consultations.⁵⁴ The review reported in March 2024 and found that current funding was unable to meet Australia's legal needs, including the adequate provision of legal support for victims of FDSV.⁵⁵ A new National Access to Justice Partnership was recently agreed by National Cabinet and will commence when the NLAP expires in June 2025.⁵⁶

- 1.55 According to DSS, state and territory governments are responsible for the distribution of funding to non-legal support services based on need under the National Partnership on Family, Domestic and Sexual Violence Responses 2021-27. Services include accommodation, helplines, perpetrator interventions, sexual violence services, and legal support services for victim-survivors and perpetrators of violence.⁵⁷

Assisting victim-survivors through the social security and child support systems

- 1.56 The Australian Government currently provides a range of financial supports to victim-survivors of FDSV, including:
- a one-off crisis payment for eligible income support recipients
 - no interest loans, which may assist with establishing a new household
 - the Escaping Violence Program trial, which provides individualised financial assistance packages of up to \$5,000⁵⁸, as well as risk assessment and safety planning
 - the Temporary Visa Holders Experiencing Violence Pilot, which provides eligible temporary visa holders with financial assistance packages of up to \$5,000 for goods and services, and access to legal support.⁵⁹
- 1.57 According to DSS, a Leaving Violence Program will commence in mid-2025 to provide eligible victim-survivors, regardless of gender or visa status, with an individualised financial support package of up to \$5,000. Packages will include up to \$1,500 in cash and up to \$3,500 in goods and services, as well as safety planning, risk assessment and referrals to other essential services for up to 12 weeks. The existing Escaping Violence Payment trial and the Temporary Visa Holders Experiencing Violence Pilot will be extended to 30 June 2025, while the Leaving Violence Program is established.⁶⁰

⁵⁴ AGD, *Independent Review of the National Legal Assistance Partnership Final Report*, March 2024, Chapter 1.

⁵⁵ AGD, *Independent Review of the National Legal Assistance Partnership Final Report*, March 2024, pages 67-68.

⁵⁶ The Hon Anthony Albanese MP, Prime Minister, and the Hon Mark Dreyfus KC MP, Attorney-General, 'A new National Access to Justice Partnership', *Media release*, 6 September 2024.

⁵⁷ DSS, *Submission 16*, page 17.

⁵⁸ This includes up to \$1,500 in cash or cash equivalents, with the remaining funds provided in goods, services and supports.

⁵⁹ DSS, *Submission 16*, pages 12-13.

⁶⁰ The Australian Government will invest \$925.2 million over five years to establish the Leaving Violence Program. DSS, *Submission 16*, page 13; DSS, *Leaving Violence Program*, www.dss.gov.au/the-national-plan-to-end-violence-against-women-and-children/leaving-violence-program, accessed 14 October 2024.

Previous inquiries and reviews

- 1.58 Structural and systemic reform of the family law system has been called for in reviews and reports for the last two decades.⁶¹ Concerns about FDSV and whether Australia's family law system is doing enough to protect victim-survivors have been the focus of many inquiries, to the extent that inquiry fatigue has been experienced by many stakeholders.⁶²
- 1.59 FDSV and the family law system were inquired into by two different Commonwealth parliamentary committees during the previous Parliament. Weaknesses were identified in the way the police, courts and legal professionals understand and respond to FDSV and share relevant information.⁶³ Weaknesses identified in the family law system included extensive delays, excessive legal costs, the difficulty of enforcing court orders and timely and fair resolution of FDSV allegations.⁶⁴ Evidence showed that FDSV was not being given due consideration by the courts and that FVOs and family court orders were not being enforced.⁶⁵
- 1.60 State and territory courts have powers under section 68R of the Act to amend inconsistent parenting orders during FVO proceedings, however, a 2010 review by the Australian Law Reform Commission (ALRC) found that these powers were rarely exercised.⁶⁶
- 1.61 In a separate review in 2021, the ALRC recommended the states and territories establish family courts to exercise jurisdiction concurrently under the Act, as is the case in Western Australia, with the aim of abolishing the federal family court.⁶⁷ This proposal was not supported by the previous Australian Government.⁶⁸
- 1.62 Systemic weaknesses in the services and supports that are meant to be keeping women and children safe have also been identified by state and territory inquiries

⁶¹ Australian Law Reform Commission (ALRC), *Family Law for the Future: An Inquiry into the Family Law System*, ALRC Report 135, April 2019, page 32; M.A. Neilsen, 'Family Law Amendment Bill 2023, *Bills Digest No. 76, 2022-23*, May 2023, page 5.

⁶² Standing Committee on Social Policy and Legal Affairs, *Report of the inquiry into family, domestic and sexual violence*, March 2021, page 5.

⁶³ Standing Committee on Social Policy and Legal Affairs, *Report of the inquiry into family, domestic and sexual violence*, March 2021, pages xlv and xxxix.

⁶⁴ Joint Select Committee on Australia's Family Law System, 'Improvements in family law proceedings', *Second interim report*, March 2021.

⁶⁵ Joint Select Committee on Australia's Family Law System, 'Improvements in family law proceedings', *Second interim report*, March 2021, page 57.

⁶⁶ ALRC and New South Wales Law Reform Commission, *Family Violence: A National Legal Response*, ALRC Report 114, 2010, pages 699-702.

⁶⁷ ALRC, 'Family Law for the Future: An Inquiry into the Family Law System', ALRC Report 135, 2019, page 15.

⁶⁸ AGD, *Government Response to ALRC Report 135: Family Law for the Future – An Inquiry into the Family Law System*, March 2021, page 8. Evidence to this inquiry suggests it would be too big a task to undertake reform of the scale recommended by ALRC, would take too long to implement, and risks creating worse outcomes for victim-survivors of FDSV, including First Nations women. See: Law Council of Australia, *Submission 67*, page 15; Djirra, *Submission 74*, page 5.

including the Victorian Royal Commission into Family Violence⁶⁹, and most recently by the coronial inquest into the homicides of four Aboriginal women in the Northern Territory. The Northern Territory coroner found that systemic racism minimises and dismisses First Nations women's experience of FDSV.⁷⁰

Report Structure

- 1.63 The chapters that follow examine barriers to safety and fairness for victim-survivors of FDSV in the state and territory FVO and federal family law jurisdictions, the important intersections between jurisdictions, and the accessibility of services and supports that victim-survivors need to navigate both systems safely and fairly.
- 1.64 Chapter two focuses on the state and territory jurisdictions. It examines variations in state and territory FVO laws and responses to FDSV, the recognition of FVOs across jurisdictions, the recognition of coercive control, police responses to FDSV, barriers to safety and the accessibility of FVOs, and the safety of pets. The chapter also considers the capacity of state and territory courts to exercise family law jurisdiction under section 68R of the Act to amend parenting orders that are inconsistent with FVOs.
- 1.65 Chapter three examines the federal family law jurisdiction. It considers the duration and cost of proceedings, how the family law courts currently screen for and manage FDSV and other safety risks, how information is shared between the family law courts, the state and territory courts, police and child protection agencies, and the accessibility of the family law system. It also considers the effectiveness and enforceability of personal protection injunctions and other options for the family law courts to make orders for the protection of victim-survivors and children, and measures to minimise the risk of systems abuse by perpetrators of FDSV.
- 1.66 Chapter four examines the legal and non-legal supports that victim-survivors need to gain the protection of FVOs, to navigate the family law system and achieve safe and fair outcomes, and to rebuild their lives after traumatic experiences of FDSV. It also considers the importance of, and access to, perpetrator interventions in preventing violence and abuse, such as men's therapeutic and behavioural change programs.

⁶⁹ Royal Commission into Family Violence, *Summary and Recommendations*, Parliamentary Paper No. 132 (2014-16), Victoria, March 2016. See also: Victorian Government, *About the Royal Commission into Family Violence*, www.vic.gov.au/about-royal-commission-family-violence, accessed 24 June 2024.

⁷⁰ Coroners Court of the Northern Territory, *Inquests into the deaths of Miss Yunupingu, Ngeygo Ragurk, Kumarn Rubuntja and Kumanjayi Haywood*, 'Findings of Territory Coroner Elisabeth Armitage', November 2024.



2. Better protecting victim-survivors with family violence orders

- 2.1 As the previous chapter established, the Australian Government is responsible for the federal family law system, while the states and territories are responsible for most laws relating to family, domestic and sexual violence (FDSV) in Australia, including the making of family violence orders (FVOs), and the enforcement of breaches and associated criminal offences.
- 2.2 FVOs can be applied for by individuals and/or the police through magistrates or local courts in all states and territories. Legal services usually advise victim-survivors of FDSV to consider obtaining an FVO prior to making any attempts to contact the perpetrator about parenting arrangements or property settlement because of the increased risk of an escalation in violence.¹
- 2.3 The Committee heard that state and territory courts are generally well-suited to making FVOs because they:
- have established jurisprudence for assessing claims of FDSV and determining whether an order should be made²
 - are accessible in locations across Australia, and many have wrap-around support services to assist victim-survivors.³
- 2.4 Key issues examined in this chapter are:
- variations in FVO laws and responses, which mean there are inconsistent protections for victim-survivors, including children, across Australia
 - barriers to accessing FVOs for victim-survivors including a lack of accessible information, and safety at court locations
 - inconsistencies between parenting orders and FVOs, and the reluctance of state and territory courts to amend parenting orders to prioritise the safety of children and their caregivers
 - animal abuse and FDSV.
- 2.5 Opportunities to better protect victim-survivors and children using FVOs are considered.

¹ Westjustice, *Submission 68*, page 4.

² Mr Harry McDonald, Board Member, Family Law Practitioners Association of Queensland (FLPA), *Committee Hansard*, 30 August 2024, page 13.

³ Women's Legal Services Australia (WLSA), *Submission 69*, page 14.

Variations in laws and responses

- 2.6 It is widely acknowledged that variations in FVO laws across state and territory jurisdictions, as well as systemic issues, may put the safety of victim-survivors and their children at risk. While there are some similarities in FVO laws and their application across jurisdictions, such as the capacity for courts to make interim and final orders, there are also significant differences. Inconsistencies include:
- protection of children
 - duration of FVOs
 - effective information sharing
 - recognition of coercive control
 - police responses, including the misidentification of perpetrators and reluctance to intervene in matters involving children.
- 2.7 The Attorney-General's Department (AGD) described the variations in FVO laws across jurisdictions as being 'not reasonably consistent.'⁴
- 2.8 Differences between FVOs across the states and territories can:
- mean different outcomes for victim-survivors depending on where they live⁵
 - make it difficult for people to understand how FVOs will work when they move to a different state or territory⁶
 - make it difficult to measure the effectiveness of FVOs nationally to inform policy and best practice.⁷
- 2.9 Differences in FVO laws can be particularly problematic for Australians living in border communities. Difficulties in determining where an FVO breach took place may mean that reported breaches are not investigated.⁸
- 2.10 There were concerns that perpetrators are too often released from custody before victim-survivors have enough time to organise their affairs and move to safety, and there was support for tougher bail laws.⁹
- 2.11 There was strong support for:

⁴ Mrs Samantha Byng, Assistant Secretary, Family and Community Safety Branch, Attorney-General's Department (AGD), *Committee Hansard*, 11 October 2024, page 8.

⁵ Barnardos Australia, *Submission 49*, page 4.

⁶ Mrs Byng, AGD, *Committee Hansard*, 11 October 2024, page 8; Sexual Safety Australia (SSA), *Submission 9*, page 3.

⁷ Full Stop Australia, *Submission 14*, page 6.

⁸ Safe and Equal, *Submission 83*, page 11.

⁹ National Aboriginal and Torres Strait Islander Women's Alliance (NATSIWA), *Submission 60*, page 4; Bayside Peninsula Integrated Family Violence Partnership and the Southern Melbourne Family Violence Regional Integration Committee (BPIFVP and SMFVRIC), *Submission 41*, page 16.

- shared, consistent definitions of FDSV across state, territory and federal laws¹⁰
- national harmonisation of FVO laws and consistency in access, application processes and enforcement, and messaging of FVO requirements.¹¹

2.12 The Law Council of Australia (LCA) cautioned that ‘care must be taken to ensure that any broadening of the accessibility of FVOs—or of the ability to enforce them—does not result in undue limitations on the rights of respondents in relation to those orders, including the right to a fair hearing.’¹²

Protection of children

2.13 In most jurisdictions, children can apply for an FVO on their own behalf against a parent or carer, while in other states the requirements are more restrictive.¹³ Some jurisdictions restrict the duration of FVOs for children and young people.¹⁴

2.14 The Council of Single Mothers and their Children (CSMC) advocated for children to be recognised as primary victims and, where they are named in FVOs, children’s ‘well-being and safety must be given paramount consideration.’¹⁵

2.15 Interim FVOs can provide timely and effective short-term protection of children from FDSV while long-term parenting arrangements are being determined through family law proceedings.¹⁶ However, state and territory courts are reluctant to include children on FVOs, particularly where family law proceedings are underway, or parenting orders are already in place.¹⁷ For example, Pilbara Community Legal Service (PCLS) reported that the Magistrate’s Court of Western Australia will often refuse to include children on FVOs and instead, victim-survivors are encouraged to seek family law advice. PCLS said:

This means changeovers may be volatile, dangerous and traumatising for children. During time with the perpetrator, the children are scared, confused or

¹⁰ Domestic Violence Advocacy Australia (DVAA), *Submission 38*, page 2; Nerang Neighbourhood Centre, *Submission 3*, page 3; Ms Jaquie Palavra, Executive Member, Family Law Section, Law Council of Australia (LCA), *Committee Hansard*, 30 August 2024, page 7; Ms Rachael Pliner, Director, Policy and Advocacy, Federation of Community Legal Centres Vic. (FCLCV), *Committee Hansard*, 30 August 2024, page 20; Ms Erin Quilliam, Lawyer, Family Law, Hume Riverina Community Legal Service (HRCLS), *Committee Hansard*, 30 August 2024, page 26; Safe and Equal, *Submission 83*, page 18; Djirra, *Submission 74*, page 6.

¹¹ FLPA, *Submission 12*, page 11; Name withheld, *Submission 82*, page 1; SSA, *Submission 9*, page 4; DVAA, *Submission 38*, page 2; Pilbara Community Legal Service (PCLS), *Submission 78*, page 4.

¹² LCA, *Submission 67*, page 26.

¹³ WLSA, *Submission 69*, page 11; Queensland Indigenous Family Violence Legal Service (QIFVLS), *Submission 70*, page 12.

¹⁴ Mrs Byng, AGD, *Committee Hansard*, 11 October 2024, page 9.

¹⁵ Council of Single Mothers and their Children (CSMC), *Submission 37*, page 10. See also: QIFVLS, *Submission 70*, page 12.

¹⁶ Fitzroy Legal Service, *Submission 44*, page 6.

¹⁷ Relationships Australia, *Submission 7*, page 22; PCLS, *Submission 78*, page 7.

are questioned about the victim-survivor. Times of contact as well as telephone and video communication can be used to continue perpetrating abuse.¹⁸

- 2.16 The Family Law Practitioners Association of Queensland suggested police be able to temporarily suspend a child's time with a parent, noting this would require education for police about the limited ability for the family law courts to respond in the short term.¹⁹

Duration of FVOs in different jurisdictions

- 2.17 There is significant variation in the duration of FVOs available to victim-survivors across the states and territories.²⁰ Some jurisdictions only allow FVOs to be extended for short periods.²¹ For example, in Western Australia, police-initiated FVOs provide protection for no more than 72 hours.²²
- 2.18 Short term FVOs can cause stress, financial cost²³ and ongoing fear for victim-survivors since they must be renewed regularly, and applications may be blocked or obstructed by perpetrators. Short-term FVOs may not adequately protect victim-survivors navigating complex, drawn-out family law and other legal matters.²⁴
- 2.19 National Aboriginal and Torres Strait Islander Women's Alliance (NATSIWA) recommended that police-initiated orders extend until FVO court proceedings are finalised to keep victim-survivors and children safe.²⁵
- 2.20 There was support for a minimum default duration for final FVOs.²⁶ South-East Monash Legal Services (SMLS) said this offers several benefits, including better protecting victim-survivors and giving them time to recover without the immediate threat of violence, reducing the administrative burden on victim-survivors, and providing security and stability.²⁷
- 2.21 Lifetime bans may be needed to prevent perpetrators having any contact with victim-survivors, including children.²⁸ Victorian Aboriginal Legal Service (VALS) said that while lifetime FVOs may provide necessary protection in severe cases, they do not address the underlying issues that perpetuate violence. VALS suggested that individuals under lifetime FVOs may lack motivation to change their behaviours, as

¹⁸ PCLS, *Submission 78*, page 7.

¹⁹ FLPA, *Submission 12*, page 6.

²⁰ Mrs Byng, AGD, *Committee Hansard*, 11 October 2024, pages 8-9.

²¹ Name withheld, *Submission 82.1*, page 1.

²² Attorney-General of Western Australia, *Submission 88.1*, pages 2-3.

²³ Where an FVO is contested, the cost of private legal representation for the making or extending of an FVO was estimated at between \$30,000 and \$50,000 in 2024. See: Name withheld, *Submission 82*, page 11.

²⁴ Name withheld, *Submission 82*, pages 8-9.

²⁵ NATSIWA, *Submission 60*, page 4.

²⁶ South-East Monash Legal Service (SMLS), *Submission 80*, page 15; BPIFVP and SMFVRIC, *Submission 41*, page 13; Name withheld, *Submission 82*, pages 1 and 9.

²⁷ SMLS, *Submission 80*, page 15.

²⁸ Name withheld, *Submission 82*, pages 1 and 9.

they may see little incentive once such an order is in place. VALS said a review process is needed for lifetime FVOs, with both parties' consent.²⁹

- 2.22 NATSIWA noted the Victorian Government was considering extending police powers to ban FDSV perpetrators permanently from interacting with their victims and identified several benefits of this approach. However, NATSIWA warned that 'extending police powers in this way would bring a crucial responsibility for police to identify perpetrators correctly when investigating a family violence situation'.³⁰

Effective information sharing about FVOs across jurisdictions

- 2.23 Effective information sharing between police in different jurisdictions about FVOs is critical for ensuring victim-survivors' safety. According to AGD, the National Domestic Violence Order Scheme (NDVOS) enables automatic mutual recognition, enforcement and registration of variations of FVOs across all Australian jurisdictions. Information about FVOs is available to law enforcement and state and territory judicial officers through NDVOS.³¹

- 2.24 However, many victim-survivors do not understand FVOs are nationally recognised³², and information is not always being shared effectively by police between jurisdictions.³³ For example, Hume Riverina Community Legal Service reported:

It is not unusual for victim survivors with family law proceedings to have FVOs on one side of the border, that are breached on the other. HRCLS has had multiple clients who have reported breaches to police on the other side of the border to where the order was obtained, and when time has come to extend the order, the police have had no record of the breach from the other State and do not extend the order. While this situation is unique to cross-border communities it requires greater attention and adds an additional layer of complexity for victim survivors to navigate, and reduces their safety where FVOs are not extended because information was not shared between State police.³⁴

- 2.25 There was support for NDVOS to be extended to enable real-time updating of orders, conditions and breaches, and for it to be developed into a national database that all relevant justice bodies can access³⁵, including service providers, with appropriate safeguards.³⁶

²⁹ Victorian Aboriginal Legal Service (VALS), *Submission 81*, pages 13-14. VALS advocated for Aboriginal-led behaviour change programs for First Nations perpetrators, which are discussed in chapter four.

³⁰ NATSIWA, *Submission 60*, page 9.

³¹ AGD, *Submission 15*, page 3.

³² PCLS, *Submission 78*, page 4.

³³ HRCLS, *Submission 72*, page 4.

³⁴ HRCLS, *Submission 72*, page 4.

³⁵ PCLS, *Submission 78*, page 4. Information-sharing between state and territory police, courts and other agencies and services is examined further in chapter three.

³⁶ Relationships Australia, *Submission 7*, page 3.

- 2.26 AGD is currently conducting a national review of FVO frameworks, which is considering opportunities for greater consistency across jurisdictions and potential reform options, including in relation to the scope of NDVOS.³⁷ This work was funded in the 2022-23 Budget in response to recommendation 13 of the Joint Select Committee on Australia's Family Law System.³⁸ The review will include a comparative analysis to identify inconsistencies and potential reform options. The outcomes of the review will be provided to the Standing Council of Attorneys-General and Police Ministers Council by July 2026.³⁹
- 2.27 Further work to raise awareness of how FVOs are recognised and enforced across jurisdictions through NDVOS may be of assistance to both victim-survivors and perpetrators in understanding their rights and obligations.⁴⁰

Recognition of coercive control

- 2.28 Coercive control is where perpetrators exert power and dominance over victim-survivors using patterns of abusive, manipulative behaviours over time. These patterns of behaviour create fear and deny liberty and autonomy. Coercive control is almost always a feature of relationships involving FDSV and can include many different types of physical and non-physical abusive behaviours.⁴¹
- 2.29 Coercive control includes the manipulation of legal processes to cause harm, which is referred to in this report as systems abuse.⁴² It is important that all people working in the justice system have an improved understanding of coercive control and be skilled in identifying tactics of legal systems abuse.⁴³
- 2.30 Since coercive control can include a wide variety of individual experiences of abuse, the identification of coercive control and reporting can be challenging, and allegations of coercive control can be difficult to substantiate with evidence.⁴⁴
- 2.31 Concerns were raised that some police do not understand the role of coercive control in family dynamics, which can be subtle actions that are part of an overall pattern of FDSV and may therefore constitute breaches of FVOs.⁴⁵
- 2.32 Perpetrators of coercive control often use digital technology to surveil their victim's location; to spy on them; to abuse them; to circulate images or videos of them without

³⁷ AGD, *Submission 15*, page 14.

³⁸ AGD, *Australian Government response to the inquiry of the Joint Select Committee on Australia's Family Law System*, January 2023, page 31.

³⁹ AGD, *Submission 15.1*, page [16].

⁴⁰ Mrs Byng, AGD, *Committee Hansard*, 11 October 2024, page 9; PCLS, *Submission 78*, page 4.

⁴¹ AGD, *National Principles to Address Coercive Control in Family and Domestic Violence*, September 2023, page 1.

⁴² Australia's National Research Organisation for Women's Safety (ANROWS), *Submission 62*, page 9. Systems abuse is examined further in the section on misidentification in this chapter and is also examined in chapter three in the context of the family law system.

⁴³ ANROWS, *Submission 62*, page 4.

⁴⁴ DVConnect, *Submission 56*, page 6.

⁴⁵ Peninsula Community Legal Service (PCLC), *Submission 17*, page 14; SMLS, *Submission 80*, page 16.

their permission; or to control or take over online accounts.⁴⁶ In cases of technology-facilitated coercive control, a lack of visible physical injury may mean that police or the judiciary underestimate the severity of abuse, and this can leave victim-survivors vulnerable.⁴⁷

- 2.33 It is the responsibility of individual states and territories to implement the *National Principles to Address Coercive Control in Family and Domestic Violence* (National Principles), which all governments endorsed in 2023.⁴⁸ The National Principles recognise that ‘an absence of physical abuse does not diminish the seriousness of non-physical behaviour and its impacts for the victim-survivor’ and that the abuse can be subtle and insidious.⁴⁹ The National Principles aim to help raise awareness of coercive control, inform more effective responses to FDSV, and promote more consistent support and safer outcomes for victim-survivors.⁵⁰
- 2.34 The 2022-23 Budget provided \$900,000 for the development and delivery of a training package on coercive control for legal practitioners, which aims to embed the National Principles as a common foundation in the legal sector.⁵¹ AGD has also released resources about coercive control targeting a range of audiences, including health professionals and young people.⁵²
- 2.35 State and territory governments are at different stages of considering how to address coercive control.⁵³ The Committee heard there is a lack of consistency in responses to FDSV in Western Australia with the rest of the country, particularly in relation to the recognition of coercive control.⁵⁴ Pilbara Community Legal Service said that a key priority in Western Australia should be improving the ability of magistrates to apply FVOs in matters involving coercive control.⁵⁵
- 2.36 The Western Australian Government amended its FVO legislation in September 2024 to define a coercive control offence and is one of few jurisdictions that has a persistent family violence offence.⁵⁶ Further work is being progressed in Western Australia including training for legal professionals, a review of the persistent family violence offence, and the creation of a standalone coercive control offence.⁵⁷

⁴⁶ AGD, *Understanding technology-facilitated coercive control*, March 2024, page 1.

⁴⁷ Australian Services Union, *Submission 63*, page 5.

⁴⁸ AGD, *National Principles to Address Coercive Control in Family and Domestic Violence*, September 2023, page 1.

⁴⁹ AGD, *National Principles to Address Coercive Control in Family and Domestic Violence*, September 2023, page 1.

⁵⁰ AGD, *Submission 15.1*, page [17].

⁵¹ AGD, *Submission 15.1*, page [17].

⁵² AGD, *Submission 15.1*, page [18].

⁵³ AGD, *Submission 15.1*, page [17].

⁵⁴ CSMC, *Submission 37*, page 6.

⁵⁵ Ms Sara Makeham, Family and Domestic Violence Advocate, PCLS, *Committee Hansard*, 30 August 2024, page 42.

⁵⁶ Three or more offences will raise a charge of persistent family violence.

⁵⁷ Ms Kati Kraszlan, Commissioner for Victims of Crime, Western Australian Department of Justice, *Committee Hansard*, 11 October 2024, page 5.

- 2.37 Relationships Australia called for an urgent research program ‘to ensure that legislation targeting the use of coercive control succeeds in its safety objectives and does not inadvertently harm victim survivors or entrench marginalisation and exclusion.’⁵⁸

Police responses

Earlier on the night of the assault, my daughter told me she felt frightened all the time so, I accompanied her to the police station where she told the officer there that she was frightened to go home. He asked her what her husband had done and when she said ‘well, nothing but I’m frightened’, he said ‘well if he hasn’t done anything, I can’t do anything’. So she went home and was assaulted.⁵⁹

It was not because my family encouraged me to leave (which they did) but because one of the many police officers I had interaction with, believed me. I cannot stress how important a person in authority is to a victim of Family Violence in terms of believing them.⁶⁰

- 2.38 State and territory police are responsible for enforcing the criminal law, which includes breaches of FVOs, and may issue temporary FVOs in most jurisdictions. While many police have good judgment in relation to matters involving FDSV⁶¹, the Committee heard that police responses are inconsistent across Australia.⁶² Some police:
- will not believe reports of FDSV
 - will downplay the seriousness of an incident and make victim-survivors feel silly or unheard, or simply refuse to take a complaint
 - are unable to confidently identify coercive control and the person most in need of protection
 - have biases or beliefs about victim-survivors and perpetrators of FDSV
 - do not recognise the effects of trauma or respond to traumatised people in an appropriate way.⁶³
- 2.39 CSMC said that FDSV ‘...would not be the scourge it is in Australia if systems were reoriented to ensure that protection from family violence is taken seriously and acted on when reported by the victim.’⁶⁴

⁵⁸ Relationships Australia, *Submission 7*, pages 4, 34.

⁵⁹ Name withheld, *Submission 8*, page 1.

⁶⁰ Name withheld, *Submission 71*, page 1.

⁶¹ FLPA, *Submission 12*, page 2.

⁶² SMLS, *Submission 80*, page 16.

⁶³ Ms Thelma Schwartz, Principal Legal Officer, QIFVLS, *Committee Hansard*, 30 August 2024, page 35; CSMC, *Submission 37*, page 6; Relationships Australia, *Submission 7*, page 35; SMLS, *Submission 80*, page 16.

⁶⁴ CSMC, *Submission 37*, page 6.

- 2.40 Police may need to better manage conflicts of interest. The Committee heard privately from a victim-survivor who was abused by a police officer and who then faced barriers to safety and justice, and from victim-survivors who were misidentified as perpetrators and allege that police knew their abusers.⁶⁵
- 2.41 There was strong support for improved education and training of police to better support the effectiveness and enforcement of FVOs.⁶⁶ This may require a broader review of police processes and responses to FDSV.⁶⁷
- 2.42 In the 2022-23 Budget, the Australian Government provided \$4.1 million over four years to develop and deliver a national training and education package to enhance the effectiveness of police responses to FDSV. The training is expected to focus on identifying the primary aggressor to reduce instances of misidentification, coercive control, culturally safe policing responses and trauma informed models of response. The training will be piloted in 2025 before being made available to police in all jurisdictions. An evaluation framework for the training is being developed, which will support ongoing improvement. According to AGD, the evaluation will be informed by diverse perspectives.⁶⁸

Police applications for orders on their own motion

- 2.43 While all jurisdictions allow police to apply for FVOs on their own motion, only some jurisdictions require police to do so (if certain conditions are met) to keep victim-survivors safe.⁶⁹ While police officers in Western Australia may take out FVOs on behalf of victim-survivors under certain circumstances⁷⁰, the Committee heard they rarely do.⁷¹ In other jurisdictions police-initiated FVOs are much more common⁷², particularly in Queensland.⁷³
- 2.44 According to Sexual Safety Australia (SSA), a safety educational consultancy, in many cases police do not initiate FVOs despite having the capacity to do so.⁷⁴ SSA described Australia as having a two-tier FVO system where some victim-survivors may have FVOs taken out on their behalf by police, while others must apply for FVOs privately. SSA observed that forcing vulnerable and frightened victim-survivors to apply for FVOs privately can be extremely costly for them, may place them in a more precarious situation, or the application for the FVO may not be taken as seriously by the perpetrator. Where victim-survivors are told by police to take out their own FVOs, 'the police officer on the day makes the decision and not all police believe all

⁶⁵ Confidential, *Submission 22*; Confidential, *Submission 95*; Confidential, *Submission 96*.

⁶⁶ WLSA, *Submission 69*, page 13; LCA, *Submission 67*, page 17; PCLC, *Submission 17*, page 14; National Legal Aid, *Submission 61*, page 4; Name withheld, *Submission 43*, pages 4-5.

⁶⁷ SMLS, *Submission 80*, page 16.

⁶⁸ AGD, *Submission 15*, page 15; AGD, *Submission 15.1*, page [5].

⁶⁹ AGD, *Submission 15.1*, page 3.

⁷⁰ AGD, *Submission 15.1*, pages 2-3. Attorney-General of Western Australia, *Submission 88.1*, page 1.

⁷¹ Mr Mark Jeffreys, Principal Solicitor and Ms Makeham, PCLS, *Committee Hansard*, 30 August 2024, page 36.

⁷² Mrs Gail Dodd, Principal Legal Officer, Aboriginal Family Legal Service Western Australia, *Committee Hansard*, 30 August 2024, page 36.

⁷³ FLPA, *Submission 12*, page 2.

⁷⁴ SSA, *Submission 9*, page 2.

victims.⁷⁵ This can leave victim-survivors 'feeling unworthy/invalidated/in more fear and many gave up when they realised how private FVO/DVO applications and process works.'⁷⁶

- 2.45 Djirra, a specialist Aboriginal Community Controlled Organisation based in Victoria, reported that it regularly assists First Nations clients to apply for FVOs where they do not feel safe asking for help from police, or where police have denied them assistance. Djirra said:

In our work, women tell us that VicPol regularly minimise or do not believe their allegations of violence, refuse to take their statements, fail to investigate or pursue their perpetrators, and refuse to apply for FVOs for their protection. VicPol's reluctance to assist Aboriginal women experiencing family violence and take on the role of the applicant in FVO proceedings, means that women must apply for protection themselves. As the applicant, women risk their safety in preparing evidence and facing their perpetrators at court hearings. In our experience, applications applied for by VicPol are also given greater weight by Magistrates when making FVOs and by the FCFCOA [Federal Circuit and Family Court of Australia] when making parenting orders.⁷⁷

Misidentification of victim-survivors as primary perpetrators

The system itself has become weaponised, a tool for perpetrators.⁷⁸

- 2.46 Perpetrators of FDSV often make unfounded cross-allegations against victim-survivors, which is a common form of systems abuse.⁷⁹ This can lead to victim-survivors being misidentified as primary perpetrators and then facing significant barriers in obtaining the protection needed to stay safe.⁸⁰
- 2.47 Misidentification can have serious and lasting impacts on victim-survivors including vulnerability to further violence, criminalisation and risk of other harms including losing access to housing, children and work, and years of legal battles.⁸¹ Misidentification undermines trust in the legal system and reduces the likelihood of a victim-survivor seeking protection again in the future.⁸²

⁷⁵ SSA, *Submission 9*, page 1.

⁷⁶ SSA, *Submission 9*, page 1.

⁷⁷ Djirra, *Submission 74*, page 3.

⁷⁸ Name withheld, *Submission 2*, page 1.

⁷⁹ Safe and Equal, *Submission 83*, page 8; QIFVLS, *Submission 70*, page 5; inTouch Women's Legal Centre, *Submission 84*, page 11; ANROWS, *Submission 62*, page 9; Elizabeth Morgan House, *Submission 13*, page 3. 'Systems abuse' is discussed in more detail in chapter three.

⁸⁰ FCLCV, *Submission 79*, page 15.

⁸¹ Department of Social Services (DSS), *Submission 16*, page 4; Elizabeth Morgan House, *Submission 13*, page 3; Victorian Legal Aid, *Submission 40*, page [9]; Djirra, *Submission 74*, page 3; Aboriginal Legal Service NSW ACT Limited, *Submission 86*, page 3.

⁸² ANROWS, *Submission 62*, page 10.

- 2.48 Concerns were raised that serial perpetrators can currently submit a successful cross-application even when they have serious assault charges and lengthy no contact orders against them. The cross application will then proceed through the court system, further traumatising the victim-survivor.⁸³ Where false allegations are not questioned by police and magistrates, misidentification can be reinforced by courts and can lead to unfavourable outcomes for victim-survivors when parenting and property orders are made in the family law system.⁸⁴
- 2.49 Misidentification occurs in a range of circumstances. Police responses to FDSV can focus on isolated incidents of violence and this can result in misidentification. For example, a person using violence in a single incident may be considered the perpetrator, but when viewed in context, that person may be the victim of a pattern of coercive control and could be retaliating or protecting themselves.⁸⁵ When called to an incident, one person may appear to police as calm and reasonable, while the other may appear emotionally dysregulated, more difficult to deal with and vulnerable to being perceived as being mentally unwell.⁸⁶
- 2.50 Assumptions about the behaviours of victim-survivors affect policing practice.⁸⁷ For example, First Nations women may be more likely than non-Indigenous women to fight back and use resistive violence, encounter bias for not being an 'ideal victim'⁸⁸, and are more likely to be misidentified as the primary aggressor.⁸⁹
- 2.51 The Committee heard that misidentification impacts First Nations and culturally and linguistically diverse (CALD) women disproportionately.⁹⁰ Migrant women are often served with cross-applications for FVOs by perpetrators who leverage their greater knowledge of, and resources in, Australia to portray the victim-survivor as the abuser or an unfit mother. This can result in migrant women losing access to their children and to vital services and may impact their visa status.⁹¹
- 2.52 There may be a greater risk of misidentification in the making of interim FVOs, which are designed to be obtained on relatively limited evidence. Interim orders can impose wide-ranging conditions that impact respondents' freedom of movement or limit access to their children, and can have wide-ranging consequences, particularly for respondents who do not understand the legal process and conditions of FVOs.⁹²
- 2.53 There was support for greater education and training for police, legal practitioners and the judiciary to better understand coercive control, to recognise the primary victim and perpetrator of FDSV, and to have greater awareness of, and to respond

⁸³ Elizabeth Morgan House, *Submission 13*, page 3.

⁸⁴ DVAA, *Submission 38*, page 7.

⁸⁵ DSS, *Submission 16*, page 4.

⁸⁶ Federal Circuit and Family Court of Australia (FCFCOA), *Submission 54*, page 7.

⁸⁷ DSS, *Submission 16*, page 5.

⁸⁸ Elizabeth Morgan House, *Submission 13*, page 3.

⁸⁹ Djirra, *Submission 74*, page 3; Aboriginal Legal Service NSW ACT Limited, *Submission 86*, page 3.

⁹⁰ Safe and Equal, *Submission 83*, page 8; inTouch Women's Legal Centre, *Submission 84*, page 12.

⁹¹ ANROWS, *Submission 62*, page 10.

⁹² LCA, *Submission 67*, page 26.

appropriately to, systems abuse.⁹³ There was also support for more effective policies and procedures to prevent and rectify misidentification of victim-survivors within both the FVO and family law systems.⁹⁴

Reluctance to intervene in matters involving children

- 2.54 Some police will refuse to act on reported breaches of FVOs they consider to be family law matters.⁹⁵ Instead, police will tell complainants to seek assistance from their lawyer or the family law courts. Some police decline to act because they believe the complainant is trying to gain advantage in family law proceedings.⁹⁶ The Committee heard this approach is unsatisfactory and police should instead be assisting victim-survivors to obtain FVOs where the statutory basis is met, and for state and territory courts to make the final decision on FVO applications.⁹⁷
- 2.55 A lack of information about family law court orders can impede police responses to FDSV matters. Family law court orders are neither routinely uploaded to any police system, nor to the National Police Reference System.⁹⁸ Better information sharing, including any existing family law court orders and evidence of FDSV risk, would support the safety of victim-survivors, including children.⁹⁹

Barriers to accessing FVOs

- 2.56 For many victim-survivors, the experience of navigating a complex legal system without enough support to access FVOs is overwhelming, resulting in poor court outcomes, them giving up, or returning to violent relationships.¹⁰⁰ Victim-survivors may be hesitant to engage with police and the court system because they fear reprisal, believe an FVO is unlikely to protect them, or have had a previous negative court experience.¹⁰¹ Some may fear the continuation of coercive and controlling behaviours through the court process.¹⁰²
- 2.57 To ensure FVOs are accessible, the Committee heard that victim-survivors must be supported by police and other key services with accessible information and culturally responsive and trauma-informed practices.¹⁰³

⁹³ ANROWS, *Submission 62*, page 9; GenWest, *Submission 91*, page 6; Tasmania Legal Aid, *Submission 35*, page 14.

⁹⁴ FCLCV, *Submission 79*, page 15. Reducing opportunities for systems abuse in the family law system is examined in chapter three.

⁹⁵ PCLC, *Submission 17*, page 14

⁹⁶ FCFCOA, *Submission 54*, page 7.

⁹⁷ FCFCOA, *Submission 54*, page 7; FLPA, *Submission 12*, page 5.

⁹⁸ South Australia Police, *Submission 59*, page 2; Tasmanian Government, *Submission 51*, page 2.

⁹⁹ Tasmanian Government, *Submission 51*, page 2. Information sharing is examined further in chapter three.

¹⁰⁰ inTouch Women's Legal Centre, *Submission 84*, page 16.

¹⁰¹ ANROWS, *Submission 62*, page 6.

¹⁰² AGD, *Submission 15*, page 12.

¹⁰³ Royal Australian and New Zealand College of Psychiatrists, *Submission 66*, pages 3-4; Relationships Australia, *Submission 7*, pages 1, 2 and 9; inTouch Women's Legal Centre, *Submission 84*, page 9; Djirra, *Submission 74*, page 2; Aboriginal Legal Service NSW ACT Limited, *Submission 86*, page 3.

Lack of resources and legal advice

- 2.58 Many victim-survivors of FDSV agree to FVOs made by consent due to a lack of resources, legal advice or pre-court engagement with services, or a desire to avoid court because of what they see as the danger, delay and trauma of court proceedings.¹⁰⁴ This can lead to unsafe consent negotiations and orders.¹⁰⁵
- 2.59 Victim-survivors often try to avoid hearings due to legal costs and the trauma and stress of retelling their experiences and being cross-examined. Some agree to a lesser FVO duration due to coercion or to avoid the cost and stress of a trial.¹⁰⁶
- 2.60 Although FVOs themselves are not expensive, the cost of legal representation in court system interactions can be financially prohibitive.¹⁰⁷ Where an FVO is contested, the cost of legal representation for the making or extending of an FVO was estimated at between \$30,000 and \$50,000 in 2024.¹⁰⁸ Some jurisdictions may charge a fee for online applications. While fees may be waived on determination of personal circumstances, victim-survivors must be able pay the fee to start with, which can be a barrier for many.¹⁰⁹

Lack of accessible information

- 2.61 A lack of accessible information, interpreters and culturally safe, wrap-around support services that meet individual needs can be barriers to seeking and gaining the protection of FVOs.¹¹⁰
- 2.62 While FVOs may be accessible for many victim-survivors¹¹¹, the process of obtaining FVOs and the conditions and consequences of FVOs are often difficult to understand.¹¹² The use of jargon and complicated English in FVO information and forms can be intimidating and a barrier for victim-survivors considering applying for an FVO, making it seem 'complicated, difficult and not worth it.'¹¹³ Completing the application form to apply for an FVO without help can be impossible for CALD people, those with low digital literacy skills or poor online access, or who are living with disability.¹¹⁴
- 2.63 Victim-survivors are required to fill out an FVO application, file it, and then serve it on the respondent, unless the FVO is being applied for on their behalf by the police. This process is complex to follow correctly and traumatic for victim-survivors, who may not

¹⁰⁴ Australian Institute of Family Studies (AIFS), *Submission 52*, page 8.

¹⁰⁵ AIFS, *Submission 52*, page 8.

¹⁰⁶ Name withheld, *Submission 82.1*, page 1. Costs and financial impacts of proceedings on victim-survivors are discussed further in chapter three.

¹⁰⁷ Centre for Excellence in Child and Family Welfare, *Submission 55*, page 2.

¹⁰⁸ Estimate based on quotes from two different private law firms. Name withheld, *Submission 82*, page 11.

¹⁰⁹ VALS, *Submission 81*, page 10.

¹¹⁰ The need to enhance wraparound support for victim-survivors is examined further in chapter four.

¹¹¹ FLPA, *Submission 12*, page 2.

¹¹² Barnardos Australia, *Submission 49*, page 6.

¹¹³ inTouch Women's Legal Centre, *Submission 84*, page 23.

¹¹⁴ WLSA, *Submission 69*, page 14.

have legal assistance or will be relying on a duty lawyer they have only just met.¹¹⁵ Victim-survivors may be retraumatised by having to recall the details of their abuse multiple times, particularly if they have matters before the family courts at the same time as they are seeking FVOs.¹¹⁶

- 2.64 First Nations victim-survivors can be reluctant to report violence because they do not trust police and fear community retribution.¹¹⁷ A lack of trust in the police and the justice system can also be a barrier for migrants and refugees who have experienced harm from authorities in other countries.¹¹⁸
- 2.65 Additionally, the disproportionate harm from FDSV experienced by women and children with insecure visa status is compounded by barriers to reporting abuse, inaccessible systems and a lack of information, and the threat of forced, permanent family separation.¹¹⁹ The Committee heard that the removal of barriers to visa security is needed to help ensure the safety, security and empowerment of women and children with insecure visa status.¹²⁰
- 2.66 Of the 674 women supported by inTouch Women's Legal Centre in 2023-24, 91 per cent spoke a language other than English as their first language and 87 different languages were spoken by clients.¹²¹ Language barriers prevent these women from accessing mainstream legal services. inTouch Women's Legal Centre said this means that without their services, many women would 'likely miss out on legal representation altogether', stating:
- Many try to self-represent, affecting court time and resulting in poor individual outcomes. Further, where interpreters are available, the additional time required to explain legal proceedings and prepare court documentation via an interpreter often means sufficient time with lawyers is not accessible due to limited funding.¹²²
- 2.67 SMLS reported that FVO application forms in Victoria are only available in complex, legal English and, when combined with a shortage of interpreters, this means it can be impossible for many victim-survivors to interact with the justice system without further assistance. Often there may be no direct translations for the legal terms in other languages.¹²³
- 2.68 Interpreters are essential to ensuring procedural fairness in the justice system, particularly for First Nations and CALD people. However, there are gaps in the availability of qualified interpreter services, particularly outside of the major cities and

¹¹⁵ VALS, *Submission 81*, page 10.

¹¹⁶ inTouch Women's Legal Centre, *Submission 84*, page 15; Safe Steps Family Violence Response Centre, *Submission 39*, page 6.

¹¹⁷ NATSIWA, *Submission 60*, page 3.

¹¹⁸ Asylum Seeker Resource Centre (ASRC), *Submission 42*, page 4.

¹¹⁹ ASRC, *Submission 42*, page 1.

¹²⁰ ASRC, *Submission 42*, page 2.

¹²¹ inTouch Women's Legal Centre, *Submission 84*, page 5.

¹²² inTouch Women's Legal Centre, *Submission 84*, page 16.

¹²³ SMLS, *Submission 80*, page 10.

for certain language groups, which significantly impacts access to justice.¹²⁴ LCA said:

Concerningly, if a victim-survivor of family violence is unable to access a suitably qualified interpreter, especially at an early stage, they may be unable to engage meaningfully with the justice system, and may not receive the protection or remedies that they require—ultimately putting their safety and wellbeing at risk.¹²⁵

2.69 The broader trend towards information only being available online and the mandated use of online systems, including online application forms for FVOs, adds additional challenges for victim-survivors with low English language and digital literacy skills, and people with disability. The Committee heard that, in Victoria, courts have shifted towards online FVO application forms that are only available in English, and there has been a reduction in court staff support. This has increased pressure on services that support migrant and refugee women to navigate online systems.¹²⁶ Requiring users to navigate digital technology and forms that are only available in English can further marginalise victim-survivors who are migrants or refugees.¹²⁷

2.70 SMLS called for:

- explanatory statements to be available in plain English and translated into other languages to educate people of their rights and responsibilities
- information to be culturally informed and adapted to what each community needs
- grassroots organisations to be resourced to help share information.¹²⁸

2.71 There was support for police and court services to have a uniform policy and training program for working with interpreters¹²⁹, for there to be CALD community liaison officers in all police stations and courts, and for regular community legal education to be provided in key languages.¹³⁰

Safety at court

2.72 Victim-survivors often feel unsafe during court appearances and may be frightened and traumatised by having to be in the same room as their perpetrator. Having access to separate entrances and safe waiting areas is important for victim-survivors, however this depends largely on the court's location. Courts in regional and rural areas are smaller and often lack the safety measures found in city courts.¹³¹

¹²⁴ LCA, *Submission 67*, pages 24-25.

¹²⁵ LCA, *Submission 67*, page 25.

¹²⁶ Northern Community Legal Centre (NCLC), *Submission 75*, page 5.

¹²⁷ NCLC, *Submission 75*, page 6; SMLS, *Submission 80*, page 10.

¹²⁸ SMLS, *Submission 80*, page 10.

¹²⁹ inTouch Women's Legal Centre, *Submission 84*, page 9.

¹³⁰ ASRC, *Submission 42*, pages 2-3.

¹³¹ VALS, *Submission 81*, pages 9-10.

- 2.73 There was support for courts in all locations to have separate entrances and safe waiting areas for victim-survivors¹³², as well as other measures that support safety such as shuttle conferencing.¹³³ However, the effectiveness of safety measures depends on court and other support staff having knowledge of those measures to assist victim-survivors with safety planning, as well as clear communication and signage.¹³⁴
- 2.74 The inclusion of court locations on FVOs may put victim-survivors at risk, because perpetrators may use this information to locate victim-survivors.¹³⁵ However, it was noted that a respondent must know what court they need to lodge their objection to.¹³⁶

Remote participation in online hearings

- 2.75 There was support for all victim-survivors to be able to participate in FVO proceedings remotely, either by phone or video link.¹³⁷ When implemented well, remote participation in hearings can enhance access to legal protection while reducing risks for victim-survivors.¹³⁸ Remote hearings can remove barriers for First Nations women reporting abuse and participating in court proceedings, can be safer and less traumatic, can reduce travel and disruption for families and may reduce security requirements for the court.¹³⁹
- 2.76 However, some victim-survivors may be fearful that engaging in remote hearings can undermine their credibility and seriousness, and may not fully convey their personal presence and demeanour to a magistrate.¹⁴⁰ Other issues with remote proceedings, such as long wait times and exposure to unrelated and often traumatising court matters, and difficulties communicating with lawyers and interpreters, add to the distress and frustration of victim-survivors.¹⁴¹

Inconsistency between parenting orders and FVOs

- 2.77 As previously noted, the *Family Law Act 1975* (the Act) allows the family law courts to make parenting orders setting out arrangements for children, such as who they will live with and when. These orders may override state or territory FVOs, for example to grant access to children, can put victim-survivors at risk of harm and may anchor them to their abusers.

¹³² FCLCV, *Submission 79*, page 21.

¹³³ PCLS, *Submission 78*, page 10.

¹³⁴ FCLCV, *Submission 79*, page 20.

¹³⁵ PCLS, *Submission 78*, page 2.

¹³⁶ Attorney-General of Western Australia, *Submission 88.1*, page 3.

¹³⁷ BPIFVP and SMFVRIC, *Submission 41*, page 13; NATSIWA, *Submission 60*, page 4.

¹³⁸ SMLS, *Submission 80*, page 12.

¹³⁹ NATSIWA, *Submission 60*, page 4.

¹⁴⁰ SMLS, *Submission 80*, page 10.

¹⁴¹ SMLS, *Submission 80*, page 11.

2.78 The Committee heard that where parenting orders are inconsistent with FVOs, the safety of victim-survivors and children should be consistently prioritised by state and territory courts through referral to section 68R of the Act.¹⁴² There was support for the 2010 Australian Law Reform Commission recommendations to be implemented, which would:

- require state and territory judicial officers making or varying an FVO to consider altering parenting orders under section 68R
- include an option to apply for changes to parenting orders in application forms for FVOs.¹⁴³

2.79 State and territory courts have the capacity, under section 68R of the Act to revive, vary, discharge or suspend a parenting order that provides for a child to spend time with a person. However, the Committee heard they are reluctant to do so, meaning that applicants will typically be referred to the family law courts¹⁴⁴, and commonly be 'kicked between the two courts'.¹⁴⁵ Single Mother Families Australia said there is a 'timidness' around prioritising FVOs:

Under the parenting orders, the non-custodial parent can go to the court and deny any sort of relocation, irrespective of how many [FVOs] there have been or how unsafe the women and children are. Currently, I'm working with a woman ... over the years, there have been 10 [FVOs]. He doesn't see the children, nor does he pay child support. She lives in a place where she's always one small breath away from being homeless, with four children, because of the high rent and the lack of family. She's not allowed to leave to go and have that family support. That's not unusual ... There is a real timidness ... We see the police who have done the work to get that [FVO] just go: 'Ugh, okay, so now he's got access to you at a McDonald's carpark at nine o'clock at night or eight o'clock in the morning. You must be terrified.'¹⁴⁶

2.80 AGD said there could be '... a lack of understanding or a cultural impediment to stepping into the shoes of the family law court system, which obviously makes those orders based on quite a lot of knowledge and expertise around how to assess what might be in the best interests of children, for example.'¹⁴⁷

¹⁴² PCLC, *Submission 77*, page 3; FCLCV, *Submission 79*, page 8; NWSA, *Submission 50*, pages 4 and 6; FLPA, *Submission 12*, page 6.

¹⁴³ WLSA, *Submission 69*, page 9; Associate Professor Miranda Kaye, *Submission 6*, page 3. See also: Australian Law Reform Commission (ALRC) and New South Wales Law Reform Commission, *Family Violence: A National Legal Response*, ALRC Report 114, 2010, pages 56-57.

¹⁴⁴ NWSA, *Submission 50*, page 4; WLSA, *Submission 69*, pages 8-9; Westjustice, *Submission 68*, page 8; Ms Ajsela Siskovic, Executive Manager of Legal Services and Principal Lawyer, inTouch Multicultural Centre Against Family Violence, *Committee Hansard*, 23 August 2024, page 11.

¹⁴⁵ Ms Siskovic, inTouch Multicultural Centre Against Family Violence, *Committee Hansard*, 23 August 2024, page 11.

¹⁴⁶ Terese Edwards, Chief Executive Officer, Single Mother Families Australia, *Committee Hansard*, 23 August 2024, page 12.

¹⁴⁷ Mrs Byng, AGD, *Committee Hansard*, 11 October 2024, page 15.

- 2.81 There was also support for enhanced education, training, guidelines and resources about resolving inconsistencies between FVO and parenting orders for judicial officers and legal practitioners.¹⁴⁸ For example, Federation of Community Legal Centres Victoria (FCLCV) said that improving the knowledge of judicial officers and legal practitioners on the appropriate use of section 68R may help safeguard against systems abuse and the undermining or devaluing of parenting orders.¹⁴⁹
- 2.82 LCA called for clear and accessible guidance and educational resources on the legal intersection of FVOs and parenting orders for police and the broader community.¹⁵⁰
- 2.83 AGD advised that state and territory magistrates have access to guidance on the application of section 68R in the *National Domestic and Family Violence Bench Book* (the Bench Book) and the Family Violence in the Court (FViT) training program, which are co-funded by the Australian, state and territory governments:
- The Bench Book is available to judicial officers in all Australian jurisdictions and aims to promote best practice, develop consistency in judicial decision-making and improve court experiences for victim-survivors. The Bench Book provides an overview of section 68R of the Act and highlights important considerations for its application.
 - FViT is delivered to judicial officers across Australia in all jurisdictions on a periodic basis and includes training on the application of section 68R.¹⁵¹
- 2.84 Australian Government is contributing \$400,000 over five years in 2022-23 for the maintenance of the Bench Book and the development and delivery of FViT.¹⁵²
- 2.85 Where FCFCOA makes parenting orders that are inconsistent with FVOs, FCFCOA is required under section 68P of the Act to give a comprehensive explanation for the order and advise the police, child protection and the court that made the FVO that the change has been made. By contrast, where a state or territory court varies or overrides a family law order (under section 68R) there is no legislative requirement for it to notify the court that made the original order. FCFCOA said it ‘would benefit from being provided with any State or Territory orders which impact existing parenting orders in making informed case management and substantive parenting decisions.’¹⁵³

¹⁴⁸ PCLC, *Submission 77*, page 3; WLSA, *Submission 69*, page 9; FCLCV, *Submission 79*, page 18; NWSA, *Submission 50*, page 4; HRCLS, *Submission 72*, page 7. See also: ALRC and New South Wales Law Reform Commission, *Family Violence: A National Legal Response*, ALRC Report 114, 2010, pages 56-57.

¹⁴⁹ FCLCV, *Submission 79*, page 18.

¹⁵⁰ LCA, *Submission 67*, page 20.

¹⁵¹ AGD, *Submission 15.1*, page [23].

¹⁵² AGD, *Submission 15.1*, page [23].

¹⁵³ FCFCOA, *Submission 54*, page 5.

Animal abuse and FDSV

- 2.86 Animal abuse and FDSV commonly co-occur.¹⁵⁴ Women's Legal Services Australia (WLSA) said its clients frequently report intentional animal abuse as a form of FDSV, in which 'abusers exploit the close emotional bond shared by them, their children, and their animals, to inflict significant harm upon our clients. Clients have disclosed various abuse, torture, and death of their animals at the hands of their abusers.'¹⁵⁵ Threats to harm pets are a powerful tool that perpetrators of FDSV use to control victim-survivors and may prevent or delay them from leaving an abusive relationship.¹⁵⁶ According to Lucy's project, a national charity that aims to improve the safety and wellbeing of people and animals impacted by domestic and family violence, finding crisis accommodation that will allow pets is difficult and can be a reason for victim-survivors to stay in unsafe housing.¹⁵⁷ Amendments to the Act were passed by both Houses in November 2024 that will require the family law courts to consider FDSV when determining pet ownership.¹⁵⁸
- 2.87 Some inquiry participants argued that state and territory courts may be better suited to addressing the safety and care of animals in the context of FDSV because of the time and costs associated with pursuing orders through the family courts, and the need for victim-survivors to interact with their abusers again in the separate family law system.¹⁵⁹
- 2.88 The Committee heard that animal abuse is not adequately recognised as FDSV in state and territory laws. WLSA noted that animal abuse is only recognised as a form of family violence in Victoria and New South Wales, and even in those states 'the definitions are inadequate as they are piecemeal and do not provide positive obligations for animals to be protected from abusers.'¹⁶⁰
- 2.89 Victim-survivors are currently limited in their ability to recover their animals through current FVO processes. For example, victim-survivors in New South Wales may seek an ancillary property recovery order to recover their animals during FVO proceedings, but only if the FVO has not been finalised and where there is no dispute over the animal's ownership.¹⁶¹
- 2.90 There was support for:

¹⁵⁴ Lucy's Project, *Submission 47*, page 1.

¹⁵⁵ WLSA, *Submission 69*, page 16.

¹⁵⁶ WLSA, *Submission 69*, page 16; Lucy's Project, *Submission 47*, page 1.

¹⁵⁷ Lucy's Project, *Submission 47*, page 6.

¹⁵⁸ The Hon Mark Dreyfus KC MP, Attorney-General, 'More reform delivers a simpler, safer and fairer family law system', *Media release*, 29 November 2024.

¹⁵⁹ WLSA, *Submission 69*, pages 17-18; FCLCV, *Submission 79*, page 27.

¹⁶⁰ WLSA, *Submission 69*, page 16.

¹⁶¹ WLSA, *Submission 69*, page 17.

- FVO legislation in all states and territories to be amended to explicitly recognise animal abuse as a form of FDSV, and to include an order for the protection of animals in FVOs¹⁶²
- laws that would enable the state and territory courts to make orders for the transfer of an animal's registration¹⁶³
- resources and education to raise awareness of animal abuse in the context of FDSV and coercive control¹⁶⁴
- wrap-around services to provide animal-inclusive support for victim-survivors fleeing abusive relationships.¹⁶⁵

2.91 Recent amendments to the Act will mean that animals will be treated by the family law courts as 'a special form of property' and the courts will be required to consider FDSV when determining pet ownership. While it is important that the family law courts can make orders for who pets will live with following separation, and to consider the abuse of animals as FDSV, state and territory courts could intervene more swiftly to prevent harm during FVO proceedings. However, it is beyond the scope of this inquiry to consider whether treating pets as 'a special form of property' precludes the ability of state and territory courts to make animal custody orders, where there is a risk of animal abuse, during FVO proceedings. There may be merit in exploring the feasibility of state and territory courts being able to make animal custody orders as part of FVO proceedings.

Committee comment

- 2.92 There is a crisis of gendered violence in this country and weaknesses in the laws and responses that are intended to keep women and children safe. Testimonies from victim-survivors show how serious and unacceptable the consequences of inadequate laws and responses can be.
- 2.93 While the Committee has no power to make recommendations to the states and territories, the effectiveness of FVOs and their intersection with the family law system are central to this inquiry's terms of reference and critical to ending violence against women and children in one generation under the National Plan. There is urgency in the task ahead, and this is recognised by the Australian Government's family law reforms, measures supporting the National Plan, and commitments agreed by National Cabinet.
- 2.94 The findings of the National Review of FVO frameworks will be important in identifying opportunities for greater consistency across jurisdictions and areas for reform, including in relation to the scope of NDVOS. Currently, the degree of variation in FDSV and FVO laws and police responses across Australia is

¹⁶² WLSA, *Submission 69*, page 19; Lucy's Project, *Submission 47*, page 4; FCLCV, *Submission 79*, page 27; Domestic Violence NSW, *Submission 57*, pages 2-3.

¹⁶³ FCLCV, *Submission 79*, page 27; WLSA, *Submission 69*, page 19.

¹⁶⁴ FCLCV, *Submission 79*, page 27.

¹⁶⁵ Lucy's Project, *Submission 47*, page 3.

unreasonable and a barrier to safety and justice for victim-survivors. Australians have a right to expect access to the same protections, regardless of where they live.

- 2.95 While the Committee recognises it will be up to the states and territories to consider the findings of the National Review, the Attorney-General should advocate for shared, consistent definitions of FDSV, nationally harmonised FVO laws, and consistency in access, application processes and enforcement, and messaging of FVO requirements.
- 2.96 Children and young people should be able to apply for FVOs and to be named as protected persons on FVOs. The greater use of interim FVOs may be needed to protect children until parenting orders have been finalised.
- 2.97 Many police officers are committed to keeping women and children safe in Australia and their important work is valued and respected. However, women are frequently being dismissed or disbelieved by police when they report FDSV and breaches of FVOs and are being put at risk when no action is taken. Victim-survivors are being misidentified as primary perpetrators. Police are refusing to act in matters involving children. These policing practices put women and children at risk, corrode trust in the justice system, are incompatible with the National Plan and must be addressed by the states and territories urgently.
- 2.98 Rapidly improving the capacity of police to make own-motion FVOs should be prioritised. However, this is contingent on improved training to minimise the risk of misidentification and the legal intersection between FVOs and parenting orders. The police training being developed by AGD in conjunction with the states and territories will be critical in overcoming barriers to safety for victim-survivors and its success will require strong buy-in by police in all jurisdictions. However, education and training should be combined with examination by states and territories of their police responses to FDSV to ensure systemic issues are addressed.
- 2.99 The Committee is concerned that crucial information about FVOs and breaches is not being shared between police in different jurisdictions, and family law court orders are not being routinely shared with police. It is critical that NDVOS be enhanced to increase the visibility of violent offenders across jurisdictions. NDVOS must enable and require real-time updating of FVOs, conditions and breaches. The review of FVO frameworks should consider including real-time updating of family law orders in NDVOS and developing NDVOS into a national database that all relevant justice bodies can access, with appropriate safeguards.¹⁶⁶

Recommendation 1

- 2.100 The Committee recommends that, in the next Parliament, the Australian Government work with the states and territories to increase the visibility of violent offenders across jurisdictions through the National Domestic Violence**

¹⁶⁶ The next chapter makes further findings relating to information sharing.

Order Scheme (NDVOS). NDVOS should enable and require real-time updating of family violence orders (FVOs), conditions and breaches.

- 2.101 Further work is required to raise awareness of how FVOs are recognised and enforced across jurisdictions through NDVOS, and the legal intersection between FVOs and parenting orders.

Recommendation 2

- 2.102 The Committee recommends that, in the next Parliament, the Attorney-General work with the states and territories to develop and implement a community education program to raise awareness of how FVOs are recognised and enforced across Australia through NDVOS, and the legal intersection between FVOs and parenting orders.**

- 2.103 Many victim-survivors find the process of applying for an FVO confusing and intimidating. All governments need to ensure that the process is as easy to navigate as possible for people at the most stressful and traumatic times of their lives. Victim-survivors must be supported by police and courts with culturally safe and trauma-informed practices.
- 2.104 Further work is needed to build trust between First Nations, refugee and migrant communities and the justice system, including having First Nations and CALD community liaison officers in all police stations and courts.
- 2.105 FVO application forms and information must be accessible to First Nations, CALD people, those with low digital literacy skills or poor online access, or who are living with disability. All jurisdictions should have training and protocols for the mandatory use of interpreters in the justice system when they are required.
- 2.106 Safety measures are needed at all courts, including separate entrances and safe waiting areas for victim-survivors, to be complemented by staff training on safety planning, communication and signage. Remote hearings should be an option for all victim-survivors, however further work is needed to ensure remote hearings are accessible for all.
- 2.107 Parenting orders that are inconsistent with FVOs can put victim-survivors and children at risk. The state and territory courts should be amending parenting orders that are inconsistent with FVOs to prioritise the safety of children and their caregivers. There are already resources and training to build the capacity of state and territory courts to vary parenting orders under section 68R of the Act, yet courts remain reluctant step into the shoes of the family law courts. Legislative change, as recommended by the Australian Law Reform Commission in 2010, is needed.
- 2.108 Evidence to this inquiry suggests that coercive control remains poorly recognised and progress towards implementing the National Principles is uneven. The delivery of training for legal practitioners and police on coercive control will be critical for ensuring the aims of the National Principles are realised. There is a need for

research evaluating the implementation and effectiveness of the National Principles to ensure positive change and sustained results, and so that any unintended effects can be identified.

Recommendation 3

2.109 The Committee recommends that, in the next Parliament, the Attorney-General advocate for, and assist all states and territories to:

- **adopt nationally harmonised:**
 - **legal definitions of family, domestic and sexual violence (FDSV)**
 - **family violence laws and consistency in access, application processes and enforcement, and messaging of FVO requirements**
- **allow children and young people to apply for FVOs and to be named as protected persons on FVOs**
- **rapidly improve police responses to reports of FDSV and police recognition of coercive control, including:**
 - **the capacity of police to make own-motion FVOs**
 - **minimising the risk of misidentification of victim-survivors as primary perpetrators and systems abuse**
 - **implementing culturally safe and trauma informed models of response**
 - **improving knowledge of the legal intersection between FVOs and parenting orders, and the obligation for police to assist victim-survivors to obtain FVOs and respond to breaches of FVOs in matters involving children where the statutory basis is met**
- **ensure information, application forms and court proceedings are accessible for First Nations and culturally or linguistically diverse people, those with low digital literacy skills or poor online access, or who are living with disability**
- **make court proceedings safer by:**
 - **supporting all applicants to participate in hearings remotely if they wish**
 - **ensuring there are safe entrances and waiting areas, and safety protocols in all courts for applicants in FDSV matters**
- **make amendments to laws to require courts making or varying an FVO to consider varying parenting orders to prioritise the safety of victim-survivors and children under section 68R of the *Family Law Act 1975*, and to notify the court that made the original parenting order if the parenting order is varied**
- **include an option to apply for changes to parenting orders in application forms for FVOs.**



3. The family law system — barriers to safety and fairness for victim-survivors

- 3.1 As earlier chapters have established, victim-survivors of family, domestic and sexual violence (FDSV) must navigate two separate court systems to be protected by family violence orders (FVOs) under state and territory law and to resolve divorce, parenting arrangements for children, and property, spousal and child maintenance issues through the federal family law system under the *Family Law Act 1975* (the Act). The dual state and territory FVO and family law systems make it difficult for victim-survivors of FDSV to safely and fairly navigate separation.¹
- 3.2 Despite recent amendments to the Act that removed the presumption of equal shared parental responsibility and which require courts to consider FDSV in parenting and property matters, the Committee heard more needs to be done to overcome a pro-contact culture that prioritises time spent with both parents.² For example, the Law Council of Australia (LCA) welcomed the recent reforms but said that ‘the family law system, as a whole, is not sufficiently equipped to address and respond appropriately to the complexities of family violence.’³ The Council of Single Mothers and their Children (CSMC) said it continues to receive reports of courts dismissing allegations of FDSV and refusing to consider risks to children.⁴
- 3.3 Family law proceedings were described as inaccessible, drawn-out, expensive and adversarial, and may keep victim-survivors tied to their abusers despite the safety risks this poses.⁵ This chapter considers barriers to safety and fairness for victim-survivors of FDSV in the family law system, including:
- the duration and cost of family law proceedings
 - managing and responding to the escalation of FDSV risk in the family law system

¹ Law Council of Australia (LCA), *Submission 67*, page 5; Women’s Legal Services Australia (WLSA), *Submission 69*, page 10; Australian Institute of Family Studies (AIFS), *Submission 52*, page 7; Dr Rachel Carson, Executive Manager, Family Law, Family Violence and Elder Abuse Research Program, AIFS, *Committee Hansard*, 23 August 2024, page 5; Mr Nick Tebbey, National Executive Director, Relationships Australia, *Committee Hansard*, 23 August 2024, page 35; Uniting Vic. Tas, *Submission 65*, page 9.

² AIFS, *Submission 52*, page 7.

³ LCA, *Submission 67*, page 10.

⁴ Council of Single Mothers and their Children (CSMC), *Submission 37*, page 3.

⁵ Ms Lara Glasson, Director and Secretary, Domestic Violence Advocacy Australia (DVAA), *Committee Hansard*, 23 August 2024, page 14.

- barriers to inclusive engagement in family law proceedings
- the family law courts' ability to make orders for the protection of victim-survivors
- ensuring children are protected and their views represented safely
- eliminating opportunities for systems abuse.⁶

Duration and cost of family law proceedings

- 3.4 Drawn-out family law proceedings expose victim-survivors and children to an extended period of elevated FDSV risk, including threats of physical violence to women and children, and financial and systems abuse. Victim-survivors will be told '...you will lose your child. I'm going to bankrupt you. I'll get every cent out of you.'⁷ Delays in finalising proceedings extend victim-survivors' trauma.⁸
- 3.5 The length of proceedings increases the costs involved in obtaining parenting or property orders, and delaying tactics are a common form of systems abuse used by perpetrators of FDSV.⁹ Where victim-survivors do not meet eligibility criteria to receive free legal representation or exhaust the support they are eligible to receive¹⁰, the costs of private legal representation can be financially ruinous. Family Law Practitioners Association of Queensland described the family law jurisdiction has having 'an enormous capacity to run people out of money' because of the duration of proceedings.¹¹
- 3.6 Applying for orders in the Federal Circuit and Family Court of Australia (FCFCOA) means completing a minimum of three forms. The cost for a private solicitor to complete this process was estimated at between \$3,000 and \$10,000.¹² Overall costs of paying private legal fees for protracted FVO and family law matters were reported to be in the order of several hundreds of thousands of dollars.¹³ These costs can be particularly crippling for low-income earners, families experiencing multiple vulnerabilities and disadvantage¹⁴, and for victim-survivors who are primary caregivers for children and may be financially reliant on the perpetrator.¹⁵

⁶ Some of the key weaknesses in the family law system that were identified by stakeholders, such as the misidentification of victim-survivors as perpetrators and systems abuse, reflect weaknesses in the state and territory justice systems and were discussed in the previous chapter.

⁷ Ms Andi Sebastian, Communication and Policy Coordinator, CSMC, *Committee Hansard*, 23 August 2024, page 21.

⁸ Royal Australian and New Zealand College of Psychiatry, *Submission 66*, page 4.

⁹ Australia's National Research Organisation for Women's Safety (ANROWS), *Submission 62*, page 9; Ms Emma Husar, Chair and Founder, DVAA, *Committee Hansard*, 23 August 2024, page 18; Federation of Community Legal Centres Vic. (FCLCV), *Submission 79*, page 14; Peninsula Community Legal Centre (PCLC), *Submission 77*, page 8; WLSA, *Submission 69*, page 5.

¹⁰ The importance of legal and other supports for victim-survivors is examined further in the next chapter.

¹¹ Mr Matthew Taylor, Secretary and Board Member, Family Law Practitioners Association of Queensland (FLPA), *Committee Hansard*, 30 August 2024, page 18.

¹² FLPA, *Submission 12*, page 3.

¹³ Name withheld, *Submission 82*, page 11.

¹⁴ Centre for Excellence in Child and Family Welfare, *Submission 55*, page 2.

¹⁵ South-East Monash Legal Service (SMLS), *Submission 80*, page 9.

- 3.7 High legal costs can mean victim-survivors do not commence proceedings when they should, do not respond to proceedings brought by their perpetrators, or settle and agree to unsafe parenting arrangements simply because they cannot afford to continue proceedings.¹⁶
- 3.8 CSMC reported many women having to sell their businesses or homes to pay for ‘the constant call back into the court’ because of family law proceedings being weaponised by their abusers.¹⁷ CSMC said there is a public misconception that family law matters are relatively straightforward: ‘... firstly, you go to a lawyer and you get some advice; secondly, you do a bit of work and go to court; and thirdly, the orders are interpreted—that’s it. That is so far from the truth and from the experience.’¹⁸
- 3.9 Concerns were raised that some firms were inflating legal costs for their own benefit. Domestic Violence Advocacy Australia called for a cap on lawyer fees¹⁹, and reported:
- There are cases where it’s six figures already and they’ve only had one mediation session and an interim hearing ... I think a victim of domestic violence looks to their legal team for support and assistance, and that legal team then just drives up fees, possibly without considering whether there’s a need, particularly if they think that there’s a giant asset pool that they can pull from.²⁰
- 3.10 The cost of filing fees in FCFCOA can be a further barrier for those victim-survivors with limited financial resources.²¹ For example, the current filing fee for an application for divorce is \$1,100, while an initiating application for parenting and financial orders, including both interim and final orders, is \$840.²²
- 3.11 Expediting family law proceedings can de-escalate the risk of harm and violence and reduce costs for victim-survivors.²³ However, the Committee heard FCFCOA does not currently have the capacity to expedite and prioritise all high-risk matters and further resourcing may be needed.²⁴ More judges and registries may reduce wait times and parties’ overall costs.²⁵

¹⁶ WLSA, *Submission 69*, page 3; Mr Harry McDonald, Board Member, FLPA, *Committee Hansard*, 30 August 2024, page 18.

¹⁷ Ms Sebastian, CSMC, *Committee Hansard*, 23 August 2024, page 21.

¹⁸ Ms Sebastian, CSMC, *Committee Hansard*, 23 August 2024, page 21.

¹⁹ Ms Husar, DVAA, *Committee Hansard*, 23 August 2024, page 23.

²⁰ Ms Glasson, DVAA, *Committee Hansard*, 23 August 2024, page 24.

²¹ Ms Cleona Feuerring, Legal Director, Family Violence and Family Law Program, Westjustice, *Committee Hansard*, 30 August 2024, pages 27-28.

²² Federal Circuit and Family Court of Australia (FCFCOA), *Family law fees*, www.fcfcga.gov.au/fl/fees/fl-fees, accessed 3 December 2024. A reduced filing fee of \$365 for divorce is available for concession card holders and where applicants can demonstrate financial hardship.

²³ Name withheld, *Submission 82*, page 5.

²⁴ FCLCV, *Submission 79*, page 13.

²⁵ Mr Taylor, FLPA, *Committee Hansard*, 30 August 2024, page 18.

Escalation of aggressive and violent behaviours in the family law system

- 3.12 As noted in chapter one, the risk of escalation in the aggressive and violent behaviours of perpetrators of FDSV towards partners and children increases during and after relationship breakdown²⁶, and this risk is further heightened during family law proceedings.²⁷
- 3.13 While most families resolve separation without having to go to court, the matters that do proceed to FCFCOA and the Family Court of Western Australia (FCWA), referred to collectively as the family law courts, are complex and include multiple FDSV and child abuse risk factors.²⁸ In 2023-24, more than 8,400 applications were made to FCFCOA for final orders.²⁹ Of these:
- 73 per cent of matters involved allegations of child abuse
 - 83 per cent of matters involved allegations a party had experienced family violence
 - 77 per cent of matters involved allegations a child had experienced family violence
 - 55 per cent of matters involved allegations that drug, alcohol or substance misuse by a party had caused harm to a child or posed a risk of harm to a child
 - 61 per cent of matters involved allegations that mental health issues of a party had caused harm to a child or posed a risk of harm to a child
 - 47 per cent of matters involved allegations that a child was at risk of being abducted
 - 22 per cent of matters involved allegations that there had been recent threats made to harm a child or other person relevant to the proceedings.³⁰
- 3.14 This section considers approaches to managing and responding to the escalation of FDSV risk in the family law system, including risk assessment, triage and case management, effective information sharing between jurisdictions and key agencies such as police and child protection, and measures to ensure victim-survivors can safely engage in court proceedings.

²⁶ ANROWS, *Submission 62*, page 8.

²⁷ WLSA, *Submission 69*, page 3.

²⁸ About three per cent of separated parents use courts as their main pathway to resolving parenting arrangements, while 16 per cent are assisted by family dispute resolution services or lawyers. See: Attorney-General's Department (AGD), *Submission 15*, page 4.

²⁹ FCFCOA, *Submission 54*, page 8.

³⁰ FCFCOA, *Submission 54*, pages 2 and 8. Most of these matters involved multiple, different risk factors being alleged by one or both of the parties and 70 percent involve four or more of such risk factors.

Risk assessment, triage and case management

- 3.15 The Act requires that the family law courts be informed about FDSV and child abuse risks and the courts have a mandatory obligation to report this information to child welfare authorities.³¹ A notice of child abuse, family violence or risk (notice of risk) form must be filed by anyone seeking parenting orders through FCFCOA, and where allegations of child abuse, family violence or risk are made in relation to parenting orders sought through FCWA. The form must be served on all other parties to the proceedings.³² This requirement can expose victim-survivors to further risk, particularly if they do not have legal representation.³³ Some perpetrators of FDSV seek to abuse the system by submitting a cross notice of risk describing the victim-survivor as violent, an alienator, liar or mentally unwell.³⁴
- 3.16 FCFOA has developed improvements to how it manages the high levels of risk in parenting matters. The Lighthouse Program, which includes risk screening, triage and case management, was implemented in 15 registries in 2022, following a pilot that began in 2020.³⁵ Lighthouse includes:
- voluntary risk screening via a confidential and secure online platform
 - triage to direct cases into the most appropriate case management pathway, based on the level of risk, supported by a team of counsellors.³⁶
- 3.17 Courts use ‘lists’ to manage how some matters are handled and what resources are allocated to support them.³⁷ Matters with the highest levels of risk are placed on the Evatt List, which focuses on early information gathering and intervention. The Evatt List team has additional specialised training.³⁸ The Evatt List was expanded to 15 registries in 2022 to support Lighthouse.³⁹ Funding for Lighthouse is currently due to expire in 2025-26.⁴⁰
- 3.18 FCFCOA reported that, since 2022, 88 per cent (5,189) of eligible matters have had at least one party being sent the risk screen and of these, 73 per cent have at least one party completing a risk screen.⁴¹ Of the risk screens completed by parties, 59 per cent were classified as high risk.⁴²

³¹ *Family Law Act 1975*, sections 67Z, 67ZBA and 69ZQ(1)(aa).

³² FCFCOA, *Notice of child abuse, family violence or risk*, www.fcfoa.gov.au/fl/forms/notice-cafvor, accessed 30 October 2024; Family Court of Western Australia (FCWA), *Notice of child abuse and family violence (or risk) — form 4*, www.familycourt.wa.gov.au/_files/Forms/Form_4_Notice_Child_Abuse_Family_Violence.pdf, accessed 30 October 2024.

³³ Protective Collective, *Submission 92*, page 2; Nerang Neighbourhood Centre, *Submission 3*, page 7. The importance of legal representation for victim-survivors is examined further in the next chapter.

³⁴ Protective Collective, *Submission 92*, page 2.

³⁵ FCFCOA, *Submission 54*, page 2.

³⁶ FCFCOA, *Submission 54*, page 1.

³⁷ FCFCOA, *Submission 54*, pages 1 and 3.

³⁸ FCFCOA, *Submission 54*, page 1.

³⁹ FCFCOA, *Submission 54*, page 2.

⁴⁰ FCFCOA, *Submission 54.1*, page 4.

⁴¹ FCFCOA, *Annual Report 2022-23*, page 16.

⁴² FCFCOA, *Annual Report 2022-23*, page 16.

- 3.19 In addition to the Evatt list, FCFCOA has other specialist lists that provide tailored case management processes that are responsive to family safety risks:
- The Magellan List is a case management pathway that aims to ensure cases involving alleged child abuse are dealt with as effectively and efficiently as possible.
 - The Critical Incident List is designed for family law applications filed in circumstances where there is no parent available to care for children because of death, critical injury, or incarceration relating to family violence.⁴³
- 3.20 Other lists and programs include:
- Special Indigenous Lists, which are supported by Indigenous Family Liaison Officers (IFLOs) to support full participation of First Nations people in court proceedings.
 - The Priority Property Pool program, which assists parties with small value property pools to resolve property disputes. This can minimise risk where matters involve FDSV.⁴⁴
- 3.21 CSMC were concerned that Lighthouse relies on a one-off assessment of risk, and this is not updated as those risks change over time.⁴⁵ FCFCOA acknowledged that risk is dynamic and can change during proceedings and advised it continually assesses risk over the course of proceedings.⁴⁶
- 3.22 FCFCOA said that it was a deliberate policy choice to make the risk screen voluntary and it did not support Lighthouse screening being made compulsory at this time, noting it may increase the risk of systems abuse.⁴⁷ FCFCOA suggested a research partnership could help 'identify if and when any re-screen should occur, including what review, triage and support mechanisms should be in place and what that then means for any case management decisions, and to minimise the chance of re-traumatisation.'⁴⁸
- 3.23 Women's Legal Services Australia (WLSA) said it is important there is robust ongoing monitoring and evaluation of risk assessment, triage and case management within FCFCOA, given the central role of Lighthouse in determining how FCFCOA manages and responds to risk.⁴⁹ According to the Attorney-General's Department (AGD), FCFCOA monitors Lighthouse and it has received positive feedback, particularly in relation to the role and support provided by triage counsellors.⁵⁰ Research is currently being conducted examining Lighthouse risk pathways.⁵¹

⁴³ FCFCOA, *Submission 54*, page 3.

⁴⁴ AGD, *Submission 15*, page 9.

⁴⁵ CSMC, *Submission 37*, page 2.

⁴⁶ FCFCOA, *Submission 54.1*, page 5.

⁴⁷ FCFCOA, *Submission 54.1*, pages 2-3.

⁴⁸ FCFCOA, *Submission 54.1*, pages 3-4.

⁴⁹ WLSA, *Submission 69*, page 8.

⁵⁰ AGD, *Submission 15.1*, page [13]

⁵¹ AGD, *Submission 15.1*, page [14]

- 3.24 WLSA called for wraparound support to be provided to parties in the Evatt List and suggested this be modelled on support provided in the Special Indigenous Lists. This support includes allowing parties to access support services like Family Advocacy and Support Service (FASS) at court events held via videoconference or teleconference.⁵²
- 3.25 As the previous chapter noted, animal abuse and threats to harm pets are commonly associated with FDSV, are used by perpetrators to control victim-survivors and may prevent or delay victim-survivors from leaving an abusive relationship.⁵³ There was support for animal-inclusive risk assessment and safety planning to be conducted to enhance the safety and wellbeing of women and children navigating proceedings in the family law courts.⁵⁴
- 3.26 FCWA has its own system for triaging and case managing matters involving FDSV, which AGD described as a relatively similar process.⁵⁵ The Western Australian Government said Lighthouse and the Evatt List are based on established FCWA processes that have been in place for over a decade.⁵⁶
- 3.27 The Western Australian Government has recently launched a system reform plan for strengthening responses to FDSV, which focuses on workforce development, information sharing, risk assessment and risk management.⁵⁷

Information sharing between agencies and jurisdictions

- 3.28 The Committee heard a range of evidence regarding the importance of appropriate, sensitive and integrated information sharing to improve the safety of those affected by FDSV. Children, families and individuals affected by family violence, child abuse or neglect often interact with both the federal family law system and state and territory systems and agencies responsible for responding to FDSV and child protection. AGD leads several projects to improve collaboration between these systems including the *National Strategic Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems* (National Framework)⁵⁸ and the Co-location Program.⁵⁹ AGD is providing training about the Information Sharing Act for information sharing officers and has developed resources to educate legal professionals and the community.⁶⁰

⁵² WLSA, *Submission 69*, page 12.

⁵³ WLSA, *Submission 69*, page 16; Lucy's Project, *Submission 47*, page 1.

⁵⁴ Lucy's Project, *Submission 47*, page 2; FCLCV, *Submission 79*, page 27.

⁵⁵ Ms Claire Crawford, Director, Information Sharing Section, Family and Community Safety Branch, AGD, *Committee Hansard*, 11 October 2024, page 15.

⁵⁶ Attorney-General of Western Australia, *Submission 88.1*, page 5.

⁵⁷ Ms Kylie Maj, Director General, Western Australian Department of Justice, *Committee Hansard*, 11 October 2024, page 6.

⁵⁸ AGD, *National Strategic Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems* (National Framework) May 2023. The National Framework was endorsed by all Australian, state and territory Attorneys-General in November 2021.

⁵⁹ AGD, *Submission 15*, page 7.

⁶⁰ AGD, *Submission 15.1*, page [15].

- 3.29 As noted in chapter one, the *Family Law Amendment (Information Sharing) Act 2023* (Information Sharing Act) gave effect to key aspects of the National Framework and came into effect in May 2024. The Information Sharing Act broadened the scope of information that can be shared between the family law courts and state and territory policing, firearms and child protection agencies.⁶¹ However, LCA said that information-sharing orders are not yet widely sought or made by FCFCOA.⁶²
- 3.30 The family law courts may share information with state and territory courts, including interim and final orders, written judgements and transcripts, notice of risk and information about the status or details of a family law matter or a party to proceedings. Likewise, state and territory courts can share information with the family law courts including applications, interim and final FVOs, and written judgements and transcripts.⁶³ Despite this, the Committee heard the courts often operate as silos.⁶⁴
- 3.31 There are restrictions on the sharing of evidence between state and territory courts and the family law courts in relation to FVO and family law proceedings. Evidence from family law proceedings such as risk assessments, child impact reports and family reports can provide insight into an alleged perpetrator's behaviour and the risk factors to the children and victim-survivor, however this evidence cannot be shared during FVO proceedings. According to inTouch Women's Legal Centre, this restriction is 'often counterproductive'.⁶⁵
- 3.32 The Magistrates Court of Western Australia and FCWA have long-standing information-sharing arrangements about any relevant history of restraining orders and criminal offending concerning litigants. A family consultant is appointed for all applications for parenting orders, has access to the Western Australian Courts' electronic case management system in the court room and can provide 'live' information to the family law magistrate and the parties.⁶⁶ Of the 1,507 parenting applications made to FCWA in 12 months to April 2024, 1,154 orders were made for police information.⁶⁷
- 3.33 As chapter two noted, the intersection between FVOs and parenting orders can put victim-survivors and children at further risk of FDSV. This issue is compounded by limited visibility of FVOs and parenting orders between state and territory courts and the family law courts. National Women's Safety Alliance (NWSA) said:
- ... parenting orders can be manipulated in ways that force the relocation of children despite FVOs being in place. In these cases, the prospect of a survivor of family violence relocating away from their perpetrator is thwarted as a perpetrator can apply for their return based on the existing parenting orders. Similarly, the intersection between parenting orders and family violence orders

⁶¹ AGD, *Submission 15*, page 7.

⁶² LCA, *Submission 67*, page 16.

⁶³ AGD, *Submission 15.1*, pages 14-15.

⁶⁴ LCA, *Submission 67*, page 15.

⁶⁵ inTouch Women's Legal Centre, *Submission 84*, page 28. See also: Name withheld, *Submission 82*, page 7.

⁶⁶ FCWA, *Submission 10*, page 5.

⁶⁷ Attorney-General of Western Australia, *Submission 88.1*, page 2.

can often mean that a perpetrator of violence may on the one-hand agree without admission to an FVO while simultaneously proffer parenting orders to maintain contact.⁶⁸

- 3.34 The consequences of a lack of integrated judicial oversight of matters between different courts can lead to inconsistent decision-making by courts and makes it more difficult for victim-survivors of FDSV to achieve safe and fair outcomes.⁶⁹ LCA said that:

... proper information sharing between courts would reduce the expense to parties and enhance safety, by ensuring that the FCFCOA has complete and current information about FVOs made in states/territories and can, therefore, make compatible parenting orders.⁷⁰

- 3.35 FCFCOA supported information-sharing protocols being expanded to include FASS and said this would allow FASS to reach at-risk families more effectively.⁷¹ AGD noted that any proposal to extend information-sharing beyond the National Framework to other frontline services that victim-survivors interact with would need to consider safety and privacy related concerns.⁷²
- 3.36 Australian, state and territory data and digital ministers⁷³ agreed in June 2024 that the Australian and Victorian Governments will lead work to improve information sharing across systems and jurisdictions about perpetrators of FDSV. Data and digital ministers will provide advice to National Cabinet on how to improve information sharing on perpetrators and will work with women and women's safety ministers on this advice.⁷⁴

Co-location Program

- 3.37 The Co-location Program involves the co-location of state and territory child protection and policing officials in select family law registries around Australia. According to AGD, the Co-location Program supports the timely sharing of relevant information between family law courts, child protection and policing agencies, fostering a more coordinated response to family safety issues in family law disputes.

⁶⁸ National Women's Safety Alliance (NWSA), *Submission 50*, page 5.

⁶⁹ LCA, *Submission 67*, page 15.

⁷⁰ LCA, *Submission 67*, page 15.

⁷¹ FCFCOA, *Submission 54.1*, page 10.

⁷² AGD, *Submission 15.1*, page [16].

⁷³ Data and digital ministers' meetings are chaired by the Finance Minister and include ministerial representation from all Australian states and territories, and New Zealand. The meetings provide a forum to progress cross-government collaboration on data and digital transformation. See: Department of Finance, *Data and Digital Ministers Meeting*, www.finance.gov.au/government/public-data/data-and-digital-ministers-meeting, accessed 11 December 2024.

⁷⁴ Department of Finance, *Data and Digital Ministers Meeting Communiqué*, 21 June 2024.

This aims to ensure family law judges have relevant information about family violence and child-abuse risks as early as possible in proceedings.⁷⁵

- 3.38 The National Framework implementation includes extending Australian Government funding for the Co-location Program until 30 June 2025⁷⁶, and there was support for funding to be extended beyond 2025.⁷⁷ The Tasmanian Government said the co-location program ‘assists in providing relevant, objective, detailed information’ about FDSV risks ‘directly into the family law system to the judicial officers overseeing matters and has a significant impact on improving safety for victim-survivors and their children.’⁷⁸
- 3.39 According to AGD, an evaluation of the National Framework and the Co-location Program will be undertaken three years following the commencement of the Information Sharing Act in May 2024. The evaluation will examine the impact and effectiveness of the National Framework and the Co-location Program. AGD said the evaluation will provide insight into how the information sharing framework may be broadened.⁷⁹

Opportunities to improve risk assessment and information sharing

- 3.40 There was strong support for developing and adopting:
- an enhanced FDSV risk assessment tool for the family law system, and more broadly across Australian courts⁸⁰
 - an enhanced national risk and information sharing scheme between state and territory courts and agencies, and the family law courts to help ensure the safety of victim-survivors and children, and for technological solutions to be progressed to facilitate this.⁸¹

⁷⁵ AGD, *Family law information sharing*, www.ag.gov.au/families-and-marriage/families/family-law-information-sharing, accessed 4 July 2024. The Co-location Pilot has been independently evaluated. See: AGD, *Co-location Pilot Evaluation – Final Report*, August 2023.

⁷⁶ AGD, *Family law information sharing*, www.ag.gov.au/families-and-marriage/families/family-law-information-sharing, accessed 4 July 2024.

⁷⁷ LCA, *Submission 67*, page 16; Relationships Australia (*Submission 7*, page 4) called for the co-location program to be funded as an ongoing element of the family law system.

⁷⁸ Tasmanian Government, *Submission 51*, page 3.

⁷⁹ AGD, *Submission 15.1*, page [16].

⁸⁰ Bayside Peninsula Integrated Family Violence Partnership and the Southern Melbourne Family Violence Regional Integration Committee (BPIFVP and SMFVRIC), *Submission 41*, page 14; Uniting Vic. Tas, *Submission 54*, page 7; Ms Husar, DVAA, *Committee Hansard*, 23 August 2024, page 22; DVAA, *Submission 38*, page 2; Name withheld, *Submission 82*, page 3; Ms Karen Bevan, Chief Executive Officer, Full Stop Australia, *Committee Hansard*, 23 August 2024, page 22; ANROWS, *Submission 62*, page 4.

⁸¹ LCA, *Submission 67*, pages 15-16; WLSA, *Submission 69*, pages 6-8; Ms Bernadette Grandinetti, Acting Associate Director, Family Law, Victoria Legal Aid, *Committee Hansard*, 30 August 2024, page 6; FCLCV, *Submission 79*, pages 5 and 8; National Legal Aid, *Submission 61*, page 5; NWSA, *Submission 50*, pages 5-6; DVAA, *Submission 38*, pages 5-6; InTouch Women's Legal Centre, *Submission 84*, pages 8 and 27; SMLS, *Submission 80*, page 14.

- 3.41 For example, WLSA advocated for a national risk framework to ensure all courts and agencies are speaking the same language regarding risk.⁸²
- 3.42 NWSA said a national scheme would ‘increase visibility of violent offenders, orders and accountability of the court and enforcement system more broadly. The existing framework limits visibility of orders to court officials and police to rely on the disclosures of parties, rather than have access to real time information.’⁸³ NWSA said that a national and real-time information sharing scheme and register should:
- include a real-time register or dashboard of existing family court orders, family violence orders and other information relating to child protection issues or services
 - should go beyond court-initiated information-sharing orders under the Act and be available in real-time.⁸⁴
- 3.43 The Committee heard Victoria’s Family Violence Multi-Agency Risk Assessment and Management Framework (MARAM) was effective at assessing and responding to FDSV risk in that state. Many inquiry participants suggested MARAM be adapted and adopted as a multi-agency response by other jurisdictions.⁸⁵ MARAM was developed in response to the findings of the Victorian Royal Commission into Family Violence.⁸⁶ It considers a range of evidence-based risk factors and recognises that family law proceedings can increase the risk of family violence escalating in a very short timeframe.⁸⁷ MARAM can help identify who the perpetrator is based on a pattern of behaviour.⁸⁸
- 3.44 LCA noted that most of the states and territories have their own FDSV risk assessment frameworks and described developing and implementing a national system that allows the different systems to talk to each other about FDSV risk as ‘a herculean task’.⁸⁹ LCA suggested a phased approach may be needed and noted that a common definition of FDSV would be required before establishing uniform risk assessment and safety frameworks.⁹⁰ Shared definitions of FSDV across jurisdictions was recommended in the previous chapter.

⁸² Mrs Meaghan Bradshaw, Chair, Family Law and Domestic and Family Violence Committee, WLSA, *Committee Hansard*, 30 August 2024, page 2.

⁸³ NWSA, *Submission 50*, pages 5-6.

⁸⁴ NWSA, *Submission 50*, page 6.

⁸⁵ Uniting Vic. Tas., *Submission 65*, page 7; Ms Bevan, Full Stop Australia, *Committee Hansard*, 23 August 2024, page 22; Ms Bronwyn Pike, Chief Executive Officer, Uniting Vic. Tas., *Committee Hansard*, 23 August 2024, page 36; GenWest, *Submission 91*, page 3; Name Withheld, *Submission 82*, page 3; BPIFVP and SMFVRIC, *Submission 41*, page 6, DVAA, *Submission 38.1*, page 1. See also: Victorian Government, *Family Violence Multi-Agency Risk Assessment and Management Framework*, www.vic.gov.au/family-violence-multi-agency-risk-assessment-and-management, accessed 22 November 2024.

⁸⁶ Uniting Vic. Tas., *Submission 65*, page 6. See: Royal Commission into Family Violence, *Summary and Recommendations*, Parliamentary Paper No. 132 (2014-16), Victoria, March 2016, page 46.

⁸⁷ WLSA, *Submission 69*, page 4; Safe and Equal, *Submission 83*, page 16.

⁸⁸ Ms Husar, DVAA, *Committee Hansard*, 23 August 2024, page 22.

⁸⁹ Ms Jaquie Palavra, Executive Member, Family Law Section, LCA, *Committee Hansard*, 30 August 2024, pages 6-7.

⁹⁰ Ms Palavra, LCA, *Committee Hansard*, 30 August 2024, pages 6-7.

- 3.45 In 2023, AGD commissioned a scoping study of a potential technological solution to support information sharing under the National Framework between the family law courts and the family violence and child protection systems. The scoping study found the digital landscape across the family law, family violence and child protection systems was complex, and noted any national solution would require:
- the coordination and agreement of jurisdictions
 - changes to state and territory legislation and regulation
 - working with different technologies across jurisdictions
 - consideration of how to address privacy concerns.⁹¹
- 3.46 On 6 September 2024, National Cabinet announced measures to better identify high risk perpetrators, to share information about perpetrators across systems and state boundaries and to intervene early to stop violence escalating.⁹² First Ministers agreed to:
- develop new national best practice family and domestic violence risk assessment principles and a model best practice risk assessment framework
 - support enhancements to the National Criminal Intelligence System, which enables information sharing across jurisdictions, to provide a ‘warning flag’ that will assist police responding to high-risk perpetrators
 - extend and increase nationally-consistent, two-way information sharing between the family law courts and state and territory courts, child protection, policing and firearms agencies
 - strengthen system responses to high-risk perpetrators to prevent homicides, by trialling new focussed deterrence models and Domestic Violence Threat Assessment Centres.⁹³
- 3.47 According to the Prime Minister, the new risk assessment principles and trials of focussed deterrence models will be developed in close consultation with First Nations communities.⁹⁴

Safety at court

... I was overwhelmed [being in the same room as the other party] and I had a panic attack afterwards. I shouldn't have been put in a place where that happened ...

⁹¹ AGD, *Submission 15.1*, page [16].

⁹² AGD, *Submission 15.1*, page [16].

⁹³ The Hon Anthony Albanese MP, Prime Minister of Australia, ‘Meeting of National Cabinet’, *Media release*, 6 September 2024.

⁹⁴ The Hon Anthony Albanese MP, Prime Minister of Australia, ‘Meeting of National Cabinet’, *Media release*, 6 September 2024.

... it affected my [next hearing], I just wanted it over. I didn't want to fight, I wanted it over and done with because I didn't want to go through that trauma again ...⁹⁵

3.48 Concerns were raised that not all family law courts have adequate safety features for victim-survivors of FDSV⁹⁶, and some existing safety features may not be effectively utilised.⁹⁷ Staff training, clear communication and signage are important for ensuring court safety measures are effective.⁹⁸

3.49 The Committee heard that the location of safe rooms and access arrangements in some courts present opportunities for victim-survivors of family violence to come into negative contact with perpetrators. For example, Peninsula Community Legal Centre reported:

The location of the safe room at the Dandenong Registry of the Federal Circuit Court, for example, requires clients to enter the court building through the main entrance, cross a public foyer and go up a floor to the court reception desk where they must request the use of the secure room which they need to have booked prior to the court date. Clients are advised to arrive early in the morning prior to their hearing time to avoid coming into contact with the perpetrator. Despite arriving early, a number of our clients have still had intimidating contact with perpetrators in these public areas on the way to the safe room.

In addition, there is only one public door to the secure room meaning users have to pass through the public waiting area in order to access the court. In practice, this means that perpetrators and their family and friends can sit outside the safe room door in order to intimidate clients as they leave the safe room to enter the court.⁹⁹

3.50 Bayside Peninsula Integrated Family Violence Partnership and the Southern Melbourne Family Violence Regional Integration Committee described 'a notable absence' of coordination of safety planning for the duration of family law proceedings. BPIFVP and SMFVRIC gave the example of a victim-survivor, who had been placed in a safe room, being ordered to appear in the court room. The victim survivor was told that 'the cameras would keep her safe'.¹⁰⁰ BPIFVP and SMFVRIC also noted that 'separate entrances and exits 'simply mean the perpetrator and/or connected family members wait for the victim survivor to exit to stalk and intimidate.'¹⁰¹

⁹⁵ PCLC, *Submission 77*, page 9

⁹⁶ PCLC, *Submission 77*, page 9; Victoria Legal Aid, *Submission 40*, page [11].

⁹⁷ BPIFVP and SMFVRIC, *Submission 41*, page 9; PCLC, *Submission 77*, page 9; Victoria Legal Aid, *Submission 40*, page [11].

⁹⁸ FCLCV, *Submission 79*, page 20.

⁹⁹ PCLC, *Submission 77*, page 9.

¹⁰⁰ BPIFVP and SMFVRIC, *Submission 41*, page 9.

¹⁰¹ BPIFVP and SMFVRIC, *Submission 41*, page 9.

- 3.51 Concerns were raised that opportunities to attend a court appointment remotely are inconsistently applied and that many victim-survivors are required to attend in person despite concerns for their or the children's safety.¹⁰²
- 3.52 There was support for all courts to have adequate safety and security measures to minimise risk to victim-survivors FDSV including, separate entrances, safe rooms and secure areas, adequate security staff and facilities for online participation.¹⁰³
- 3.53 FCFCOA said that further resourcing would enable it to enhance the safety and accessibility of court rooms in regional and rural areas, to ensure courts are disability compliant, have adequate safe rooms and safe zones, and are staffed with additional security guards.¹⁰⁴

Barriers to inclusive engagement

- 3.54 The Committee heard there are barriers to engaging in family law proceedings for First Nations, culturally and linguistically diverse (CALD), people with disability, and Australians living outside of the major cities. Concerns were raised about the accessibility of Lighthouse and key court information, gaps in the availability of interpreters, and opportunities to provide more targeted support for overrepresented and vulnerable cohorts.
- 3.55 The Lighthouse risk screen questionnaire is currently not compulsory and is only available in English and online. Stakeholders said this limits the accessibility of Lighthouse for people with low English language and digital literacy, and people with disability.¹⁰⁵ WLSA reported that a 'high number of clients' are not completing the risk screen and recommended further work to ensure Lighthouse is accessible, including for CALD parties, those with low digital literacy and access, and people living with disability.¹⁰⁶
- 3.56 FCFCOA provides options for people who do not feel comfortable completing the risk screen online or who need support to complete the risk screen. According to FCFCOA, there are dedicated iPads for Lighthouse in all registries available for parties to use to complete the risk screen, with in-person support available, and risk screening can be conducted over the phone with the help of a Lighthouse support officer. FCFCOA said that, where parties request specific assistance, 'the Lighthouse team will always endeavour to provide that solution where possible, or where not possible, explore options available for that party.'¹⁰⁷ FCFCOA advised that it offers high risk parties interpreters to engage with triage counsellors.¹⁰⁸

¹⁰² PCLC, *Submission 77*, page 9; BPIFVP and SMFVRIC, *Submission 41*, page 9.

¹⁰³ inTouch Women's Legal Centre, *Submission 84*, page 8.

¹⁰⁴ FCFCOA, *Submission 54.1*, page 4.

¹⁰⁵ WLSA, *Submission 69*, page 6; FCLCV, *Submission 79*, pages 12-13.

¹⁰⁶ WLSA, *Submission 69*, page 8.

¹⁰⁷ FCFCOA, *Submission 54.1*, page 1.

¹⁰⁸ FCFCOA, *Submission 54.1*, page 1.

3.57 LCA identified significant gaps in the availability of appropriately qualified interpreters outside of major cities and for some language groups, especially where the availability of duty lawyers and interpreters does not align. Interpreters are essential at every stage of the justice process for ensuring access to justice and procedural fairness for First Nations and CALD people. LCA said:

Concerningly, if a victim-survivor of family violence is unable to access a suitably qualified interpreter, especially at an early stage, they may be unable to engage meaningfully with the justice system, and may not receive the protection or remedies that they require—ultimately putting their safety and wellbeing at risk.¹⁰⁹

3.58 According to FCFCOA, opportunities to improve the accessibility of risk screening include ongoing funding for Lighthouse and closing gaps in FCFCOA’s resourcing to better support:

- regional and rural communities — Lighthouse is only funded for 15 registries and is unavailable at circuit locations and some regional registries (Albury, Dubbo and Lismore)
- First Nations peoples
- CALD communities
- people with disability.¹¹⁰

3.59 FCFCOA said there is a range of information resources, including information about Lighthouse and triage counselling, that has been translated into key languages.¹¹¹ Further funding would enable FCFCOA to translate support and guidance documents into more languages.¹¹²

3.60 FCFCOA suggested setting up digital hubs in regional and rural Australia and said this may assist disadvantaged parties to engage in court processes.¹¹³

Targeted support for overrepresented and vulnerable cohorts

3.61 In recognition of the overrepresentation of First Nations women as victim-survivors of FDSV, FCFCOA provides targeted support to some First Nations people to enable their full participation in court proceedings and reduce the cost and timeframes of proceedings. According to AGD, Special Indigenous Lists help address the barriers that can make it harder for First Nations people to file initiating applications and attend court by providing culturally responsive alternatives developed in collaboration

¹⁰⁹ LCA, *Submission 67*, page 25.

¹¹⁰ FCFCOA, *Submission 54.1*, page 2.

¹¹¹ FCFCOA, *Submission 54.1*, page 1.

¹¹² FCFCOA, *Submission 54.1*, page 5.

¹¹³ FCFCOA, *Submission 54.1*, page 4.

with local communities and First Nations support services. Special Indigenous Lists are supported by IFLOs.¹¹⁴

- 3.62 FCFCOA said it can currently support about half the First Nations families it engages with because there are not enough funded IFLO positions, and that further funding is needed to ensure all First Nations families receive targeted support.¹¹⁵
- 3.63 FCFCOA has recently received funding to establish a Cultural Liaison Officer (CLO) for the Migration jurisdiction, which FCFCOA suggested could be considered for the family law jurisdiction.¹¹⁶ FCFCOA said that establishing Disability Liaison Officer (DLO) positions in the family law jurisdiction would be ‘incredibly valuable’ given the increased risk and unique barriers experienced by people with disability.¹¹⁷ The CLO and DLO roles would help FCFCOA support vulnerable court users to engage with family law proceedings and to connect them with important legal and social support services.¹¹⁸

Making orders for the protection of victim-survivors

- 3.64 As earlier chapters have established, victim-survivors of FDSV must currently navigate two separate court systems to be protected by FVOs under state and territory law and to resolve parenting or property disputes arising from separation through the family law system. This fragmentation can be time consuming, confusing, costly, retraumatising and needlessly difficult for victim-survivors.¹¹⁹ The process leaves victim-survivors, who are mostly women, distressed, exhausted and impoverished.¹²⁰
- 3.65 There was support for victim-survivors to be able to access the protection of FVOs as well as parenting and property orders, and appropriate supports, in one place.¹²¹ However, concerns were raised about delays in the family law courts’ ability to make orders, which can compromise the safety of victim-survivors and children.¹²²

Personal protection injunctions

- 3.66 The family law courts can make civil orders for the protection of victim-survivors and children called personal protection injunctions (PPIs), however the Committee heard PPIs are limited in their effectiveness and are rarely acted upon by police.¹²³ The

¹¹⁴ AGD, *Submission 15*, page 9.

¹¹⁵ FCFCOA, *Submission 54.1*, page 5.

¹¹⁶ FCFCOA, *Submission 54.1*, page 5.

¹¹⁷ FCFCOA, *Submission 54.1*, page 6.

¹¹⁸ FCFCOA, *Submission 54.1*, pages 5-6.

¹¹⁹ LCA, *Submission 67*, page 5; WLSA, *Submission 69*, page 10; AIFS, *Submission 52*, page 7; Dr Carson, AIFS, *Committee Hansard*, 23 August 2024, page 5; Mr Tebbey, Relationships Australia, *Committee Hansard*, 23 August 2024, page 35; Uniting Vic. Tas, *Submission 65*, page 9.

¹²⁰ Feminist Legal Clinic Inc, *Submission 76*, page 2.

¹²¹ National Aboriginal and Torres Strait Islander Women’s Alliance, *Submission 60*, page 11.

¹²² Victorian Aboriginal Legal Service (VALS), *Submission 81*, page 8.

¹²³ WLSA, *Submission 69*, page 10.

challenges and difficulties of enforcing a PPI means that victim-survivors generally seek FVOs through the state and territory courts.¹²⁴

- 3.67 The breach of a PPI is a civil rather than criminal matter and it is up to the victim-survivor to file an application in the family law courts seeking an order about the contravention. Furthermore, while police have the power to arrest someone if they believe on reasonable grounds that person has breached a PPI, they rarely do so.¹²⁵ South Australia Police said they will more likely act in response to an allegation of a criminal offence under state law, such as threats to harm, assault, or stalking, which may be part of a PPI breach.¹²⁶
- 3.68 There was support for criminalising breaches of PPIs¹²⁷, although National Legal Aid suggested further consultation was needed.¹²⁸ The former government proposed measures to criminalise breaches of PPIs in 2017, but this did not proceed. Concerns were raised about the enforceability of PPIs under the proposal, including:
- the family law courts may set conditions in PPIs that are unenforceable by police or may prohibit behaviour that does not warrant police intervention
 - police may need to undertake time-consuming reviews of family law court orders to determine if a condition warranting arrest has been breached, which would delay police responses
 - PPIs are not issued in a format that is compatible with police information sharing systems.¹²⁹
- 3.69 AGD said ‘in the absence of certainty about the existence, enforceability and terms of a PPI, there was concern that police would not be able to take action to enforce a breach without a high risk of unlawful arrest.’¹³⁰
- 3.70 LCA noted that the family law courts’ ability to make personal protection injunctions, pursuant to section 114 of the Act may be diminished by the operation of section 114AB. LCA said this section is ‘out of step with the contemporary needs of litigants’ and recommended:
- amending section 114AB of the Act to ensure that the FCFCOA is empowered to grant injunctions in circumstances where this is necessary
 - establishing and resourcing a separate court list in the FCFCOA, dedicated to applications for injunctions, with the capacity to hold urgent hearings.¹³¹

¹²⁴ See, for example, Attorney-General of Western Australia, *Submission 88*, page 2. Personal protection injunctions (PPIs) are not commonly made by FCWA and it is rare that an order for a PPI is sought by a party. See: Attorney-General of Western Australia, *Submission 88.1*, page 8. FCFCOA were unable to provide information on the number of PPIs sought or made during family law proceedings. See: AGD, *Submission 15.1*, page [6].

¹²⁵ South Australia Police, *Submission 59*, page 2; WLSA, *Submission 69*, page 10.

¹²⁶ South Australia Police, *Submission 59*, page 2.

¹²⁷ Hume Riverina Community Legal Service, *Submission 72*, page 8.

¹²⁸ National Legal Aid (NLA), *Submission 61*, page 8.

¹²⁹ AGD, *Submission 15*, page 13; AGD, *Submission 15.1*, page [21].

¹³⁰ AGD, *Submission 15*, pages 13-14.

¹³¹ LCA, *Submission 67*, page 34.

- 3.71 AGD noted that establishing a separate court list for PPIs would have significant resourcing implications, noting that a significant number of the matters filed with the family law courts could potentially involve the seeking of an urgent PPI. Furthermore, FCFCOA questioned the extent to which such a list would be practically useful in circumstances where the evidence relied upon for the PPI would almost always be relevant to the substantive issues before the court. FCFCOA advised it would normally hear and determine applications for interim parenting orders and PPIs together and that a separate court list may lead to delays.¹³²
- 3.72 There was support for making it easier to apply for PPIs.¹³³ Pilbara Community Legal Service suggested:
- the inclusion of prompts for victim-survivors seeking PPIs in the notice of risk form
 - the family law courts be able to make PPIs where required, without victim-survivors needing to apply for them.¹³⁴

Federal FVOs

- 3.73 There was some support for legislative changes that would allow the family law courts to make federal FVOs¹³⁵, however it was noted that any such reform would require careful consideration and consultation to avoid unintended consequences.¹³⁶
- 3.74 The Committee heard that the state and territory courts are accessible in more locations and are generally better suited to making FVOs than the family law courts.¹³⁷ According to FCFCOA, this is because:
- there is existing state and territory infrastructure to deal with large volume of FVO applications in a wide range of locations
 - FVOs are made under state and territory laws
 - FVO applications require urgent action, which FCFCOA is less suited to deliver because it has a much wider scope of enquiry.¹³⁸
- 3.75 Federation of Community Legal Centres Victoria (FCLCV) warned that a system of federal FVOs ‘... could lead to uncertainty around the appropriate jurisdiction, challenges with enforcement of federal FVOs and additional opportunities for forum shopping and systems abuse by people who use violence.’¹³⁹
- 3.76 The previous government introduced the Family Law Amendment (Federal Family Violence Orders) Bill 2021 in March 2021, however, the bill lapsed at the dissolution of the Parliament in April 2022. The Federal Family Violence Orders Bill would have

¹³² AGD, *Submission 15.1*, page [12].

¹³³ NLA, *Submission 61*, page 8; Pilbara Community Legal Service (PCLS), *Submission 78*, page 9.

¹³⁴ PCLS, *Submission 78*, page 9.

¹³⁵ Relationships Australia, *Submission 7*, page 22.

¹³⁶ Westjustice, *Submission 68*, pages 8-9; WLSA, *Submission 69*, pages 13-14.

¹³⁷ Mr McDonald, FLPA, *Committee Hansard*, 30 August 2024, page 13; FCFCOA, *Submission 54*, page 4.

¹³⁸ FCFCOA, *Submission 54*, page 4.

¹³⁹ FCLCV, *Submission 79*, page 16.

amended the Act to establish new federal family violence orders which, if breached, could be criminally enforced. Key issues raised by stakeholders about the bill included:

- the lack of interim federal FVOs¹⁴⁰
- complexities and inconsistencies between state and territory and federal orders
- concerns about the misidentification of perpetrators and systems abuse
- the workload, resourcing and training implications of the bill
- the role of and resourcing for Independent Children's Lawyers (ICLs)
- the accessibility of federal FVOs for applicants based in regional and remote areas
- consultation on the bill.¹⁴¹

Accessing state and territory FVOs in the family law courts

- 3.77 NWSA recommended piloting a co-location model that would streamline access to FVO applications, via a magistrate court registrar, on site at a FCFCOA registry. According to NWSA, this 'would reduce administrative touch points for applicants, by removing the requirement to attend a state or territory magistrate's court for application. It would also validate the inherent link between family court proceedings and the potential for an escalation of violence.'¹⁴² NWSA said the pilot must occur alongside a national and real-time information sharing scheme and register.¹⁴³
- 3.78 However, FCFCOA was sceptical there would be any significant advantages in developing co-location arrangements between the courts.¹⁴⁴ Similarly, WLSA said there are limited circumstances where the co-location of courts would increase access to justice for victim-survivors and that a range of safeguards would need to be considered.¹⁴⁵
- 3.79 AGD noted that any proposal to physically co-locate state and federal court facilities would require agreement between the Australian and relevant state or territory

¹⁴⁰ The bill would only have allowed for final FVOs to be made, which could mean delays for victim-survivors requiring immediate assistance. See: Senate Legal and Constitutional Affairs Legislation Committee, *Inquiry into the Family Law Amendment (Federal Family Violence Orders) Bill 2021*, July 2021, page 8.

¹⁴¹ Senate Legal and Constitutional Affairs Legislation Committee, *Inquiry into the Family Law Amendment (Federal Family Violence Orders) Bill 2021*, July 2021, page 7. The Senate Legal and Constitutional Affairs Legislation Committee recommended the bill be passed, subject to further consideration and safeguards, however the bill did not proceed. Additional comments from Labor and Australian Greens Senators (pages 33 and 41) argued that proper consultation with stakeholders was not conducted in developing the bill.

¹⁴² NWSA, *Submission 50*, page 5.

¹⁴³ NWSA, *Submission 50*, page 6.

¹⁴⁴ FCFCOA, *Submission 54*, page 6.

¹⁴⁵ WLSA, *Submission 69*, page 14.

governments, and facilities would need to meet the needs of court users along with the operational needs of the respective courts.¹⁴⁶

Ensuring children are protected and their views represented safely

After the Judge said the fact that he was violent to me didn't mean he would be violent with the children, I was forced into picking up the pieces after each contact, dealing with injury after injury, and trying to get help for my children. My experience was that no one was willing to protect my children and speak up against the neglect and abuse he subjected them to.¹⁴⁷

When the report of [the family court child expert], amongst other reports, was made available to the court and detailed some of the things that the child had said, the court recommended that the father have limited and supervised access with his son, essentially on the basis of the report of the child expert to whom the child spoke freely. The father punished the child with physical punishment. [The child] has since been unable to speak openly with anyone, and the current ICL has made no attempt to speak with him.¹⁴⁸

- 3.80 It is important that children and young people are recognised as victim-survivors of FDSV. Family law proceedings can have devastating impacts on children, particularly if their wishes and feelings are not heard or acknowledged.¹⁴⁹ The family law courts have a responsibility to provide ways for children's voices to be heard and considered in the making of decisions in a way that is safe and child-centred, in keeping with Article 12 of the United Nations *Convention on the Rights of the Child*.¹⁵⁰
- 3.81 The previous chapter found there was a need for children to be better protected by FVOs, including by being recognised as primary victims of FDSV. Concerns were raised that there was a similar lack of recognition of children as victim-survivors of FDSV in the family law courts. Domestic Violence Advocacy Australia (DVAA) said that, where the family law courts fail to acknowledge children as victims in their own right, 'it fails to afford them protections which should be laser-focussed on their welfare.'¹⁵¹
- 3.82 Family and Relationship Services Australia (FRSA) said its child contact services are reporting increasing numbers of children who do not want to see the parent

¹⁴⁶ AGD, *Submission 15*, page 12.

¹⁴⁷ CSMC, *Submission 37*, page 8.

¹⁴⁸ Ms Sebastian, CSMC, *Committee Hansard*, 23 August 2024, page 15.

¹⁴⁹ FCLCV, *Submission 79*, page 25.

¹⁵⁰ FCLCV, *Submission 79*, page 25; Dr Georgina Dimopoulos, *Submission 58*, page 1; United Nations, *Convention on the Rights of the Child*, November 1989.

¹⁵¹ DVAA, *Submission 38.1*, page 2.

perpetrating the abuse, that they are frightened, and their fear has not been considered by the family law courts.¹⁵²

- 3.83 CSMC said registrars, judges and ICLs¹⁵³ are dismissive of the harmful impact of witnessing and experiencing FDSV on children and reported:

Many judges have referred in court to children as 'resilient', who 'will get over it', even as they make orders which are entirely contrary to the child's desire and assessed wellbeing. This blindness extends to refusing to consider evidence from sources such as police, school reports, doctor's letters, or other professionals involved in the child's safety and well-being.¹⁵⁴

- 3.84 There are concerns that ICLs are inconsistently representing children's voices, safety, wellbeing, and trauma for consideration in family law court decisions¹⁵⁵, and that the advice ICLs give to the court may not always reflect the child's views and wishes.¹⁵⁶ CSMC provided an example from August 2024, where the court relied on the recommendation of an ICL to make unsafe parenting orders, despite the ICL having never spoken to the child.¹⁵⁷ This is despite changes to the Act that commenced in May 2024 requiring ICLs to meet with children to allow them to express their views.¹⁵⁸
- 3.85 FCLCV said that, 'where an ICL is not appointed and the representation of the child's view in a family report is inadequate, the court should consider other avenues for understanding the views of the child in a safe and child-centred way.'¹⁵⁹ FCLCV called for 'robust monitoring and evaluation to assess the efficacy of recent legislative reforms in ensuring that children's views and best interests are put before the court.'¹⁶⁰
- 3.86 There was support for establishing a new children's advocate role in the family law courts. FRSA said that while it is now a legislative requirement for an ICL to meet with a child, the information the ICL presents to the court is their legal advice about what would be in the best interest of the child. By contrast, a children's advocate would be a psychologist or a social worker who 'would essentially be representing the views of the child and making those known to the court.'¹⁶¹ FRSA noted that ICLs are already under enormous pressure and suggested that a children's advocate

¹⁵² Dr Robyn Clough, Manager, Policy and Research, Family and Relationship Services Australia (FRSA), *Committee Hansard*, 23 August 2024, page 32.

¹⁵³ Independent Children's Lawyers (ICLs) are appointed upon an order of the court to represent the best interests of the child in family law proceedings. ICLs are often appointed in matters where there are allegations of FDSV or other forms of maltreatment or risks to the child. See: AGD, *Submission 15*, pages 9-10.

¹⁵⁴ CSMC, *Submission 37*, pages 7-8.

¹⁵⁵ BPIFVP and SMFVRIC, *Submission 41*, page 10; CSMC, *Submission 37*, page 9.

¹⁵⁶ Mrs Jacqueline Brady, Executive Director, FRSA, *Committee Hansard*, 23 August 2024, page 31.

¹⁵⁷ Ms Sebastian, CSMC, *Committee Hansard*, 23 August 2024, page 15.

¹⁵⁸ FCFCOA, *Guidelines for Independent Children's Lawyers*, October 2024, page 5.

¹⁵⁹ FCLCV, *Submission 79*, page 25.

¹⁶⁰ FCLCV, *Submission 79*, page 25.

¹⁶¹ Mrs Brady, FRSA, *Committee Hansard*, 23 August 2024, page 30.

could support the ICL role, be specifically trained and have an interest in working with children.¹⁶²

3.87 National Cabinet has agreed to new initiatives to support children and young people affected by FDSV. According to DSS, this includes:

- identifying gaps in supports for children and young people who have experienced or witnessed FDSV, to inform the design and implementation of new and revised initiatives and interventions
- a focus on First Nations children and young people through culturally safe consultation and expertise
- over \$80 million to enhance and expand child-centric trauma-informed supports for children and young people.¹⁶³

Eliminating opportunities for systems abuse

What occurred in my matter was as simple as this: the financial imbalance of power and the shortfalls of the Court allowed the perpetrator to gain the upper hand. By the time he abducted my daughter, he had established such a strong foothold that my credibility was diminished; the Court supported the abduction and my voice, like my daughter's, was silenced.¹⁶⁴

3.88 Systems abuse is a form of FDSV perpetrated during family law, FVO and other proceedings, where legal and administrative systems are manipulated to control, threaten or harass a current or former partner.¹⁶⁵ Systems abuse is a common form of coercive control¹⁶⁶ and undermines a victim-survivors' ability to secure protection through FVOs and establish safe parenting arrangements.¹⁶⁷ As a consequence of systems abuse, the length and cost of proceedings is extended¹⁶⁸ and parenting orders are made that do not reflect the safety needs of victim-survivors and children.¹⁶⁹ CALD, First Nations and people with disability are more vulnerable to systems abuse.¹⁷⁰

¹⁶² Dr Clough, FRSA, *Committee Hansard*, 23 August 2024, page 32.

¹⁶³ Department of Social Services (DSS), *Submission 16.1*, pages 4-5.

¹⁶⁴ Name withheld, *Submission 85*, page 2.

¹⁶⁵ FCLCV, *Submission 79*, page 14.

¹⁶⁶ ANROWS, *Submission 62*, page 9.

¹⁶⁷ FCLSV, *Submission 79*, page 14.

¹⁶⁸ ANROWS, *Submission 62*, page 9; Ms Husar, DVAA, *Committee Hansard*, 23 August 2024, page 18; FCLCV, *Submission 79*, page 14; Peninsula Community Legal Centre, *Submission 77*, page 8; WLSA, *Submission 69*, page 5.

¹⁶⁹ Safe and Equal, *Submission 83*, page 9-10.

¹⁷⁰ DVConnect, *Submission 56*, page 8.

- 3.89 Systems abuse takes many different forms and can involve a pattern of seemingly minor actions.¹⁷¹ Tactics identified by Australia's National Research Organisation for Women's Safety (ANROWS) include:
- exhausting women's legal, financial and emotional resources
 - pressuring victim-survivors to withdraw their FVOs
 - non-compliance with court orders
 - raising counter-allegations or unfounded applications in legal processes
 - using legal processes to gain access to victim-survivor's medical or therapeutic records to harass, threaten or inflict harm
 - exploiting the intersections between family law, child protection and criminal legal systems to their advantage.¹⁷²
- 3.90 There are limited options for review of family law cases where there has been injustice, including because of systems abuse. Appeals in the family law courts are costly and involve family law court judges examining the work of their own colleagues. The only other avenue for appeal is the High Court, which has a high bar for entry and is prohibitively expensive.¹⁷³
- 3.91 The Committee heard that the current system, which can involve state and territory courts as well as the family law courts making decisions about family arrangements, provides too many opportunities for systems abuse.¹⁷⁴ Systems abuse was described as 'entrenched and endemic'¹⁷⁵ and it was reported that perpetrators are playing the system on the basis that a breach in one jurisdiction will not be considered in another.¹⁷⁶
- 3.92 Some perpetrators seek legal advantage by deliberately engaging with multiple law firms and then claim a conflict of interest if the victim-survivor attempts to engage with the firm. This tactic, referred to as 'conflicting out' blocks access to legal representation and is particularly harmful for victim-survivors in rural or remote areas, where there are fewer firms to choose from.¹⁷⁷
- 3.93 Parenting orders provide opportunities for perpetrating systems abuse.¹⁷⁸ NWSA reported that parenting orders are 'manipulated in ways that force the relocation of children despite FVOs being in place.'¹⁷⁹ This means that attempts by a victim-survivor to safely relocate from their perpetrator can be foiled as the latter 'can apply for their return based on the existing parenting orders.'¹⁸⁰

¹⁷¹ Ms Husar, DVAA, *Committee Hansard*, 23 August 2024, page 18.

¹⁷² ANROWS, *Submission 62*, page 9.

¹⁷³ DVAA, *Submission 38.1*, page 2.

¹⁷⁴ Westjustice, *Submission 68*, page 5.

¹⁷⁵ Uniting Vic. Tas, *Submission 65*, page 10.

¹⁷⁶ Safe Steps Family Violence Response Centre, *Submission 39*, page 5.

¹⁷⁷ Name withheld, *Submission 82.1*, page 4.

¹⁷⁸ VALS, *Submission 81*, page 9; Fitzroy Legal Service, *Submission 44*, page 7.

¹⁷⁹ NWSA, *Submission 50*, page 4.

¹⁸⁰ NWSA, *Submission 50*, page 5.

- 3.94 Perpetrators of systems abuse often make vexatious applications with the aim of disrupting or prolonging proceedings, which increases the financial cost and trauma for victim-survivors¹⁸¹ and may mean that legal support is discontinued before the end of proceedings.¹⁸² Changes to the Act that took effect in May 2024 enabled the family law courts to make harmful proceedings orders, which complement existing provisions that allow for vexatious proceedings orders to be made. The aim of harmful proceedings orders is to restrict the filing and serving of new applications without obtaining prior leave of the court where there has been repeated filing of unmeritorious applications to harass or intimidate another party.¹⁸³ While there was support for this reform¹⁸⁴, the Committee heard it is too early to assess its effectiveness.¹⁸⁵

Deny, attack, reverse victim offender

- 3.95 As noted in the previous chapter, cross-allegations of violence are often used by perpetrators as way to continue their abuse¹⁸⁶ and can lead to FVOs being made that protect the perpetrator, rather than the victim-survivor.¹⁸⁷ The misidentification of victim-survivors as perpetrators is often the result of systems abuse.¹⁸⁸
- 3.96 Many of tactics of systems abuse used by perpetrators in the family law system are known as ‘deny, attack, reverse victim offender’, or ‘DARVO’.¹⁸⁹ For example, perpetrators can intentionally manipulate the family law system and undermine decision-makers’ ability to determine the primary aggressor. Manipulation can involve perpetrators injuring themselves, minimising their role in the incident, contacting police first and appearing calm in front of police¹⁹⁰, as well as applying for cross orders of protection and making false allegations of violence¹⁹¹ and doctoring photos of injuries that are then presented as evidence.¹⁹²
- 3.97 Perpetrators will commonly enter a cross notice of risk in response to allegations of violence describing the victim-survivor as violent, an alienator, liar or mentally unwell.¹⁹³ Perpetrators will often claim victim-survivors are trying to block access to children and claims of parental alienation are a common form of systems abuse in the family law system.¹⁹⁴ Victim-survivors can be discouraged from reporting FDSV

¹⁸¹ FCLCV, *Submission 79*, page 14; Peninsula Community Legal Centre, *Submission 77*, page 8.

¹⁸² WLSA, *Submission 69*, page 5.

¹⁸³ AGD, *Submission 15*, page 6.

¹⁸⁴ Uniting Vic. Tas, *Submission 65*, page 10; Safe and Equal, *Submission 83*, page 10; Westjustice, *Submission 68*, page 5; FCLCV, *Submission 79*, page 14.

¹⁸⁵ FCLCV, *Submission 79*, page 14; Uniting Vic. Tas, *Submission 65*, page 10.

¹⁸⁶ SMLS, *Submission 80*, page 7; AIFS, *Submission 52*, page 4.

¹⁸⁷ FRSA, *Submission 83*, page 3.

¹⁸⁸ ANROWS, *Submission 62*, page 9.

¹⁸⁹ CSMC, *Exhibit 1*, page 2; Sisters in Law Project, *Submission 87*, page 3; Protective Collective, *Submission 92*, page 2.

¹⁹⁰ ANROWS, *Submission 62*, page 9.

¹⁹¹ ANROWS, *Submission 62*, page 10.

¹⁹² Ms Glasson, DVAA, *Committee Hansard*, 23 August 2024, page 18.

¹⁹³ Protective Collective, *Submission 92*, page 2.

¹⁹⁴ FCLCV, *Submission 79*, page 15; Ms Sebastian, CSMC, *Committee Hansard*, 23 August 2024, page 16.

when legal representatives and judicial officers lend credibility to allegations of parental alienation.¹⁹⁵

Financial abuse

- 3.98 The Committee heard that male perpetrators of FDSV often have access to greater financial resources, such as a full time-job, than their former partners who are the primary carers of children. The perpetrator can afford a barrister or lawyer of choice and have the resources to prolong family law proceedings to control and inflict harm.¹⁹⁶
- 3.99 Perpetrator tactics, such as the late disclosure of documents, increase the legal costs of separation matters for victim-survivors. Perpetrators avoid making payments, for example to maintain the family home, and cut off access to shared financial resources without facing any consequences for doing so.¹⁹⁷ Financial abuse can result in an increased risk of homelessness for victim-survivors following separation. In 2021-22, 42 percent of specialist homelessness service clients identified as victim-survivors of family violence.¹⁹⁸ The financial abuse of migrant and refugee women may occur under the pretence of cultural practice.¹⁹⁹
- 3.100 Some suggestions for combatting financial abuse in the family law system include early identification of financial abuse, where significant income inequality is acknowledged as a risk factor, and measures to address the risk of financial abuse, such as:
- penalties and cost orders for dishonest disclosures and repeated delays in disclosure
 - the appointment of a trustee and the maintenance of the financial status quo until family law matters are resolved
 - the appointment of a forensic accountant to assist in determining spousal maintenance.²⁰⁰
- 3.101 The intent of the *Family Law Amendment Act 2024*, which recently passed both Houses, is to better account for FDSV in the property decision-making framework and in spousal maintenance proceedings. The reforms aim to ensure that financial information is disclosed at the earliest opportunity to promote the early resolution of disputes, however these reforms are yet to commence.²⁰¹
- 3.102 The Parliamentary Joint Committee on Corporations and Financial Services recently concluded an inquiry into financial abuse. That committee examined the role of

¹⁹⁵ FCLCV, *Submission 79*, page 15.

¹⁹⁶ Uniting Vic. Tas., *Submission 65*, page 12; BPIFVP and SMFVRIC, *Submission 41*, page 12.

¹⁹⁷ DVAA, *Submission 38*, page 8.

¹⁹⁸ Northern Community Legal Centre, *Submission 75*, page 8.

¹⁹⁹ ANROWS, *Submission 62*, page 10.

²⁰⁰ DVAA, *Submission 38*, page 2.

²⁰¹ The Hon Mark Dreyfus KC MP, Attorney-General, 'More reform delivers a simpler, safer and fairer family law system', *Media release*, 29 November 2024.

financial institutions in identifying and preventing financial abuse, the effectiveness of existing laws governing how the banks to deal with financial abuse, and potential areas for reform.²⁰²

- 3.103 The Office for Women will be leading an audit of key Australian Government systems to identify areas where they are being weaponised by perpetrators of FDSV. The audit will initially focus on the child support and social security systems.²⁰³

Beliefs, attitudes and a lack of awareness that enable systems abuse

- 3.104 Concerns were raised that some members of the judiciary and court staff, such as family report writers, have biases or inadequate knowledge about the dynamics and risks of FDSV²⁰⁴, especially non-physical forms of abuse such as coercive control.²⁰⁵ There may be harmful beliefs and attitudes that lead to unfavourable outcomes for female victim-survivors, including the belief that women and children lie about male violence.²⁰⁶

- 3.105 A lack of understanding of FDSV and the risk of systems abuse can mean the family law courts fail to respond to risk and escalations in perpetrator behaviours, including the control of victims and the narratives of children.²⁰⁷ For example, DVAA provided an analysis of 40 family law cases where violence was described as 'situational' in court judgements. 'Situational violence' is the idea that violence which occurs during a relationship is unlikely to continue after court orders are in place.²⁰⁸ DVAA explained:

[FCFCOA Judges] ...have described that [the abuse] only exists in the family home, that it's only when the husband and the wife or the parents are together. This has then led to contact being provided to the abuser of the children, and then this, in turn, has led to those children being used as vehicles of abuse for the abuser.²⁰⁹

- 3.106 Some legal professionals may have deep-seated attitudes and beliefs about the behaviour of victim-survivors that influence legal proceedings.²¹⁰ Some may believe women make false or exaggerated claims of violence to gain a tactical advantage in family law proceedings. Research from 2012 found that concerns about false or

²⁰² Senator Deborah O'Neill and Ms Zaneta Mascarenhas MP, 'New inquiry into financial abuse in Australia', *Media release*, 4 April 2024.

²⁰³ DSS, *Submission 16.1*, pages 4-5.

²⁰⁴ Ms Glasson, DVAA, *Committee Hansard*, 23 August 2024, page 15; Sisters in Law Project, *Submission 87*, page 4; Confidential, *Submission 17*; Confidential, *Submission 22*; Confidential, *Submission 30*; Confidential, *Submission 32*; Confidential, *Submission 33*; Name withheld, *Submission 43*, page 3; Confidential, *Submission 90*.

²⁰⁵ DVAA, *Submission 38*, page 3; Name withheld, *Submission 85*, page 4-5; Confidential, *Submission 24*; Confidential, *Submission 27*; Confidential, *Submission 31*.

²⁰⁶ Protective Collective, *Submission 92*, pages 1, 9-11.

²⁰⁷ BPIFVP and SMFVRIC, *Submission 41*, page 10.

²⁰⁸ DVAA, *Submission 38.1*, page 2. See also: SMLS, *Submission 80*, page 8.

²⁰⁹ Ms Glasson, DVAA, *Committee Hansard*, 23 August 2024, page 20.

²¹⁰ Relationships Australia, *Submission 7*, page 16.

exaggerated claims were more likely to be raised by lawyers in private practice, who were also more likely not to have undertaken family violence training and professional development.²¹¹

- 3.107 This may be part of a broader cultural problem in the Australian community, which diminishes the credibility of victim-survivors.²¹² NWSA said there is an ‘ingrained opinion in our culture [about FDSV] that women make up lies to destroy the lives of men’, which NSW described as a ‘pervasive argument’ despite statistical research from ANROWS that demonstrates it is untrue.²¹³

Continuing professional development for judicial and legal professionals

- 3.108 There was strong support for requiring all judicial and legal professionals hearing or supporting FDSV matters in the state and territory and family law courts to undertake comprehensive, culturally safe, and trauma-informed continuing professional development (CPD) on the dynamics, complexities, identification and appropriate responses to FDSV, including systems abuse.²¹⁴

- 3.109 For example, ANROWS called for a national approach to legal workforce development, including a capacity-building service for judicial officers and other court staff.²¹⁵

- 3.110 According to stakeholders, education, training and professional development should:

- be evidence-informed²¹⁶, created and delivered by subject matter experts²¹⁷ and those with lived experience²¹⁸, and be regularly evaluated²¹⁹
- include specific First Nations training which is designed and delivered in partnership with Aboriginal Community-Controlled Organisations²²⁰, as well as specific training on the unique issues that migrant and refugee women experience.²²¹

- 3.111 While there were calls for mandated CPD for judicial officers, the Committee noted that the independence of the judiciary and the separation of powers is set out in the

²¹¹ AIFS, *Submission 52*, page 8.

²¹² Ms Sebastian, CSMC, *Committee Hansard*, 23 August 2024, page 16; Ms Bevan, Full Stop Australia, *Committee Hansard*, 23 August 2024, page 17.

²¹³ Ms Katherine Berney, Executive Director, NSW, *Committee Hansard*, 23 August 2024, pages 10-11.

²¹⁴ Fitzroy Legal Service, *Submission 44*, page 4; BPIFP and SMFVRIC, *Submission 41*, page 5; PCLC, *Submission 77*, page 3; VALS, *Submission 81*, page 7; FCLCV, *Submission 79*, page 14, 15; Ms Berney, NSW, *Committee Hansard*, 23 August 2024, page 11; CSMC, *Submission 37*, page 10; FRSA, *Submission 53*, page 3; Relationships Australia, *Submission 7*, page 17; Ms Bevan, Full Stop Australia, *Committee Hansard*, 23 August 2024, page 17; NLA, *Submission 61*, page [7]; ANROWS, *Submission 62*, page 4; Mrs Bradshaw, WLSA, *Committee Hansard*, 30 August 2024, page 1; Dr Carson, AIFS, *Committee Hansard*, 23 August 2024, page 4.

²¹⁵ ANROWS, *Submission 62*, page 4.

²¹⁶ ANROWS, *Submission 62*, page 4.

²¹⁷ Full Stop Australia, *Submission 14*, page 6.

²¹⁸ FCLCV, *Submission 79*, page 13-14; NLA, *Submission 61*, page [7].

²¹⁹ NLA, *Submission 61*, page [7]; FCLCV, *Submission 79*, page 14.

²²⁰ Aboriginal Legal Service NSW ACT Limited, *Submission 86*, page 2.

²²¹ ANROWS, *Submission 62*, page 11.

Australian Constitution and means that, in interpreting and applying the law, judges must act independently and without interference from the Parliament or the Australian Government. Matters relating to the operation and administration of the courts, such as CPD requirements, adherence to best practice principles, conduct issues and the handling of complaints are matters for the courts.²²²

- 3.112 There is significant work being undertaken by the Australian, state and territory governments to develop FDSV training for the courts and legal professionals in a nationally consistent way, however concerns were raised this has not yet been realised.²²³
- 3.113 FCFCOA provides trauma-informed FDSV training for judicial officers, judges and staff²²⁴, training on inclusive practice and cultural responsiveness when working with migrant and refugee communities, and First Nations communities²²⁵, and provides guidance to support staff awareness and capability in addressing FDSV.²²⁶ FCFCOA said that current training packages and guidelines all include comprehensive information on non-physical forms of FDSV, including coercive control.²²⁷ Further training may require additional funding.²²⁸
- 3.114 The Australian Government funds the National Judicial College of Australia which has been providing the Family Violence in the Court Training program to federal, state and territory judicial officers, including magistrates and tribunal members, since 2016, and supports the CPD of judicial officers.²²⁹ As noted in the previous chapter, the Australian Government co-funds measures with the states and territories to strengthen the family safety competency of judicial officers, including the development and maintenance of the National Domestic and Family Violence Bench Book.²³⁰ AGD is developing a national judicial officer training package (commenced in 2024), and a national justice sector education and training package on the nature and impacts of sexual assault.²³¹
- 3.115 As noted in the chapter two, a training program on coercive control is being developed for legal practitioners,²³² which will embed the National Principles to Address Coercive Control in Family and Domestic Violence as a common national foundation for legal practitioners.²³³
- 3.116 The requirement for specialist training, ongoing professional development and accreditation for lawyers working on FDSV matters is a matter for the relevant bodies

²²² FCFCOA, *Submission 54.1*, pages 6-9 and 12-14.

²²³ NLA, *Submission 61*, page [7].

²²⁴ FCFCOA, *Submission 54.1*, page 6.

²²⁵ FCFCOA, *Submission 54.1*, page 8.

²²⁶ FCFCOA, *Submission 54.1*, page 9.

²²⁷ FCFCOA, *Submission 54.1*, page 7.

²²⁸ FCFCOA, *Submission 54.1*, page 9.

²²⁹ AGD, *Submission 15.1*, page [10-11].

²³⁰ AGD, *Submission 15.1*, page [11].

²³¹ AGD, *Submission 15.1*, page [10].

²³² AGD, *Submission 15.1*, page [10].

²³³ AGD, *Submission 15.1*, page [11].

in each state and territory.²³⁴ The Australian Government is working with states and territories to improve legal practitioners' capabilities in FDSV through CPD frameworks.²³⁵

- 3.117 There was some scepticism that further training and guidance will eliminate beliefs and attitudes that hinder the recognition of FDSV and enable systems abuse in the family law system²³⁶, and there were calls for broader reviews to be conducted into FCFCOA and FCWA's handling of family law matters.²³⁷

Other measures to eliminate opportunities for systems abuse in the family law system

- 3.118 Other measures that may eliminate opportunities for systems abuse in FDSV matters in the family law system include:

- implementing a screening tool that identifies systems abuse and developing specialised processes and interventions that enable the court to intervene to protect victim-survivors in high-risk matters involving systems abuse²³⁸
- amending the Act to clarify that systems abuse is family violence in section 4AB²³⁹
- supporting research into the extent and impacts of misidentification at the intersection of FVO and family law proceedings and designing measures to strengthen the early identification and response to systems abuse²⁴⁰
- implementing a national outcomes measurement framework to monitor the outcomes of the family law courts' decisions to determine the impact on victim-survivors. This could include reviewing decisions for instances of systems abuse and misidentification.²⁴¹

Committee comment

- 3.119 Serious concerns have been raised that the family law system is unsafe for victim-survivors of FDSV and their children despite successive reforms to the way that the family law courts manage and respond to FDSV risk and share information with state and territory courts and agencies.
- 3.120 The duration and cost of family law proceedings is a key barrier to safety and fairness for victim-survivors of FDSV. Further resources are needed to increase the family law courts' capacity to expedite and prioritise all high-risk matters and, in doing so, reduce wait times, the risk of systems abuse, and overall costs for victim-survivors. Consideration should be given to reducing the cost of fees in FCFCOA,

²³⁴ AGD, *Submission 15.1*, page [11].

²³⁵ AGD, *Submission 15.1*, page [11].

²³⁶ Ms Husar, DVAA, *Committee Hansard*, 23 August 2024, page 21.

²³⁷ Protective Collective, *Submission 92*, pages 7-9; Dr Miles Sowden, *Submission 93*, page 2.

²³⁸ Full Stop Australia, *Submission 14*, page 7.

²³⁹ Redfern Legal Centre's Financial Abuse Service NSW, *Submission 36*, page 3.

²⁴⁰ ANROWS, *Submission 62*, page 4.

²⁴¹ ANROWS, *Submission 62*, page 15.

which can be a significant barrier for women fleeing abusive relationships with few financial resources.

- 3.121 The Committee recognises that the cost of private legal representation in navigating the FVO and family law systems is a key barrier to safety and fairness for victim-survivors. However, it is outside the scope of this inquiry to consider whether caps on legal fees are justified and what the workforce implications of caps would be for legal services.
- 3.122 Current programs to manage and respond to FDSV risk in FCFCOA, such as Lighthouse and the co-location program should be extended. Research is needed to identify if, when and how any re-screen should occur in Lighthouse. The Evatt List should be resourced to provide similar wraparound support in high-risk matters as the Special Indigenous List, including supporting parties to access services like FASS at court events held via videoconference or teleconference.

Recommendation 4

3.123 The Committee recommends that, in the next Parliament, the Australian Government increase the Federal Circuit and Family Court of Australia (FCFCOA)'s capacity to identify, respond and expedite high-risk FDSV and child abuse matters, including:

- **reducing wait times and overall costs for victim-survivors**
- **extending Lighthouse and the co-location program**
- **enhancing the support provided in Evatt List matters**
- **supporting research into the circumstances where re-screening for FDSV risk in Lighthouse would be appropriate.**

3.124 The Committee supports the work of National Cabinet in developing a new national best practice family and domestic violence risk assessment principles and a model best practice risk assessment framework, and to extend and increase nationally consistent, information sharing between FCFCOA and state and territory courts, child protection, policing and firearms agencies. This work is necessary for creating a system where real-time information about FDSV risk is collected and shared consistently across the agencies and services that matter and is used to inform all decisions that risk the safety of victim-survivors of FDSV and children, and to provide a strong referral pathway. It is important that the risk assessment principles and framework address systems abuse and the abuse or risk of harm to animals. The goal should be establishing a live dashboard that all decision-makers in FDSV matters can access.

Recommendation 5

3.125 The Committee recommends the Australian Government continue to lead the development and implementation of an enhanced national FDSV risk and information sharing framework, with the goal of establishing, in the next

Parliament, a live dashboard that all decision-makers in FDSV and child abuse matters can access, noting:

- **the information sharing framework should go beyond court-initiated orders and the self-disclosure of parties and include existing FVOs and breaches, criminal matters, child protection issues, family law orders, and other information relating to FDSV and child abuse risks**
- **the risk assessment principles and framework must address systems abuse and the abuse or risk of harm to animals, and provide strong referral pathways**
- **consideration should be given to expanding information-sharing beyond current information-sharing protocols, with appropriate safeguards.**

3.126 The Committee received concerning evidence that courts do not always have adequate safety planning and safety and security measures to minimise risk to victim-survivors of FDSV. Victim-survivors should not have to face their perpetrators at court, and opportunities to attend a court appointment remotely must be consistently applied where there are safety concerns. Further resourcing is needed to enhance the safety and accessibility of all court rooms, particularly outside of the major city centres.

Recommendation 6

3.127 The Committee recommends that, in the next Parliament, the Australian Government introduce measures to improve the safety of victim-survivors of FDSV at court during family law proceedings, including:

- **ensuring victim-survivors can attend court appointments remotely where there are safety concerns**
- **meeting accessibility requirements for people with disability**
- **ensure court facilities have adequate safe rooms, safe zones and security staff**
- **enhanced protocols and training about safety planning for victim-survivors of FDSV.**

3.128 Further work is needed to ensure the family law courts and Lighthouse are accessible for CALD people, those with low digital literacy and access, and people living with disability. Court staff must be available to support individuals with low English and/or digital literacy to complete relevant online forms such as the Lighthouse triage tool. Interpreters must be provided when they are needed to ensure safety and procedural fairness. Further resources are required to ensure court information is accessible and translated into key languages.

3.129 There is a need to increase the number of IFLO positions to ensure all First Nations families receive targeted support, and potential benefits in establishing Cultural Liaison Officer (CLO) and Disability Liaison Officer (DLO) positions in the family law jurisdiction.

Recommendation 7

- 3.130 The Committee recommends that, in the next Parliament, the Australian Government introduce measures to improve the accessibility of FCFCOA proceedings and the support provided to vulnerable groups, including:**
- **supporting individuals with low English and/or digital literacy to complete relevant online forms such as the Lighthouse triage tool and to fully engage in court proceedings, including:**
 - **access to interpreters when needed to ensure safety and procedural fairness**
 - **the translation of information resources into key languages**
 - **expanding the number of Indigenous Family Liaison Officer positions to meet demand**
 - **piloting and evaluating Disability Liaison Officer and Cultural Liaison Officer positions within the family law jurisdiction.**
- 3.131 There is a need to address the fragmentation associated with victim-survivors having to navigate two separate court systems for FVOs and parenting orders. Yet, the state and territory courts already deal with a high volume of FVO matters and are accessible in more places than the family law courts. There may be merit in piloting the co-location of a magistrates court registrar at a FCFCOA registry to assist with FVO applications. However, there is limited evidence this would greatly improve access to FVOs.
- 3.132 Improving connections between existing elements in the two systems was overwhelmingly supported by stakeholders and should remain the highest priority at this time to address system fragmentation. This includes improvements in how risk is identified and responded to, the information that is shared and the supports provided to victim-survivors and children, which are examined in the next chapter.
- 3.133 The family law courts already have the capacity to make orders for the protection of victim-survivors, although PPIs are currently ineffective and largely unenforceable. There are concerns about the workability, enforceability and accessibility of proposals to introduce federal FVOs.
- 3.134 Section 114AB of the Act should be amended to ensure that family law courts are empowered to make PPIs where necessary to protect victim-survivors and children. Establishing a separate court list to deal with PPIs in FCFCOA may be unnecessary and unworkable, however additional resourcing for the family law courts may need to be considered to address potential increases in workload associated with any increase in PPI applications. While the Committee supports breaches of PPIs being made a criminal offence, further work is needed to resolve enforceability issues.

Recommendation 8

- 3.135 The Committee recommends that, during the next Parliament, the Australian Government amend section 114AB of the *Family Law Act 1975* to ensure that the family law courts are empowered to make personal protection injunctions (PPIs) where necessary to protect victim-survivors and children.**
- 3.136 The Australian Government should work with the states and territories to resolve enforceability issues and consider developing amendments to the Act that criminalise breaches of PPIs.**
- 3.137 It is too early to tell whether recent reforms to the Act that codify requirements for ICLs will improve the protection of children and ensure their views are represented as victim-survivors of FDSV in their own right. The Committee supports piloting and evaluating a children's advocate role to support ICLs and ensure children have their voices heard.

Recommendation 9

- 3.138 The Committee recommends that, in the next Parliament, the Australian Government pilot and evaluate a children's advocate position in FCFCOA to support Independent Children's Lawyers and ensure children's voices are heard during parenting matters.**
- 3.139 Evidence to this inquiry shows that systems abuse in FDSV matters in all jurisdictions is rife. There is a need for a holistic approach to eliminate opportunities for systems abuse, and this has been recognised by the Australian Government through reforms to the Act and other measures. However, it is too early to tell how effective the family law courts' new power to make harmful proceedings orders, and reforms to address financial abuse, will be. The audit being led by the Office for Women will identify how the social security and child support systems are being weaponised by perpetrators of FDSV. The findings of the inquiry into financial abuse will be important for making sure the banks better identify and prevent financial abuse.
- 3.140 The Committee acknowledges the commitment of many police, lawyers and barristers, court staff, registrars, magistrates and judges to delivering safe and fair outcomes for victim-survivors of FDSV, and the pressure they are under. Their decisions in FDSV matters can save lives and empower victim-survivors but can also put victim-survivors and children at further risk. Low levels of awareness and harmful attitudes and beliefs about the dynamics of FDSV, particularly coercive control, by some individuals in key roles undermine the purpose of legislative reforms that seek to put safety at the heart of every family law decision and enable systems abuse.
- 3.141 There is already training and guidance available to build capacity in the justice and legal systems. However, more needs to be done. Coercive control, animal abuse and the many tactics of legal and financial systems abuse must be better recognised as FDSV by the courts, police and legal services.

- 3.142 There is a need to better address financial abuse, and this is recognised by the important reforms to the Act that passed both houses in November 2024. These reforms will mean that, for the first time, FDSV can be considered by the family law courts in financial and property decisions and will help ensure timely disclosure of financial information. It is too early to tell if these changes will reduce financial abuse in the family law system, however comprehensive training on the reforms will be needed to better enable the family law courts to identify financial abuse early.
- 3.143 The Committee recognises that training requirements for judges, magistrates and court staff is a matter for the courts. The Australian Government's role is to support the development of high-quality resources and training for the courts.
- 3.144 The Australian Government should continue to work with the relevant state and territory legal bodies in developing high-quality CPD frameworks, however the goal of this work must be to mandate CPD for all legal professionals engaged in FVO and family law matters.

Recommendation 10

- 3.145 The Committee recommends that, in the next Parliament, the Australian Government lead the development and implementation of a package of reforms to eliminate opportunities for systems abuse in the family law and state and territory FVO systems. Development of the reforms should consider:**
- **evaluating the effectiveness of recent reforms to the *Family Law Act 1975* and whether further changes are needed, for example clarifying that systems abuse is family violence in section 4AB**
 - **developing comprehensive, culturally safe, and trauma-informed training and resources for judicial officers and legal professionals on the dynamics, complexities, identification and appropriate responses to FDSV, including financial and legal systems abuse and animal abuse, that:**
 - **is created and delivered by subject matter experts and those with lived experience and be regularly evaluated**
 - **includes specific First Nations training which is designed and delivered in partnership with Aboriginal Community-Controlled Organisations, as well as specific training on the unique issues that migrant and refugee women experience**
 - **implementing mandatory continuing professional development for all legal professionals engaged in FVO and family law matters**
 - **establishing a capacity-building service for judicial officers and other court staff**
 - **implementing a screening tool that identifies systems abuse and unmeritorious applications, and developing specialised processes and interventions that enable courts to intervene to protect victim-survivors in high-risk matters involving systems abuse**

- **conducting research into the extent and impacts of misidentification at the intersection of FVO and family law proceedings and designing measures to strengthen the early identification and response to systems abuse**
- **implementing a national outcomes measurement framework to monitor the outcomes of the family law courts' decisions to determine the impact on victim-survivors. This could include reviewing decisions for instances of systems abuse and misidentification.**



4. Services that support victim-survivors to safely navigate separation

- 4.1 As previous chapters have established, victim-survivors of family, domestic and sexual violence (FDSV) face many barriers in seeking the protection of family violence orders (FVOs) through the state and territory courts, and resolving separation matters through the family law courts. A range of legal and non-legal supports are needed. The Committee is aware there is significant work underway to address these issues, which were examined by a recent review¹ of legal assistance. Significant new funding commitments and measures have been announced. For these reasons, the Committee limited its focus to examining selected issues raised about support services based on evidence relating to existing funding arrangements. This chapter provides an overview of current funding of services and examines:
- the importance of accessible legal and non-legal services, including wrap-around support
 - concerns services are unable to meet demand and are under-resourced
 - the availability of preventative interventions such as therapeutic services and behavioural change programs for perpetrators of FDSV.
- 4.2 The chapter also details relevant recent funding announcements.

Current funding of services

- 4.3 As noted in chapter one, the Australian government provides a range of programs supporting victim-survivors of FDSV, including legal and non-legal support in the family law system, assisting victim-survivors through the social security and child support systems, and providing safe and secure housing. Some of these services are provided in partnership with the states and territories.²
- 4.4 The Attorney-General's Department (AGD) administers funding for key legal and non-legal support services for children and families through the National Legal

¹ Attorney-General's Department (AGD), *Independent Review of the National Legal Assistance Partnership*, March 2024.

² See: AGD, *Submission 15* and *Submission 15.1*; Department of Social Services (DSS), *Submission 16*, *Submission 16.1* and *Submission 16.2*.

Assistance Partnership 2020-25 (NLAP) and the Family Relationships Services Program (FRSP):

- NLAP is providing \$2.4 billion over five years for legal assistance services across Australia, including Family Advocacy and Support Services (FASS), legal aid commissions (LACs), community legal centres (CLCs, including women's legal services) and Aboriginal and Torres Strait Islander Legal Services (ATSILS).³ NLAP also funds 17 community legal service providers to deliver specialist domestic violence units (DVUs) and health justice partnerships (HJPs) in 21 locations around the country, and one online model in Victoria.⁴
 - Over \$250 million per annum is currently provided for FRSP. Services include Family Relationship Centres, the Family Relationship Advice Line, Family Dispute Resolution, Family Counselling, Children's Contact Services, the Parenting Orders Program/Post Separation Cooperative Parenting Program, and Supporting Children After Separation program.⁵
- 4.5 Family Violence Prevention Legal Services (FVPLS) are currently funded through the National Indigenous Australians Agency and provide critical, culturally safe legal and non-legal assistance to victim-survivors and children in First Nations communities.⁶
- 4.6 Department of Social Services (DSS) administers the Keeping Women Safe in their Homes program, which provides support services and security upgrades for victim-survivors of FDSV so that they and their children can stay in their own home or a home of their choice, where it is safe to do so.⁷ Funding for the program is \$76.53 million from 2015-16 to 2026-27.⁸ DSS also supports a range of other measures relating to housing, such as transitional housing, emergency and crisis accommodation.⁹
- 4.7 Other Australian Government programs assisting victim-survivors of FDSV include Crisis Payments and other social security measures that were noted in the first chapter, and the No Interest Loans Scheme¹⁰, 1800RESPECT, Specialised Family Violence Services¹¹, and First Nations community-led men's wellness centres.¹²
- 4.8 State and territory governments are responsible for the distribution of funding to non-legal support services based on need under the National Partnership on Family, Domestic and Sexual Violence Responses 2021-27 (FDSV National Partnership). Under the FDSV National Partnership, the Australian Government is investing

³ AGD, *Submission 15*, page 10.

⁴ AGD, *Submission 15*, page 10.

⁵ AGD, *Submission 15*, pages 10-11.

⁶ Law Council of Australia (LCA), *Submission 67*, page 20; AGD, *Independent Review of the National Legal Assistance Partnership*, March 2024, page 24; Queensland Indigenous Family Violence Legal Service (QIFVLS), *Submission 70*, page 3.

⁷ DSS, *Submission 16*, page 14.

⁸ DSS, *Submission 16*, page 13.

⁹ DSS, *Submission 16*, page 14, 15.

¹⁰ DSS, *Submission 16*, page 12.

¹¹ DSS, *Submission 16*, page 16.

¹² DSS, *Submission 16.2*, page 4.

\$159 million over two years from 2023-24. This builds on earlier funding commitments, which includes \$169.4 million over four years from 2022-23 to fund 500 new frontline service and community workers to support people experiencing FDSV. FDSV National Partnership funded services include accommodation, helplines, perpetrator interventions, sexual violence services, and legal support services for victim-survivors and perpetrators of violence.¹³

The importance of accessible legal and non-legal services

- 4.9 As earlier chapters have established, the impacts of FDSV are felt in every aspect of a victim-survivor's life, including their physical and mental health, living situation, employment and financial stability.¹⁴ This represents a range of complex social, health and legal needs.¹⁵ While it is crucial that families experiencing FDSV have access to legal assistance¹⁶, a holistic, wrap-around response is required to help victim-survivors and their children navigate separation safely through the FVO and family law systems and to rebuild their lives and heal after traumatic experiences of FDSV.¹⁷

Legal proceedings can be confusing and distressing for self-represented litigants

- 4.10 The Committee heard that accessible, quality legal advice is critical for ensuring victim-survivors achieve safe and fair outcomes in court proceedings, including ongoing financial independence.¹⁸ A victim-survivor's experience navigating the fragmented justice system described in earlier chapters can be emotionally and financially costly and time-consuming, where the burden of proof resides with them.¹⁹ The nature of the court system is adversarial and protracted, and this is inherently difficult for many and adds to financial stress.²⁰ In addition to being financially prohibitive, many victim-survivors find navigating the legal system confusing, overwhelming and retraumatising.²¹
- 4.11 Early access to legal advice helps victim-survivors avoid prolonged legal proceedings and reduces the stress and trauma of engaging with the legal system in FDSV

¹³ DSS, *Submission 16*, page 17.

¹⁴ Health Justice Australia (HJA), *Submission 45*, page 2.

¹⁵ HJA, *Submission 45*, page 2.

¹⁶ Ms Rachael Pliner, Director, Policy and Advocacy, Federation of Community Legal Centres Vic. (FCLCV), *Committee Hansard*, 30 August 2024, page 19.

¹⁷ Northern Community Legal Centre (NCLC), *Submission 75*, page 5.

¹⁸ National Legal Aid (NLA), *Submission 61*, page 8; Djirra, *Submission 74*, page 5.

¹⁹ The Centre for Excellence in Child and Family Welfare, *Submission 55*, page 2; Uniting Vic. Tas., *Submission 65*, page 13; Mr Nick Tebbey, National Executive Officer, Relationships Australia, *Committee Hansard*, 23 August 2024, page 35.

²⁰ Ms Bronwyn Pike, Chief Executive Officer, Uniting Vic. Tas., *Committee Hansard*, 23 August 2024, page 35.

²¹ Australian Institute of Family Studies, *Submission 52*, page 7.

matters.²² The challenges experienced by self-represented litigants shows how difficult it is to try to navigate the FVO and family law systems safely and achieve good outcomes without legal advice and representation.

My experience in Family Court has been harrowing and distressing. I appeared as a self-represented litigant — not by choice, but circumstances. I was assured the Court would take into consideration that I was a layperson, to maintain an equal ‘playing field’. This did not happen.

I appeared as a self-represented layperson, with a disability disclosed to the Court ... the injury from the family violence I attempted to escape yet continue to experience.

Throughout court proceedings, I was expected to perform at the standard of Senior Counsel, although I had no legal training. I was expected to wear proverbial hats: of a mother, an ex-wife, a co-parent, a solicitor, a barrister, a victim, a survivor, a survivor with no battle scars, a psychologist ... all while remaining stoic. On the occasion one of those hats slipped, I was persecuted.²³

- 4.12 Many victim-survivors of FDSV must self-represent because they cannot afford legal representation or are ineligible for legal support. According to Australia’s National Research Organisation for Women’s Safety, 21 per cent of cases in the family law system involve one or both parties not having legal representation at some point in proceedings.²⁴
- 4.13 Self-represented victim-survivors face daunting legal complexities without adequate legal knowledge.²⁵ A victim-survivor may have to file six documents that are about fifty pages long just to commence proceedings in the Federal Circuit and Family Court of Australia (FCFCOA).²⁶ They must then face their perpetrator at court, who may be privately represented, and make a complex legal argument before a judicial officer.²⁷
- 4.14 With a lack of legal expertise, victim-survivors are often unable to sufficiently document their experience of violence and can experience pressure to settle for unsafe or unsatisfactory outcomes.²⁸ For example, Peninsula Community Legal Centre observed:

... our duty lawyers have seen unrepresented applicants who have experienced family violence who have been bullied or pushed into parenting orders by the lawyers for the opposite party, or even succumbed to pressure to agree by a judicial officer, in a context where the opposite should be happening. Other unrepresented litigants have reported that they consented to final orders which

²² Safe and Equal, *Submission 83*, page 15.

²³ Name withheld, *Submission 85*, page 2.

²⁴ Australia’s National Research Organisation for Women’s Safety (ANROWS), *Submission 62*, page 9.

²⁵ Barnados Australia, *Submission 49*, page 5.

²⁶ Mrs Meaghan Bradshaw, Chair, Family Law and Domestic and Family Violence Committee, Women’s Legal Services Australia (WLSA), *Committee Hansard*, 30 August 2024, pages 1-2.

²⁷ Ms Bradshaw, WLSA, *Committee Hansard*, 30 August 2024, page 2.

²⁸ ANROWS, *Submission 62*, page 9.

were not in their own or their children's best interest because they were so fatigued by the perpetrator's ongoing threats and the litigation itself that they just wanted to get out of the system to try to protect themselves.²⁹

- 4.15 Victim-survivors who self-represent are more vulnerable to systems abuse.³⁰ Conversely, perpetrators who self-represent can weaponise the court system to continue their own abuse and prolong proceedings, thereby increasing costs for the other party.³¹ The Committee heard that lawyers would ordinarily play an important role in addressing and curbing this behaviour from their client.³²

Wrap-around support

Riley separated from her husband ... They continued to live in the same home after separation, while Riley searched for another place to live with her children. She contacted a lawyer to begin the process of a property settlement and parenting arrangements. When Riley's husband received an email from this lawyer, he began to verbally abuse Riley, which quickly escalated into significant physical abuse ... Riley managed to flee and call the police. The police made an application for an FVO for the protection of Riley and her children. Westjustice assisted Riley at the FVO hearing, where a 12-month order was made. Riley was connected with Orange Door to create a safety plan and the family was placed into safe housing until her husband could be excluded from the home.³³

- 4.16 The Committee heard that the range of legal and non-legal issues victim-survivors of FDSV experience require wrap-around supports rather than supports that only deal with isolated legal matters.³⁴ This includes mental health support, housing and accommodation, financial counselling, legal assistance for associated issues such as tenancy and employment, drug and alcohol treatment and relationship counselling.³⁵ Addressing these issues at the earliest opportunity is critical to reduce escalation in FDSV and legal matters, and to minimise the compounding harms that vulnerable people experience, which can easily snowball.³⁶ Housing, for example, is critical for safety and stability, and a lack of housing is a major barrier to leaving violent relationships.³⁷
- 4.17 As this chapter and earlier chapters have established, the work being undertaken by all Australian governments to eliminate FDSV under the *National Plan to End Violence against Women and Children 2022–2032* (National Plan) are broad in scope and include a wide range of measures to prevent violence against women and

²⁹ Peninsula Community Legal Centre (PCLC), *Submission 77*, page [5].

³⁰ FCLCV, *Submission 79*, page 10.

³¹ ANROWS, *Submission 62*, page 9.

³² Fitzroy Legal Service, *Submission 44*, page 4.

³³ Westjustice, *Submission 68*, page 12.

³⁴ Hume Riverina Community Legal Service (HRCLS), *Submission 72*, page 7.

³⁵ Westjustice, *Submission 68*, page 6.

³⁶ FCLCV, *Submission 79*, page 23.

³⁷ Tasmania Legal Aid, *Submission 35*, page [11].

children, and to support victim-survivors to safely navigate separation. There are some services that focus on specific needs like legal assistance, while others seek to address victim-survivors needs more holistically.

- 4.18 For example, FASS is available in most FCFCOA registries and provides information, advice and referrals including about how to obtain an FVO, if necessary. FASS staff include social workers or counsellors in addition to legal advisors.³⁸ Legal aid duty solicitors and Court Network volunteers are also available at most FCFCOA registries.³⁹
- 4.19 Some programs link up services and supports for victim-survivors and their children to address all their needs. For example:
- DVUs provide free frontline legal assistance and other holistic support, including assisting clients to access services such as tenancy assistance, financial counselling, trauma counselling, emergency accommodation and employment services.⁴⁰
 - HJPs integrate legal assistance into health services. HJPs are often established between publicly funded legal services and health and social service settings such as hospitals, community health services, alcohol and other drug services, child and family services, and Aboriginal and Torres Strait Islander Community-Controlled Organisations (ACCOs).⁴¹ According to Health Justice Australia, this integrated, collaborative model works especially well where people have complex and intersecting needs that undermine their health and wellbeing.⁴²
 - Safe Steps Family Violence Response Centre (Safe Steps) offers access to confidential support, information and referral for victim-survivors of FDSV in Victoria, 24 hours a day, seven days a week. Through FASS, Safe Steps assists victim-survivors in FCFCOA with risk assessment and safety planning, practical information and support while at court, and referrals to other services.⁴³
 - Orange Door is a Victorian Government program that provides a physical point of entry for children, young people and families needing support at locations across Victoria.⁴⁴ Orange Door provides risk and needs assessment, safety planning and crisis support, as well as connecting people to a range of services. Orange Door also works with perpetrators to change their behaviours.⁴⁵

³⁸ Federal Circuit and Family Court of Australia (FCFCOA), *Submission 54*, pages 3-4.

³⁹ FCFCOA, *Submission 54*, pages 3-4. Court Network is a volunteer-based community organisation that helps court users better understand and navigate the court system in Victoria and Queensland. See: Court Network, *What we do*, www.courtnetwork.com.au/about/what-we-do, accessed 18 September 2024.

⁴⁰ AGD, *Submission 15*, page 10.

⁴¹ HJA, *Submission 45*, page 1.

⁴² HJA, *Submission 45*, page 2-3.

⁴³ Safe Steps Family Violence Response Centre, *Submission 39*, page 2.

⁴⁴ Victorian Government, *About the Orange Door*, www.vic.gov.au/about-the-orange-door, accessed 6 December 2024.

⁴⁵ Victorian Government, *About the Orange Door*, www.vic.gov.au/about-the-orange-door, accessed 6 December 2024.

- 4.20 Some services are designed specifically to support groups that are more vulnerable to FDSV and who experience additional barriers to safety and justice. For example, FVPLS are ACCOs that provide a holistic model of supporting victim-survivors. Queensland Indigenous Family Violence Legal Service (QIFVLS), one of 14 FVPLS across Australia, have case managers who work with victim-survivors of FDSV to address their legal and non-legal needs. QIFVLS services 91 communities across Queensland and the Torres Strait.⁴⁶
- 4.21 While CLCs provide free legal assistance to Australians experiencing FDSV, financial hardship, disadvantage and discrimination, many CLCs also offer trauma-informed and holistic supports and often work in collaboration with other community service professionals and organisations, such as family violence services, health services, financial counselling services and schools.⁴⁷ The Committee heard this place-based model means that support can be tailored to particular communities⁴⁸, and, because of their connections to other services, CLCs are uniquely suited to supporting victim-survivors of FDSV.⁴⁹
- 4.22 Many CLCs support diverse communities and have developed networks that provide wrap-around supports for victim-survivors of FDSV. For example, Westjustice provides duty lawyer services and advice, casework and representation, a family violence early resolution service and a restoring financial safety program. Westjustice also works with community-based family violence workers, settlement services, local health services and housing services.⁵⁰ It currently has formal partnerships with several services including a hospital, a maternal and child health team, a women's service that provides refuge accommodation, and Orange Door.⁵¹
- 4.23 Finding crisis accommodation or a place to rent that will allow pets is difficult and can be a reason for victim-survivors to stay in unsafe housing. Lucy's Project called for all services supporting victim-survivors to recognise and respond to animal abuse as a form of family and domestic violence, and to provide support that ensures the safety of victim-survivors and their animals.⁵²

A victim advocate

- 4.24 The Western Australian Government is currently exploring a single advocacy model to better support victim-survivors of FDSV across the entire justice system. Under this model, a single advocate would support a victim-survivor and help them navigate a range of different court situations, such as civil, criminal or family law matters. The

⁴⁶ QIFVLS, *Submission 70*, page 3.

⁴⁷ Ms Pliner, FCLCV, *Committee Hansard*, 30 August 2024, page 19.

⁴⁸ NCLC, *Submission 75*, page 4; Westjustice, *Submission 68*, page 10.

⁴⁹ NCLC, *Submission 75*, page 4.

⁵⁰ Westjustice, *Submission 68*, pages 1-2 and 9.

⁵¹ Westjustice, *Submission 68*, pages 1-2 and 9.

⁵² Lucy's Project, *Submission 47*, page 3.

Western Australian Government said victim-survivors need an advocate or support person ‘... who can walk with the victim through these complex legal matters ...’⁵³

Concerns services are unable to meet demand and are under-resourced

- 4.25 Concerns were raised that critical legal and non-legal services for victim-survivors of FDSV are overburdened and under resourced, and services are either turning vulnerable people away or are unable to deliver enough support.⁵⁴ It was reported that, nationally, 52,000 women go without support from women’s legal services due to resourcing constraints.⁵⁵ Hume Riverina Community Legal Service turned away more than 1,795 people in 2023-24.⁵⁶
- 4.26 The Committee heard there are long wait times for all but the most urgent cases⁵⁷, and victim-survivors are often ‘passed around’ and made to contact different services seeking assistance with their legal and non-legal issues.⁵⁸ Many services are unable to sustain assistance for prolonged family law court proceedings⁵⁹, which means that the safety of women and children may not be appropriately monitored or coordinated for the duration of proceedings.⁶⁰
- 4.27 The Committee heard that state and federal funding agreements do not adequately support important early intervention and preventative services.⁶¹ This means that support services are operating as a form of immediate crisis response, rather than providing early intervention, prevention or ongoing support to victim-survivors.⁶² Stakeholders said that further and targeted funding is required to support early intervention and preventive services.⁶³
- 4.28 The adequacy of Australian Government legal assistance funding was considered by an independent review of NLAP. The review reported in March 2024 and found that:

⁵³ Ms Kati Kraszlan, Commissioner for Victims of Crime, Department of Justice, *Committee Hansard*, 11 October 2024, page 2.

⁵⁴ Westjustice, *Submission 68*, page 5,10; LCA, *Submission 67*, page 21; Ms Katherine McKernan, Executive Director, NLA, *Committee Hansard*, 30 August 2024, page 3; NCLC, *Submission 75*, page 5; LCA, *Submission 67*, page 20; Feminist Legal Clinic Inc., *Submission 76*, page 2; South-East Monash Legal Service (SMLS), *Submission 80*, page 19; Ms Wendy Anders, Chief Executive Officer, National Aboriginal and Torres Strait Islander Women’s Alliance (NATSIWA), *Committee Hansard*, 23 August 2024, page 40.

⁵⁵ Ms Bradshaw, WLSA, *Committee Hansard*, 30 August 2024, page 1.

⁵⁶ Ms Alison Maher, Managing Lawyer, Family Law, HRCLS, *Committee Hansard*, 30 August 2024, page 21.

⁵⁷ Westjustice, *Submission 68*, page 5.

⁵⁸ SMLS, *Submission 80*, page 11.

⁵⁹ Barnados Australia, *Submission 49*, page 5.

⁶⁰ Bayside Peninsula Integrated Family Violence Partnership and the Southern Melbourne Family Violence Regional Integration Committee, *Submission 41*, page 9.

⁶¹ Ms Cleona Feuerring, Legal Director, Family Violence and Family Law Program, Westjustice, *Committee Hansard*, 30 August 2024, page 22; NCLC, *Submission 75*, page 5, 8.

⁶² Westjustice, *Submission 68*, page 9.

⁶³ PCLC, *Submission 77*, page [10]; NCLC, *Submission 75*, page 7; Ms Feuerring, Westjustice, *Committee Hansard*, 30 August 2024, page 22.

- demand exceeded the current capacity of the legal assistance sector
- current funding levels are insufficient to meet the legal needs of the Australian community
- due to broader socio-economic conditions and policy changes, these needs are continuing to grow.⁶⁴

4.29 There was strong support for sustainable and equitable funding for services to provide wrap-around support to victim-survivors of FDSV and children⁶⁵ and for the implementation of the NLAP review recommendations.⁶⁶ Specific concerns were raised about resourcing for LACs, CLCs and FASS.

Legal aid and pro bono work

4.30 The legal aid system currently operates under a mixed model of service delivery, in which LACs brief out matters to private firms at reduced rates. This model is critical to sustainable service delivery⁶⁷, however it was reported to the Committee that it is becoming financially unviable for private lawyers to support legal aid clients in family law matters, particularly outside major cities.⁶⁸ National Legal Aid said there are entire regions where vital legal assistance is simply unavailable.⁶⁹

4.31 While many national legal firms do pro bono work, the Committee heard this work is limited in family law matters. This is partly because family law matters are expensive to run, protracted and complex, and often involve other intersecting legal issues.⁷⁰ However, the market for family law solicitors is strong, which means it is difficult for firms to match salaries when they are supporting family law matters on legal aid rates. It can be difficult to find staff, and these cases will often fall to junior solicitors.⁷¹ There was support for legal aid payments to be increased so that private practitioners can provide legal aid effectively and sustainably.⁷²

4.32 Concerns were also raised that the means test for legal aid was too high.⁷³ For example, National Legal Aid reported that only eight per cent of Australian

⁶⁴ AGD, *Independent Review of the National Legal Assistance Partnership*, March 2024, pages ii-iii.

⁶⁵ HRCLS, *Submission 72*, page 7; SMLS, *Submission 80*, page 12, 19; Ms Anders, NATSIWA, *Committee Hansard*, 23 August 2024, page 40; Westjustice, *Submission 68*, pages 6 and 10-12; WLSA, *Submission 69*, 12; PCLC, *Submission 77*, page 13; FCLCV, *Submission 79*, pages 20 and 24; Fitzroy Legal Service, *Submission 44*, page 4.

⁶⁶ LCA, *Submission 67*, page 23; WLSA, *Submission 69*, page 15; NCLC, *Submission 75*, pages 6 and 8.

⁶⁷ LCA, *Submission 67*, page 21.

⁶⁸ LCA, *Submission 67*, page 21; Ms McKernan, NLA, *Committee Hansard*, 30 August 2024, page 3-4; Mr Harry McDonald, Board Member, Family Law Practitioners Association of Queensland (FLPA), *Committee Hansard*, 30 August 2024, page 14; Ms McKernan, NLA, *Committee Hansard*, 30 August 2024, page 9.

⁶⁹ Ms McKernan, NLA, *Committee Hansard*, 30 August 2024, page 3-4.

⁷⁰ Ms McKernan, NLA, *Committee Hansard*, 30 August 2024, page 9.

⁷¹ Mr McDonald, FLPA, *Committee Hansard*, 30 August 2024, page 14.

⁷² LCA, *Submission 67*, pages 21-22; Tasmania Legal Aid, *Submission 35*, page [6].

⁷³ LCA, *Submission 67*, page 21.

households are eligible for legal aid and called for the means test to be raised by at least one per cent.⁷⁴

Community Legal Centres

- 4.33 The Committee heard that the role of CLCs in providing wrap-around services is not adequately recognised in current funding structures. CLCs' capacity to provide a full suite of wrap-around supports is limited by siloed funding, which prevents CLCs from incorporating or collaborating with non-legal services.⁷⁵
- 4.34 For example, earlier it was noted that Westjustice has several partnerships that allow it to support a broad range of victim-survivors needs. It reported that the funding allocated to these partnerships is limited and short term.⁷⁶ Westjustice said that CLCs are not adequately funded for pre-court and ongoing legal representation, or in Children's Court and FCFCOA matters, as most funding for these matters is directed towards LACs.⁷⁷ Some CLCs, such as Northern Community Legal Centre, are relying on philanthropic funding to deliver wrap-around services to victim-survivors.⁷⁸
- 4.35 Concerns were also raised about the sustainability of the CLC workforce, including that CLC staff are currently paid less than those working in legal aid and private practice.⁷⁹ South-East Monash Legal Service reported that many lawyers are suffering burnout from dealing with a high number of clients, and are unable to provide the level of assistance they could if they were better resourced.⁸⁰

Family Advocacy and Support Services

- 4.36 The Committee heard Family Advocacy and Support Services (FASS) can be difficult to access and slow to respond⁸¹ and provides limited ongoing legal assistance.⁸² Nerang Neighbourhood Centre suggested this may be partly due to the 'housing' of FASS within the legal aid structure in the states and territories, and partly due to a lack of resources.⁸³ FCFCOA noted that FASS is not accessible to all parties who need it due to limited resources and because it is in the process of adapting to a remote or online provision.⁸⁴ There was strong support for FASS to be expanded with additional resourcing.⁸⁵

⁷⁴ Ms McKernan, NLA, *Committee Hansard*, 30 August 2024, pages 3 and 9.

⁷⁵ NCLC, *Submission 75*, page 5.

⁷⁶ Westjustice, *Submission 68*, pages 1-2 and 9.

⁷⁷ Westjustice, *Submission 68*, page 10.

⁷⁸ NCLC, *Submission 75*, page 5.

⁷⁹ Ms Melissa Hardham, Chief Executive Officer, Westjustice, *Committee Hansard*, 30 August 2024, page 29.

⁸⁰ SMLS, *Submission 80*, page 19-20.

⁸¹ Nerang Neighbourhood Centre, *Submission 3*, page 8.

⁸² PCLC, *Submission 77*, page [11].

⁸³ Nerang Neighbourhood Centre, *Submission 3*, page 8.

⁸⁴ FCFCOA, *Submission 54*, page 10.

⁸⁵ Dr Robyn Clough, Manager, Policy and Research, Family and Relationship Services Australia, *Committee Hansard*, 23 August 2024, page 31; NLA, *Submission 61*, page [4]; FCFCOA, *Submission 54*, page 10; Attorney-General of Western Australia, *Submission 88*, page 3.

Preventive interventions for perpetrators of FDSV

- 4.37 Therapeutic and behavioural change programs provide opportunities for perpetrators of FDSV to be accountable and achieve lasting change in their behaviours by addressing the underlying reasons for their violence.⁸⁶ However, offenders must be supported and motivated to rehabilitate.⁸⁷ According to National Aboriginal and Torres Strait Islander Women's Alliance, these types of programs are particularly important to First Nations communities.⁸⁸
- 4.38 The Committee heard there is currently limited Australian Government funding for men's behaviour change programs and most services are funded through the states and territories.⁸⁹ Westjustice reported that magistrates courts have stopped making respondent orders for behavioural change because there are no services to support such orders.⁹⁰
- 4.39 Relationships Australia currently has over 240 men in New South Wales on waitlists because it does not have enough funding to meet demand for men's behaviour change programs and other perpetrator interventions. According to Relationships Australia, these men are 'there either because they've chosen to be or because someone's told them they have to be, who are therefore at a point where they need to change. Yet then we have to say to them: "Well, no. Now you'll wait."' ⁹¹ Relationships Australia said that, in some locations, piecemeal funding arrangements allow them to deliver only one program in a town, once a year '... and it fills up within an hour of it being announced. If you missed it, you wait a year before the next one.' ⁹²
- 4.40 The Australian Government has committed \$10.8 million over 2022-23 to 2025-26 to continue funding No to Violence to deliver a national perpetrator intervention and referral service, which provides telephone and online support and counselling for men who use violent and controlling behaviour.⁹³ Other current Australian Government initiatives include MensLine Australia⁹⁴, a telephone counselling service for men with concerns about mental health, anger management and family violence, and MensLine Changing for Good, which provides a men's behavioural change program and a violence prevention program.⁹⁵
- 4.41 The Australian Government is supporting several initiatives to better understand the drivers of violence and improving the identification and assessment of perpetrator

⁸⁶ FCFCOA, *Submission 54*, page 6; DSS, *Submission 16*, page 8.

⁸⁷ Tasmania Legal Aid, *Submission 35*, page [12].

⁸⁸ Ms Anders, NATSIWA, *Committee Hansard*, 23 August 2024, page 40.

⁸⁹ Mrs Jacqueline Brady, Executive Director, Family and Relationship Services Australia, *Committee Hansard*, 23 August 2024, page 33.

⁹⁰ Westjustice, *Submission 68*, page 6.

⁹¹ Mr Tebbey, Relationships Australia, *Committee Hansard*, 23 August 2024, page 32.

⁹² Mr Tebbey, Relationships Australia, *Committee Hansard*, 23 August 2024, pages 32-33.

⁹³ DSS, *Submission 16*, page 10.

⁹⁴ DSS, *Submission 16*, page 10.

⁹⁵ DSS, *Submission 16*, page 11.

risk, including research to inform prevention and early intervention approaches.⁹⁶ National standards for men's behavioural change programs will be developed by DSS in cooperation with the states and territories.⁹⁷

- 4.42 FCFCOA is seeking funding for research that would develop a family law specific men's behavioural change program.⁹⁸

Recent funding announcements

- 4.43 As noted earlier, significant new funding commitments and measures have been announced by the Australian Government in partnership with the states and territories. A new \$3.9 billion National Access to Justice Partnership (NAJP) was recently agreed by National Cabinet and will commence when the NLAP expires in June 2025.⁹⁹ The Attorney-General announced that NAJP will provide increased funding of \$800 million over five years from 2025-26 to the legal assistance sector, including:

- \$558 million for CLCs and \$276 million for Women's Legal Services, which is a total of \$833 million and an increase of \$354 million
- \$367 million for FVPLS, an increase of \$193 million
- \$838 million for ATSILS, an increase of \$326 million
- \$1.785 billion for LACs, an increase of \$342 million.¹⁰⁰

- 4.44 The Australian Government has described the NAJP as the largest investment from the Commonwealth in legal assistance ever.¹⁰¹ According to the Attorney-General, NAJP will:

- quarantine funding for individual parts of the legal assistance sector, providing greater certainty to legal assistance providers across Australia
- reduce pay disparity between CLCs and LACs, enabling CLCs to recruit and retain lawyers
- index funding to respond to changing economic conditions, meaning funding will no longer go backwards in real terms
- simplify funding streams to reduce fragmentation and administrative burden on services

⁹⁶ DSS, *Submission 16*, page 8-10.

⁹⁷ DSS, *Submission 16.1*, page 5.

⁹⁸ FCFCOA, *Submission 54*, page 6.

⁹⁹ The Hon Anthony Albanese MP, Prime Minister, and the Hon Mark Dreyfus KC MP, Attorney-General, 'A new National Access to Justice Partnership', *Media release*, 6 September 2024.

¹⁰⁰ The Hon Mark Dreyfus KC MP, Attorney General, 'A new National Access to Justice Partnership', *Media release*, 22 November 2024.

¹⁰¹ The Hon Anthony Albanese MP, Prime Minister, and the Hon Mark Dreyfus KC MP, Attorney-General, 'A new National Access to Justice Partnership', *Media release*, 6 September 2024.

- support progress under the National Agreement on Closing the Gap and deliver on essential long-term outcomes for First Nations people
- prescribe governance and accountability requirements to ensure legal assistance services are providing value for money and run in an accountable and responsible way.¹⁰²

4.45 In addition, a renewed, five-year FDSV National Partnership will commence in July 2025 and will deliver over \$700 million in new matched investments from the Australian and state and territory governments, will support greater flexibility for states and territories to direct funding to meet local need and will be accompanied by stronger transparency and accountability mechanisms. According to DSS, the FDSV National Partnership will include funding for:

- specialist services for women
- services to support children exposed to FDSV to heal and recover
- working with men, including men's behaviour change programs for perpetrators of gendered violence
- establishing national standards for men's behaviour change, funded by the Australian Government and led by DSS in consultation with state and territory governments and stakeholders from the FDSV sector
- working with sector experts to identify gaps in supports for children and young people who have experienced or witnessed FDSV, to inform the design and implementation of new and revised initiatives and interventions. According to DSS, this includes a focus on First Nations children and young people through culturally safe consultation and expertise. The Australian Government will also provide increased funding of over \$80 million to enhance and expand child-centric trauma-informed supports for children and young people.¹⁰³

Committee comment

- 4.46 Services which support victim-survivors of FDSV to navigate separation safely and to resolve legal issues fairly require adequate, ongoing and sustainable funding. It is unacceptable that overburdened critical services are forced to turn away people, who may be in absolute crisis, due to funding constraints.
- 4.47 National Cabinet has recently agreed to a package of new measures that build on existing funding and aim to put the legal and non-legal supports for victim-survivors of FDSV on a sustainable footing.¹⁰⁴ It is beyond the scope of this inquiry to determine whether the combination of new and existing measures will address funding shortfalls, and it was not possible to test, with new evidence, the adequacy of

¹⁰² The Hon Mark Dreyfus KC MP, Attorney-General, 'A new National Access to Justice Partnership', *Media release*, 22 November 2024.

¹⁰³ DSS, *Submission 16.1*, page 5.

¹⁰⁴ The Hon Mark Dreyfus KC MP, Attorney General, 'A new National Access to Justice Partnership', *Media release*, 22 November 2024.

the recently signed NAJP. The Parliament and the Australian Government should ensure that concerns raised in this inquiry are addressed by the NAJP and the FDSV National Partnership.

- 4.48 It was clear to the Committee that victim-survivors of FDSV need someone to *walk with them* from the moment they decide to reach out for help — to guide them safely through separation, to advocate for them and to connect them with the services they need. Currently there is a range of services that are performing this role. There is merit in exploring the benefits and feasibility of a single advocacy support model for victim-survivors of FDSV that leverages the expertise and networks of existing support services.

Recommendation 11

- 4.49 The Committee recommends that, in the next Parliament, the Australian Government undertake a scoping study to explore the benefits and feasibility of a single advocacy support model for victim-survivors of FDSV.**
- 4.50 FDSV requires nuanced and holistic responses, and a key part of this is engaging with perpetrators to change their abusive behaviours. While the Committee agrees that court referrals to interventions like men's behaviour change programs should be compulsory in some circumstances, this is a matter for the states and territories. There is currently not enough of these programs to meet demand, and there is a need to build the evidence base about what works to change perpetrator behaviours. Further funding has been recently committed to supporting men's behavioural change programs and it is important these programs are fully evaluated.
- 4.51 Given how entrenched and pervasive FDSV is, ongoing funding will need to be committed by future governments to ensure victim-survivors can access services that support safe and fair outcomes for themselves and their children in the FVO and family law systems. But the true cost to victim-survivors and children who have experienced FDSV is far greater. Australian governments must prioritise prevention to eliminate all costs of FDSV and realise the shared goal of ending violence against women and children in ten years, as set out in the National Plan. Implementing the recommendations of the Rapid Review of Prevention Approaches, including taking further action to reduce gambling harm — as previously recommended by this Committee — will be critical to saving the lives of women and children and eliminating FDSV. The Committee will continue to welcome updates in these areas.

Ms Susan Templeman MP
Chair
7 February 2025



A. Submissions

- 1 Name Withheld
- 2 Name Withheld
- 3 Nerang Neighbourhood Centre
- 4 Ms Carmen Reyna Zeballos
- 5 Name Withheld
- 6 Associate Professor Miranda Kaye
- 7 Relationships Australia
- 8 Name Withheld
- 9 Sexual Safety Australia
- 10 Family Court of Western Australia
- 11 AustralAsian Centre for Human Rights and Health
- 12 Family Law Practitioners Association of Queensland
- 13 Elizabeth Morgan House
- 14 Full stop Australia
- 15 Attorney-General's Department
 - 15.1 Supplementary to submission 15
- 16 Department of Social Services
 - 16.1 Supplementary to submission 16
 - 16.2 Supplementary to submission 16
- 17 Confidential
- 18 Confidential
- 19 Confidential
- 20 Confidential

21	Confidential
22	Confidential
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26	Confidential
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31	Confidential
32	Confidential
33	Confidential
34	Confidential
35	Tasmania Legal Aid
36	Redfern Legal Centre's Financial Abuse Service NSW
37	Council of Single Mothers and their Children
38	Domestic Violence Advocacy Australia <ul style="list-style-type: none"> • 38.1 Supplementary to submission 38
39	Safe Steps Family Violence Response Centre
40	Victoria Legal Aid
41	Bayside Peninsula Integrated Family Violence Partnership and the Southern Melbourne Family Violence Regional Integration Committee
42	Asylum Seeker Resource Centre
43	Name Withheld
44	Fitzroy Legal Service
45	Health Justice Australia

- 46** Professor Elspeth McInnes AM
- 47** Lucy's Project
- 48** Australian Medical Students Association
- 49** Barnardos Australia
- 50** National Women's Safety Alliance
- 51** Tasmanian Government
- 52** Australian Institute of Family Studies
- 53** Family and Relationship Services Australia
 - 53.1 Supplementary to submission 53
- 54** Federal Circuit and Family Court of Australia
 - 54.1 Supplementary to submission 54
- 55** The Centre for Excellence in Child & Family Welfare
- 56** DVConnect
- 57** Domestic Violence NSW
- 58** Dr Georgina Dimopoulos
- 59** South Australia Police
- 60** National Aboriginal and Torres Strait Islander Women's Alliance
- 61** National Legal Aid
 - 61.1 Supplementary to submission 61
- 62** Australia's National Research Organisation for Women's Safety
- 63** Australian Services Union
- 64** WESNET
- 65** Uniting Vic. Tas.
- 66** Royal Australian and New Zealand College of Psychiatry
- 67** Law Council of Australia
 - 67.1 Supplementary to submission 67
- 68** Westjustice
- 69** Women's Legal Services Australia

- 70** Queensland Indigenous Family Violence Legal Service
- 71** Name Withheld
- 72** Hume Riverina Community Legal Service
- 73** First Nations Advocates Against Family Violence
- 74** Djirra
- 75** Northern Community Legal Centre
- 76** Feminist Legal Clinic Inc.
- 77** Peninsula Community Legal Centre
- 78** Pilbara Community Legal Service
- 79** Federation of Community Legal Centres (Vic)
- 80** South-East Monash Legal Service
- 81** Victorian Aboriginal Legal Service
- 82** Name Withheld
- 83** Safe and Equal
- 84** inTouch Women's Legal Centre
- 85** Name Withheld
- 86** Aboriginal Legal Service NSW/ACT Limited
- 87** Sisters In Law Project
- 88** Attorney General of Western Australia
 - 88.1 Supplementary to submission 88
- 89** Confidential
- 90** Confidential
- 91** GenWest
- 92** Protective Collective
- 93** Dr Miles Sowden
- 94** Confidential

95 Confidential

96 Confidential

97 Confidential



B. Public hearings

Friday 23 August 2024

Canberra

Australian Institute Of Family Studies

- Ms Kira Duggan, Research Director, Systems and Services
- Dr Rachel Carson, Executive Manager, Family Law, Family Violence and Elder Abuse Research Program

National Women's Safety Alliance

- Ms Katherine Berney, Executive Director
- Ms Ajsela Siskovic, Executive Manager of Legal Services and Principal Lawyer, in Touch Women's Legal Centre
- Terese Edwards, Chief Executive Officer, Single Mother Families Australia

Domestic Violence Advocacy Australia

- Ms Emma Husar, Chair/Founder
- Ms Lara Glasson, Secretary

Full stop Australia

- Ms Karen Bevan, Chief Executive Officer
- Ms Emily Dale, Head of Advocacy

Council of Single Mothers and their Children

- Ms Andi Sebastian, Communication and Policy Coordinator

Family and Relationship Services Australia

- Mrs Jacqueline Brady, Executive Director
- Dr Robyn Clough, Manager, Policy and Research

Relationships Australia

- Mr Nick Tebbey, National Executive Officer

Uniting Vic. Tas.

- Ms Bronwyn Pike, Chief Executive Officer
- Ms Amanda Exley, Group Manager, Child, Youth and Families Northern, and Settlement Services

National Aboriginal and Torres Strait Islander Women's Alliance

- Ms Wendy Anders, Chief Executive Officer

Friday 30 August 2024

Canberra

Women's Legal Services Australia

- Mrs Meaghan Bradshaw, Chair of the Family Law and Domestic and Family Violence Committee, Women's Legal Services Australia
- Ms Elise Whitmore, Principal Solicitor, Women's Legal Service Tasmania

National Legal Aid

- Ms Katherine McKernan, Executive Director
- Ms Bernadette Grandinetti, Acting Associate Director

Law Council of Australia

- Mr Trevor McKenna, Executive Member, Family Law Section
- Ms Jaquie Palavra, Executive Member, Family Law Section
- Ms Natalie Cooper, Senior Policy Lawyer

Family Law Practitioners Association of Queensland

- Mr Harry McDonald, Board Member
- Mr Matthew Taylor, Board Member

Federation of Community Legal Centres Victoria

- Ms Rachael Pliner, Director of Policy and Advocacy

Hume Riverina Community Legal Service

- Ms Alison Maher, Managing Lawyer Family Law
- Ms Jodie Wells, Senior Lawyer Family Law
- Ms Erin Quilliam, Lawyer Family Law

Westjustice

- Ms Melissa Hardham, Chief Executive Officer
- Ms Cleona Feuerring, Legal Director

Pilbara Community Legal Service

- Mr Mark Jeffreys, Principal Solicitor
- Ms Bianca Lambert, Solicitor
- Ms Sara Makeham, Family and Domestic Violence Advocate

Aboriginal Family Legal Services Western Australia

- Ms Gail Dodd, Principal Legal Officer

Queensland Indigenous Family Violence Legal Service

- Ms Thelma Schwartz, Principal Legal Officer
- Ms Leah King, Deputy Principal Legal Officer
- Mr Brandon Begley, Deputy Principal Legal Officer
- Mr Kulumba Kiyingi, Senior Policy Officer

Friday 11 October 2024

Canberra

Western Australian Government

- Ms Kylie Maj, Director General, Department of Justice
- Ms Kati Kraszlan, Commissioner for Victims of Crime, Department of Justice

Attorney-General's Department

- Mrs Samantha Byng, Assistant Secretary, Family and Community Safety Branch
- Ms Rebecca Mills, Acting Assistant Secretary, Family Law Branch, Children and Families Division
- Ms Claire Crawford, Director, Information Sharing Section, Family and Community Safety Branch

Department of Social Services

- Ms Lara Purdy, Branch Manager, Prevention and Early Intervention
- Ms Anna Lutz, Group Manager, Ending Gender-Based Violence.



C. Exhibits

- 1 Council of Single Mothers and their Children (CSMC), N Madigan, 'My ex-partner was abusive to our son. Then he convinced a judge I was the problem', *Mamamia*, 18 March 2024