

She didn't ask for this

Women's experience of police-brought family violence intervention orders and access to justice outcomes in regional Victoria

Preliminary Research Report

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Glossary

Affected Family Member/s (AFM)	The person, or people, who are protected by a family violence intervention order application.
Applicant	The person applying for a family violence intervention order, for their own protection (see <i>Private application</i>), or on behalf of an Affected Family Member (see <i>Police application</i>).
Consent Order	Consent orders are FVIOs granted by a Magistrate, who relies on the respondent's consent to the order rather than requiring evidence to be given by the parties that there is a need for the order. No finding of fact is made that family violence has been perpetrated.
Consent without admission	When a respondent consents to a FVIO 'without admission', they agree to the order, but do not admit to perpetrating family violence or to the truth of any allegations made in the FVIO application.
Family Violence Intervention Order	A court order to protect a person, or people, from a current or former family member who is using family violence.
Family violence intervention order process	The process established by the <i>Family Violence Protection Act 2008</i> (Vic) to apply for and determine whether there are sufficient grounds for the making of a FVIO.
Family violence response system	The state-supported sectors which interact to provide protection and justice outcomes for those who experience family violence, and who hold perpetrators of family violence to account. This includes the police, courts, specialist family violence services, legal services, child and family services, and other health and social-welfare organisations who provide specialist programs addressing the impact of family violence.
Family Violence Safety Notice	A short-term protection order issued by the police against a respondent to protect the affected family member/s before a Family Violence Intervention Order application is heard in court.
Full Order	A FVIO order made with all standard conditions. A Full Order excludes the respondent from being within a specified distance of the AFMs at all times, including where applicable, the family home and any school or workplaces. They also prohibit the

	respondent from contacting the AFM directly, or having others do so on their behalf, unless through the police or a lawyer.
Interim Order	A FVIO order made for an interim period, usually until a future court hearing date.
Key informants	Professionals working within the family violence response system who participated in interviews for this research project.
L17 Report	The Risk Assessment and Risk Management report prepared by police responding to family violence incident. The report triggers referrals and is shared with other family violence agencies as part of the information-sharing arrangements provided for in the <i>Family Violence Protection Act 2008</i> (Vic).
Perpetrator	A person who uses family violence.
Police application	An application for a family violence intervention order made by the police on behalf of an Affected Family Member/s.
Private application	An application for a family violence intervention order made directly by an Affected Family Member.
Respondent	The person who is subject to a family violence intervention order and must adhere to the conditions of the order.
Survivor/Advocate	This term is used throughout the report to refer to the seven women with lived experience of family violence who participated in interviews for this research project. The term Survivor/Advocate also refers more broadly to women with lived experience of family violence who, in sharing their expertise, are advocates for improved responses to family violence and systems accountability.

Acronyms

AFM	Affected Family Member
CLC	Community Legal Centre
FV	Family Violence
FVCLO	Family Violence Court Liaison Officer
FVIO	Family Violence Intervention Order
FVLO	Police Family Violence Liaison Officer
FVPA	Family Violence Protection Act 2018 (Vic)
FVSN	Family Violence Safety Notice
FVTO	Family Violence Training Officer
MCV	Magistrates' Court of Victoria
RCFV	Royal Commissions into Family Violence (Vic)
SFVC	Specialist Family Violence Court
SFVW	Specialist Family Violence Worker
VLA	Victoria Legal Aid

1 Introduction

Background

ARC Justice is a rights-based legal and advocacy service incorporating two community legal centres (CLCs), Loddon Campaspe CLC and Goulburn Valley CLC, and a tenancy advocacy service Housing Justice. We provide legal assistance services to vulnerable and marginalised people living in regional Victoria, across a catchment area that spans across ten local government areas in central and north-eastern Victoria. Our programs include a dedicated family violence legal service, and duty lawyer services delivered at ten regional courts across our catchment, including headquarter courts in Bendigo and the new Specialist Family Violence Court in Shepparton, in addition to several smaller courts. Last year, 69% of all clients assisted by our service were experiencing or had a legal matter related to family violence, and 70% of our clients were women.

Women are disproportionately affected by family violence in Australia. One in six Australian women report experiencing physical and/or sexual violence perpetrated by an intimate partner (AIHW 2019), while violence remains a key driver of disability and premature death amongst Australian women (Meyer & Williamson 2020). Women comprised just over 75% of all Affected Family Members (AFMs) recorded by Victoria Police in 2019-20, a proportion which has held consistently over the last five years (Crime Statistics Agency 2021b).

Since the Royal Commission into Family Violence (RCFV) handed down its findings in 2016, the family violence response system in Victoria has undergone significant reform to improve justice and safety outcomes for victim-survivors. Police, courts and services involved in family violence prevention and response have been actively implementing key reforms while continuing to respond to high rates of family violence in the community.

As of September 2021, 204 of the Royal Commission's 227 recommendations have been acquitted and 32 recommendations remain in progress. There has been significant investment in police training, front-line operations, risk assessment and investigation processes to enhance family violence response. Court-based responses to family violence in Victoria have also been strengthened with the roll-out of Specialist Family Violence Courts in some regions, and increased resourcing for legal services in family violence matters. But the impact of these sector reforms on the justice experience and outcomes of women who are victim-survivors of family violence has not been widely evaluated and is not well understood.

In 2019, ARC Justice received funding from the Victoria Law Foundation (VLF) to explore women's experiences of the family violence response system in the post-Royal Commission landscape. This research focused on how police-initiated FVIOs are shaping women's access to justice experiences in regional Victoria; and how police, courts and associated support services – including legal services – are working together to strengthen the justice, safety and wellbeing outcomes.

Police and courts play a central role in family violence response, with the power to issue protection orders. Police are commonly the first point of contact for women experiencing family violence. At incident scenes, or following a report of family violence, police are obliged to conduct a risk assessment to determine whether a party needs protection from future harm and to make referrals to appropriate

support services. Victoria Police are bound by their Code of Practice for the Investigation of Family Violence to apply for a family violence protection order 'wherever the safety, welfare or property of a family member appears to be endangered by another family member' (Victoria Police 2019). Police have the power to issue a Family Violence Safety Notice (FVSN) for the immediate protection of an affected family member while further investigations are made and an application for a Family Violence Intervention Order (FVIO) is heard by the Magistrates' Court.

The state-wide proportion of police-initiated applications for FVIOs in the Magistrates' Court has increased from 69.8% in 2015-16 to 77.1% in 2019-20. In the Children's Court, police-brought FVIO applications increased from 76.4% to 81.4% over the same period. In this context, police play a critical role for victim-survivors in need of protection or seeking support for family violence through the family violence intervention order process. Once an order is made, police also play a critical role in enforcement for perpetrator accountability, responding to, investigating, and pursuing criminal charges for reported breaches of FVIO conditions.

Women listed as AFMs on police applications for FVIOs may or may not receive referrals to or support from other support services or independent legal advice throughout the intervention order process. Access to these services is often dependent on referrals from police or physical attendance by the AFM at Court. How police and other actors involved in family violence response understand their roles and work together to support AFMs before, during and after a FVIO matters proceeds through the Magistrates' Court is critical to women's access to justice experience and outcomes.

As the Centre for Innovative Justice (CIJ 2021) noted in recent research into the Consent Order processes: *"system activity does not equate with system effectiveness... safety comes just as much from the expertise, reliability and consistency of risk management, enforcement and access to supports which surround an FVIO process than it does from the act of simply 'getting the order in place'."*

To better understand the degree to which the family violence response system is contributing to justice outcomes for victim-survivors of family violence, the voices and experiences of system users must be centred in research and evaluation.

This is the broad context in which ARC Justice undertook its research between February 2021-22, with support from the Victoria Law Foundation Knowledge Grants Program.

Research Questions

The professional observations and experience of our family violence legal practitioners and service partners led ARC Justice to develop a practice-based hypothesis (Walker & Lloyd-Walker 2015) for this research project: that police applications for FVIOs, and interactions by police, courts, legal and other support services with AFMs, are critical determinants of access to justice for women in regional Victoria.

Two exploratory research questions were developed to further investigate this proposition:

1. How has the proportional increase in police-initiated FVIO applications ('police applications') impacted women's access to justice outcomes?

2. How can police, courts, legal and other specialist services work together to enhance access to justice for women experiencing family violence in regional Victoria?

Access to Justice Framework

ARC Justice understands access to justice from a broad and client-centred perspective.

A holistic conceptualisation of 'access to justice' in the context of family violence privileges what victim-survivors consider to be a fair process and their desired justice outcomes.

Previous applied research conducted by Loddon Campaspe CLC with women with lived experience of family violence identified six domains that are critical to access to justice for victim-survivors (Neilson & Renou 2015). These domains are:

- **Rights** – women have their legal rights protected, and receive timely, appropriate and suitable information, with advice and referrals from capable and responsive providers.
- **Participation** – women participate in decision-making, are well informed about and understand the justice system and its processes, and justice is affordable and accessible.
- **Voice** – women can articulate what safety and justice means for them, can safely have their voices heard, and are empowered to speak their truth.
- **Validation** – women's feelings, behaviour and experiences are understood, believed, and not judged or denigrated.
- **Offender accountability** – the offender acknowledges the harm they have caused, apologises, changes their behaviour and is monitored and held accountable by the wider community.
- **Restoration** – the justice process fosters long-term healing and recovery for women and their children.

Research Methods

After several iterations of our research plan in response to ongoing COVID-19 disruptions, we adopted a primarily qualitative methodology for this research project, including interviews with survivor-advocates who had been listed as the affected family member on a police application for a FVIOs, and interviews with 'key informants' working in family violence response.

Survivor-advocate interviews (n=7)

Interviews with survivor-advocates were designed to elicit lived experiences. We sought to recruit participants whose personal stories represented 'typical cases' (Bryman 2015): examples that exemplified common circumstances and conditions when a police-brought FVIO is in place, rather than being extreme or unusual in some way.

The original target sample was to include 20 AFMs aged between 18–65, at least half of whom were to be in family units with children, and an approximately equivalent number of participants across four sites where ARC Justice provides duty services: Bendigo, Maryborough, Echuca and Seymour.

Our practice network of lawyers and specialist family violence service providers were engaged to screen and obtain the consent of possible interviewees to be contacted for the study. However, the onset of the COVID-19 pandemic and related stay-at-home orders hampered data collection efforts at numerous points.

With limited opportunities to meet in person and incentivise women to speak with us on an already sensitive and often traumatic subject, the eventual sample size was capped at seven women. A summary of participant cases is provided in Section 3.

When analysing interview transcripts, there was very little 'new' data or coding by the seventh interview, suggesting we had reached a point of saturation for the specific focus of our project (see Fusch & Ness 2015).

A notable gap in our sample is Aboriginal and Torres Strait Islander women. Due to the challenges identified above engaging with and incentivising women to participate in research interviews during the ongoing COVID-19 pandemic, we were not able to secure any interview with Aboriginal women. As such, our sample cannot be considered demographically representative, but remains illustrative of the experiences of many women engaged in the FVIO process.

We have sought throughout this report to refer to other studies with a larger sample size of women with lived experience. By comparing our findings and observations with other research, we have been able to validate many of our key observations and findings, despite a relatively small sample size.

Key informant interviews (n=10)

To better understand aspects of the family violence justice system, we also sought to include in the study the viewpoints of individuals with different organisational and professional backgrounds.

In consultation with our network of practitioners across the region, a sample of ten interviewees was developed which included duty lawyers, registrars, specialist family violence workers, court-based applicant workers, and police officers operating across our catchment and in other parts of regional Victoria.

With reference to these occupational categories, we consider the key informants who participated in our study to have 'expert' insights into specific aspects of the justice system that they are involved in or responsible for.

Through these key informant interviews we have attempted to identify systemic explanations for observed and reported phenomena, including institutional drivers and power relationships shaping the experiences of AFMs.

We recognise, however, that our key informants are also power-holders themselves and cannot speak for the communities impacted by this system (Lokot 2021). With this in mind, our analysis privileges the personal accounts of women.

Research Ethics

Considerations for ethical conduct of the project included ensuring AFM participation under conditions of personal and cultural safety and confidentiality, clear communication and informed consent, and compliance with organisational policies and industry research standards. These issues were addressed in detail under review by the Justice Human Research Ethics Committee (JHREC), Victorian Department of Justice and Community Safety.

Full JHREC ethics approval was granted on 6 May 2021 with the reference number CF/21/5124. Approval to interview members of Victoria Police was also obtained from the Research Coordinating Committee of Victoria Police on 8 July 2021, reference number RCC 988.

The researchers were aware of their personal and professional investments in undertaking this project. Members of the team operate between multiple 'worlds' (Denzin 2017) as applied researchers, students or practitioners of the law, and as social justice advocates.

The research team implemented strategies to mitigate the possible biases generated from these social positions, including:

- Regular reflection on the research in multidisciplinary settings, including within and outside the research team and wider organisation;
- Development of a deductive coding scheme for interview data analysis which reflected the objective stages of the FVIO process, rather than subjective ideas. Subsequent analysis was based on a holistic conceptualisation of 'access to justice'.

Analysis

Interviews were audio-recorded and securely shared with our pro-bono legal partners at Clayton Utz for confidential transcription.

The research team conducted first-pass coding of de-identified transcripts using collaborative coding software and working from a predetermined (deductive) list of codes to expedite the process. Both the interview guides for AFMs, and the initial coding tree were designed as a linear representation of FVIO processes, including 'pre-court' experiences with the family violence response system, 'at-court' experiences of the FVIO process, and 'post-court' outcomes and broader reflections on FVIOs and access to justice.

After first-pass coding, the research team agreed that AFM accounts of their experiences were largely non-linear, with some women describing multiple FVIO experiences and points of entry to the justice system. Subsequent analysis therefore focused on the clustering of themes according to key elements of access to justice, including voice, participation, and the quality and consistency of service responses and outcomes (see for example Victoria Legal Aid 2019), and how women's experiences are shaped by the key functions of actors within the family violence response system, including 'gatekeeping', 'navigating' and 'advocating'. The results presented in this paper are organised accordingly. We use narrative 'vignettes' (Reay et al 2019) and quotes from women's accounts to characterise and evidence the themes from our analysis.

Analysis was also supported by a review of scholarly and grey literature, with a focus on items published in Australia within the last 20 years, and with relevance to the themes of the project: women's experiences, the family violence justice system, police and service providers, and outcomes or issues associated with police protection or intervention orders.

Scope and Limitations

Police vs. private applications for FVIOs

With police applications for FVIOs constituting a majority of the application made to the Magistrates' Court of Victoria (MCV), and the proportion of police applications (compared to private applications) increasing across the state, this research has focused on the experiences of women listed as AFMs on police applications for FVIOs.

Private applications made by AFMs directly to the Court were outside the scope of this research, but the experiences of women who initiative private applications warrant further study in light of recent reforms in this space, including the introduction of an online application form, and recognizing the significant burden on police at present to respond to increasing rates of family violence.

Affected family members vs. perpetrators/respondents

With a focus on police applications for FVIOs, this research has focused on the experience of AFMs, and specifically women who make up a majority of AFMs listed on FVIOs in Victoria.

The researchers recognize that family violence is experienced by people who identify as men, women, and non-binary. The gendered nature of family violence is well documented, however, and this research focuses primarily on the experiences of women listed as AFMs, with women also making up the vast majority of clients accessing ARC Justice's family violence legal services. Research into the experience AFMs who identify as male or non-binary is important, but outside the scope of this study.

The research team also recognizes the critical importance of procedural justice and effective engagement with perpetrators in the FVIO process if protection orders are to be effective as a tool for perpetrator accountability and behaviour change. The Centre for Innovative Justice (CIJ) have conducted extensive research into gaps in the system response to perpetrators (CIJ 2021, 2020, 2018, 2016, 2015). While the scope of our research was limited to the experience of AFMs, greater attention is required by policymakers and practitioners to how perpetrators are engaged by the family violence response system and in FVIO processes.

Regional satellite and headquarter courts vs 'Specialist Family Violence Courts'

The roll-out of Specialist Family Violence Courts (SFVC) continues across Victoria, including some major regional centres. Evaluation of this model and the experiences of victim-survivors using SFVCs is currently underway, led by the Magistrates' Court of Victoria, Victoria Legal Aid and other implementation agencies. Equally important, but far less studied, are the experiences of victim-survivors using outer regional 'satellite' courts, which are yet to benefit from significant reforms or

flow-on impacts of investment in specialist and 'headquarter' courts. In this context, our research has focused on the experiences of women engaged in FVIO processes in regional satellite and headquarter courts only, with SFVCs outside our scope.

Sample size and COVID-19

Although the interview sample was smaller than intended, we believe the stories included in the research remain valid examples of many women's experiences with FVIOs in regional Victoria.

The seven survivor-advocates' experiences covered most of ARC Justice's extensive regional catchment area, from the urban fringes of Melbourne to the NSW border. Women interacted with police and courts in small towns as well as regional centres. Women had experience as private applicants for FVIOs as well as AFMs listed on police applications. The degree of satisfaction with the system also varied, with each women reporting positive and negative experiences. Some women had engaged private lawyers while others relied on the free service provided by VLA and CLCs. Some were linked into a lawyer from early in the FVIO process, while others managed without independent legal advice or accessed support later in their journey through the family violence system. Some had survived a long history of family violence, while for others, their experience of family violence was more recent. The diverse legal and non-legal needs of women reflected that no two AFMs will have the same needs or circumstances. Significantly, all of the survivor-advocates we spoke to were parents, and their experiences highlight the additional needs and complex challenges that women with children face in their interactions with the family violence response system.

2 Experiences of survivor-advocates

Interview summaries of the seven survivor-advocates who participated in our study are presented below. Their experiences are then discussed in relation to key themes of the research, followed by an analysis of implications and key findings.

“Sarah”

Sarah was interviewed in a café just outside a regional town. She had sought assistance for family violence from several police stations before ‘giving up’ and making her own application for an FVIO. It was granted by the Magistrate, but only for six months. At the time of the interview, she was making an application for what was to be her fourth FVIO protecting her from her ex-partner. The police had been involved along the way, including applying for one of her four FVIO. Her ex-partner always contested—at least at first. He also breached, but often in what Sarah considered to be insidious ways that have been difficult to prove. Because of this, Sarah has endured protracted involvement with the police and courts which has impacted on her health and financial security. Sarah didn’t believe that the system was working for her: the burden of proof for breaches, she felt, was stacked against her. Her experience also suggests that police failed to act appropriately when there were clear breaches of order conditions with objective evidence. As a result, Sarah felt that she continues to need protection, but she has had to work extraordinarily hard to advocate for herself to get it.

“Erin”

Erin gave a phone interview. She sought police help for family violence from her local rural station several times, but in her view, they didn’t take her reports seriously enough, nor took sufficient action. The violence at home was continuing to escalate until there was a physical incident that ultimately left no room for doubt. However, while Erin and her baby were dealing with the immediate crisis, the perpetrator went to a regional city court where he applied for and was granted an interim FVIO which purported to protect him and their elder child from her. This left Erin effectively homeless. It took several months and intervention from the Family Court before she was able to have her child back in her care. Erin described the police as now being very supportive and responsive to breaches. The contested cross application for a FVIO, however, was still working its way through the court.

“Ashlea”

Ashlea left a controlling and psychologically abusive relationship several years prior to the interview. She had settled into a new relationship and had a shared care arrangement with her ex-partner for their children. While she didn’t like the way he would speak to her, or that he would turn up at her door unannounced which made her feel uncomfortable, she felt they had reached a plateau in the relationship that was tolerable. But she didn’t trust him. One day, the police unexpectedly knocked on Ashlea’s door: they had received an anonymous report that she was in danger. They conducted a

welfare check and decided they needed to apply for a FVIO. Ashlea was encouraged to support the police application. An interim order was granted, but her ex contested the application. The FVIO proved effective in stopping abusive phone calls and psychological abuse, but Ashlea felt more threatened than before. The day before a directions hearing, the police called to say that they were not going to pursue the application. Leading to this hearing, Ashlea had provided an extensive statement to police and organised for several witnesses to attend. Despite not having this information before them, the police withdrew. They did not provide Ashlea with the opportunity to take over the application. She subsequently had another visit from police to say that another anonymous call had been made. But she had already lost faith in the system being able to protect her. Life is more difficult since the order was taken away, with two years of abuse without access to help, and she is still feeling very unsafe. She believes the system failed her as the victim of abuse and that it is hard to navigate.

“Morgan”

Morgan also left a controlling relationship after many years. Initially reluctant to accept that she had been a victim of family violence, Morgan began to realise that her ex-partner was continuing to gaslight and control her. A work manager listened to her increasing concerns and accompanied her to make a police report. The police response, Morgan said, was ‘fantastic’: they recognised the nature of the coercive conduct she was subjected to and made an application for an FVIO. But her ex-partner made an online application for a FVIO against her, also naming their child as needing protection. The police thought it would be ‘thrown out of court.’ But rather than scrutinising the perpetrator’s claims, the Magistrate told both applicants to ‘sort out their parenting issues’ with mediation (despite being told the mediators’ opinion that this was not appropriate) and issued both parties an interim order. Morgan felt that the Magistrate’s decision has validated her ex’s behaviour—in his eyes, she said, they became ‘equal.’ She is well-supported by other service providers and can afford legal help for family law but was left in dismay at the long-term impact of the Magistrate’s decision. She did not feel safer as a result of having engaged with the justice system, and walked away from court without a clear understanding of the orders in place or how these might affect parenting arrangements.

“Hannah”

Hannah found herself and her baby in hospital after an especially violent attack by her ex-partner: she had been holding her baby when he threw her into a wall. The police made an application for a FVIO, and she moved in with her parents. She tried to move on with her life. While the order was in place, the perpetrator breached the conditions of the order multiple times, which Hannah frequently visited the police station to report. It wasn’t until she needed those records that she discovered there was no ‘paper trail’ for the breaches. This impacted on her ability to get a subsequent FVIO. Hannah’s continuing safety was dependent on living remotely, seeking support from a network of small business owners who could provide a safe space for her if she needed it when in town, and

continuing to be vigilant wherever she went. She was sure that if she encountered her perpetrator in town that he would snatch the children. Hannah now works with victim-survivors of FV.

“Clare”

Clare knew she was living in an abusive relationship. She was proactive about being safe in the relationship with the support of her friends. Tragically, however, they also became caught up in the violence. On one particular day, her partner tried to seriously injure her while she was with some friends, badly injuring one of them. After this, Clare's partner went on the run before being caught by police. The police applied for a FVIO, but Clare said she felt that she was then 'cut out of the system.' She struggled with the practical implications of leaving an abusive relationship while not really knowing how to engage with the justice system. She subsequently had to do a lot of 'chasing up' to find out the status of FVIO hearings and criminal matters, including paying for court recordings and attending sentencing hearings. Once she was connected to a CLC lawyer, Clare said she felt more supported, and also reported a great experience with Orange Door, who guided her through what she needed to do and organised practical matters including packing, house exit-cleaning, and storage.

“Sonia”

Sonia had first gone through the FVIO process with a former partner many years ago. She sought the police's help with a subsequent family violence matter more recently when she became fearful for her and the children's safety. She left her ex-partner in the family's house and sought safety with the children in a refuge. Sonia said that there was a period where the order was working and she felt protected, but it meant that she and the children were essentially homeless; she could not find suitable rental accommodation. When the perpetrator's behaviour had de-escalated, Sonia found herself faced with the 'least-worst option' of going back to him and the house. The peace did not last, and they eventually separated; this time she and the children stayed in the house. Sonia said that her CLC lawyer was helping her renegotiate the parenting plan with her ex-partner.

3 Key themes

Our analysis of interviews with survivor-advocates identified three forms of interaction with actors in the family violence response system that influenced women's access to justice experience and outcomes: gatekeeping, navigating and advocating.

Gatekeeping is a metaphor used in a range of fields to describe a person or group with the power to decide who or what can gain entry to a system (Barzilai-Nahon 2009). This term describes the influential role of decision-makers such as police, court staff, and magistrates, who through legislation, mandated authority, and institutional frameworks for response to family violence, hold significant discretionary power to shape the course and the nature of access to justice for women.

Navigating refers to women's experiences of moving through the FVIO process and seeking supports outside of this, assisted by people and service providers with technical knowledge, lived experience or capacity to provide information and to guide or facilitate access. Navigators are individuals who have a particular background, experience or knowledge that can provide support and guidance for an individual (Penney 2018).

Advocating describes the extent to which women are supported and feel empowered to make choices and seek outcomes that are responsive to their individual needs and understanding of justice, as well as the potential to be active participants, rather than passive 'subjects' in the justice process (VaLiD 2020).

This section discusses these themes from the perspective of the survivor-advocates we interviewed, supplemented by commentary and insights from key informants and with reference to supporting literature.

Gatekeeping

Gatekeeping describes the influential role of decision-makers such as police, court staff, and magistrates who – through legislation, mandated authority, and institutional frameworks guiding family violence response – hold significant discretionary power to shape the course and the nature of access to justice for victim-survivors.

In the civil justice system, police, court workers and magistrates act as gatekeepers of information, legal processes, procedural justice, perpetrator accountability mechanisms, and protection outcomes for victim-survivors.

In criminal justice contexts, police also act as gatekeepers, making decisions about evidentiary thresholds for individuals to access legal processes, and determining what to investigate and prosecute.

Survivor-advocates interviewed for this research described examples of gatekeeping by police that both enabled and constrained their efforts to access protection and support.

Barriers to reporting family violence

Key points:

- Women experience multiple barriers reporting family violence and seeking assistance in regional and rural areas.
- A justice response is not always an appropriate or desired outcome for women.

The survivor-advocates we spoke to identified a range of barriers to reporting and seeking assistance for family violence. Their concerns were consistent with the concerns raised by other victim-survivors in research conducted prior to the RCFV (Neilson & Renou 2015). This included:

- Safety concerns and fear of retaliation or an escalation of violence by the perpetrator.
- Uncertainty and fear about the repercussions of an FVIO for housing, and the risk of homelessness for either the AFMs or the Respondent.
- Concerns about the impact that a FVIO would have on children, and their relationships with the Respondent.
- Fear of Child Protection intervention.
- Concerns about privacy, particularly in smaller regional towns.
- Lack of trust in local police, or previous negative experiences attempting to report family violence.
- Anxiety and uncertainty about FVIO legal and court process.
- Self-doubt and lack of confidence in their own judgement and experience, often linked to a history of emotional abuse, gaslighting and other forms of coercive control.
- Concerns about punitive responses to family violence that may not contribute to long-term safety for AFM or encourage perpetrators to change their behaviour.
- Lack of access to other non-legal family violence support services locally.

Several of the survivor-advocates we interviewed were initially hesitant to report family violence and concerned about police intervention and the initiation of legal processes. As Sarah explained: *"I would never call the police on him myself...not knowing the implications that it'd have, you know, where I'm going to live? I've got my [kids]...I know it's not good at home, but where am I going [to go]?"*

Women's anxieties reflect the reality that a justice response is not always the most appropriate or effective response to family violence, and in some instances can result in perverse outcomes that increase safety risks. When reporting family violence to police, women are looking for "help" but not always in the form of a FVIO. Help to access to other legal and non-legal supports is sometimes a more appropriate and effective response, however, this depends on gatekeepers in the system having a nuanced understanding of family violence risk and women's support needs.

Initial police response

Key points:

- Police are often as first point of contact for women experiencing family violence in regional and rural areas, where other specialist services may not be available locally.
- The initial response from police is a key determinant of women's access to and willingness to engage with the family violence response system.
- Despite improvements in police practice, survivor-advocates continue to encounter significant variation and inconsistencies in the police response to family violence, particularly when reporting non-physical forms of abuse and coercive control.

Police are often the first 'gatekeepers' that women encounter when seeking assistance for family violence, either when making a report to police, or when the police attend a reported incident. In regional areas, police are the first point of contact for most victim-survivors, as other family violence support services may not be accessible locally.

Five of the seven survivor-advocates we spoke to said that police were their first point of contact with the family violence response system, while two survivor-advocates sought initial assistance via 1800RESPECT and The Orange Door before police became involved. The response from police was critical to each woman's further access to, faith in, and willingness to engage in the FVIO process and with other family violence supports.

When first responding to a family violence incident or report, the role of police is to determine whether a Family Violence Safety Notice (FVSN) is required, and after further investigation, the need for a FVIO to protect the affected family member/s. As Neilson & Renou (2015:16) note *"The police response is not only vital for the immediate safety of those experiencing family violence but also conveys an important social message about the way in which violence against women and children is regarded"* (Nielson & Renou 2015, 16).

Victoria Police are governed by a *Code of Practice for the Investigation of Family Violence* (Victoria Police 2019) and the *Family Violence Protection Act 2008*. Since the RCFV handed down its findings in 2016, significant investments have been made to improve police training, leadership and frameworks for family violence response. But despite these improvements, the survivor-advocates we spoke to experience varied responses in their dealings with police.

One survivor-advocate reported an overwhelmingly positive experience when first reporting her experience of family violence to the police: *"I felt like they got it, definitely, and they were really supportive."* – Morgan, Survivor Advocate. Unfortunately, Morgan's experience was not the norm for other survivor-advocates, particularly those reporting non-physical forms violence, with several other women saying they felt judged or dismissed by police. Erin, for example, tried to report her husband to local police on several occasions, but the attitude of police was indifferent: *"They didn't want to do a lot, they weren't concerned by his conduct."* – Erin, Survivor-Advocate

These reports from survivor-advocates are aligned with recent Australian research, which has argued that the policing of family violence can be seen as 'ambiguous' by frontline officers, with physical

incidents sometimes considered 'more important and genuine' (Maple & Kebbell 2021). Another recent Australian study showed how victim-blaming attitudes, languages and practices by police led to women downplaying their own experiences of non-physical violence (Clark 2021).

Persistent self-advocacy – speaking to different officers over a period or making reports at different police stations – was often required by survivor-advocates before they found an officer who agreed to respond. *"I kept going into the police station and letting them know what was going on for me – how it was affecting my life and the kids – and that took a lot of time, a lot of visits. I was getting a lot of [different] messages. It took a lot of visits, a lot of police officers. One day I went in there with [family member] – I had just had enough of the text messages and the worry that he was going to come around – and this one office actually heard what I was saying and was able to make that a full order."* – Sarah, Survivor-Advocate.

But as Hannah noted, not all women have the confidence or energy to self-advocate during a period of crisis: *"Some people just can't do that. Some people can't be as vocal about it as I have been"* – Hannah, Survivor-Advocate

The level to which survivor-advocates felt supported by police when reporting family violence, or when police responded to a family violence incident, depended on the degree to which officers:

- Demonstrated sound understanding of the continuum of family violence, including non-physical forms of violence and coercive control.
- Took requests for applications seriously.
- Listened to, understood and validated concerns raised by the AFM, including the history and impact of family violence, irrespective of whether or not a FVSN or FVIO application was ultimately deemed necessary.

Deciding who needs protection

Key points:

- Police misidentification of the primary aggressor is an ongoing concern.
- Police are unwilling to list children on intervention orders, particularly in instances where children have been directly or indirectly exposed to non-physical forms of violence and coercive control.
- Police withdrawing or refusing to support extensions to orders leaves women feeling less safe than if there had been no police intervention to begin with.

Another critical 'gatekeeping' role exercised by police in the initial response to family violence is the identification of the primary aggressor, and the person/s in most need of protection. While none of the survivor-advocate we interviewed had been misidentified by police as a perpetrator, several of the key informants we interviewed, both lawyers and specialist family violence workers, reported that they regularly encounter women who had been misidentified in this way by police.

Another common challenge experienced by survivor-advocates was getting police to list children on FVIO applications. Women reported that police were reluctant to do this, and did not adequately consider or acknowledge the impacts of children being exposed to physical and non-physical forms of family violence, because of concerns that listing children on an order could be used as a strategy to influence family law parenting decisions.

Survivor-advocates and key informants observed two common attitudes held by police: 1) that listing children on an application will complicate the FVIO process, as respondents are less likely to consent; and 2) that listing children on a FVIO is a strategy used by AFMs to influence family law proceedings. These attitudes contribute to women feeling that police are 'colluding' with the perpetrator, enabling them to control the FVIO process and outcomes.

Sarah described a discussion she had with a FVLO about her children being added to an order: *"She [the FVLO] said, 'Does your child feel physically intimidated by him?' And I said, yes, ...she does feel physically intimidated by him. 'Yeah, but does he physically threaten her?' [the office said] ...and I said, yes, she feels physically intimidated by him. She was like 'Yeah, but there's a difference...' – Sarah*

Sonia was told by a FVCLO that her children could not be added to the order, because the police felt that was a family law matter and exposure to non-physical forms of family violence would be hard to prove: *"She made me feel like I was trying to get the kids on there to get an upper hand in the Family Court...I never wanted to keep the kids from [respondent]. I needed a plan...so did the kids ...I did want the kids on there...because the thing is, it's the mental kind of stuff I want to protect them from. That was the police message, that it's so hard to prove the mental stuff, 'We would have to go in and interview the kids against their dad', you know, they didn't want to do those things. That was the message I got from one officer 'do you really want to do that to your kids?'" – Sonia*

The research team also heard examples of police initiating a FVIO application on behalf of an AFM, then withdrawing, or refusing to support extensions to orders. Survivor-advocates explained that the decision by police to intervene, then withdraw, inflamed the situation and left women unprotected and at greater risk of retaliation by perpetrators. Several women who experience this response from police said that they wished they had never reported family violence or gone through the FVIO process to begin with.

Ashlea's story is illustrative here. Police knocked on her door one day after receiving an anonymous report that she was in danger. Ashlea was relieved that the police had become involved, but also concerned about an FVIO inflaming the situation with her ex-partner. The police initiated a FVIO application, and Ashlea was happy when an Interim Order was granted. This stopped her ex-partner from contacting her for a while, but then he soon began threatening Ashlea in other, more subtle and insidious ways. Before the Directions Hearing, Ashlea was asked by police to organise witnesses and prepare an extensive victim statement. The day before the hearing, Ashlea received a call from police who, after reading her statement about coercive control, told Ashlea that there was nothing legally or 'criminally' wrong with the respondent's conduct, despite Ashlea feeling that he had

harassed, stalked, and financially controlled her. The police told Ashlea they were withdrawing their application, without having heard from any of her witnesses. The police did not inform Ashlea of the possibility that she would be able to take over the application, and it was withdrawn before Ashlea had time to speak with her lawyer. The police's decision left Ashlea feeling more in danger than she had prior to their involvement.

Sarah's experience also highlights how women can be left vulnerable when police refuse to assist with the extension of an order that they had previously sought. After reporting multiple breaches to police, all of which were dismissed or not follow-up in a timely manner, Sarah made several calls to her local station to ask for her FVIO to be extended. The police had previously applied for a FVIO on Sarah's behalf and had returned to court to vary this to a Full Order when it was identified that Sarah was exposed to significant risk. Despite the police's previous engagement and concerns, Sarah struggled to get support to extend her current order and received inconsistent information from the different offices she spoke to: *With this last [order] expiring, I rang up three different times, the same station, and I got three different answers. So one said no, you've got to pursue it yourself, the IVO [is] expiring, another one was, 'yeah, basically we can't help you,' and the third one was, 'yeah, we can do it for you but I'm about to go on leave.'* Without a convicted breach on file, the police were ultimately unwilling to support Sarah with an application to extend her FVIO. Recent research highlights a common misconception by police, and some Magistrates, that a breach is required for a FVIO to be extended, despite this not being required under the legislation (CIJ 2021: 29). Without an FVIO in place Sarah continues to live in fear for her safety.

Police role at court

Key points:

- Pre-court engagement by police with AFMs reduces the need for AFMs to attend court if they feel unsafe.
- It is common for police to actively discourage AFMs from attending court, which limits their access to other court-based supports unless effective and timely pre-court referrals are made.
- Attending court can improve the experience of access to justice for women, and their understanding of the FVIO process and orders granted, but not all courts are a safe environment for AFMs.

Following a police application, the FVLO/FVCLO plays a critical gatekeeping role in women's access to courts, court-based support services, and opportunities to participate and have a voice in the FVIO process.

Some AFMs may not want to attend court, due to concerns about safety and re-traumatisation, anxiety about the legal process, or a desire to distance themselves from the FVIO so it is viewed by the respondent as a police intervention, and not something that the AFM has advocated for herself. Many smaller regional courts are also not fit-for-purpose and can pose safety risks to AFMs. As

Hannah explained: *"you're in the same spot as the person who hurt you so you try to find a place where you can kind of try to feel safe, as nowhere feels safe at that stage, and you're trying to have really raw and very honest and difficult conversations. The court building is not designed for them. Not at all."* – Hannah, Survivor-Advocate

FVLOs seek to engage with AFMs prior to court to discuss the process and the conditions that police will be seeking. In this way, the need for AFMs to physically attend court is reduced.

Police, court registrars, lawyers and family violence support workers interviewed for this research told us that it was common for police to discourage AFMs from attending court. A key informant from Victoria Police explained that: *"We don't want the AFMs at court. The only ones that we want going to court are the Respondents. So, basically, all my negotiations are done prior to the court date itself, so the only time the AFM should need to be at court is if they don't agree with what we're asking for on the order."* – Key Informant, Victoria Police

Another key informant from Victoria Police expressed a slightly more nuanced view, however, that AFMs may want to attend court, or may benefit from attending to participate in the justice process: *"I respect and I encourage them [AFMs] to come to court as part of their right and their empowerment. But at the same time, you know, if I can have a conversation with them and know what they're wanting beforehand, then I basically say, you know, 'leave it with me'"* – Key Informant, Victoria Police

The value of attending court was reinforced by the experience of several survivor-advocates, who said that they benefited from attending as this enabled them to connect with court-based support services, to participate in proceedings, and to hear their experience of family violence and its impact faithfully represented to the court and acknowledged by the Magistrate.

As Sonia explained: *"...the message I got was that I didn't need to be at court. I chose to be there, you know? People such as the [CLC lawyer] and other support workers recommended that I do go, and I'm glad that I did"* – Sonia, Survivor-Advocate

Clare similarly said that she was pleased she went to court: *"I loved the way that the judge did tell me [that the perpetrator's actions were wrong], like, because otherwise I probably would have been sitting there going, oh, he's getting [away with it], there is no justice here... It was just nice that she did address me and make it, make me aware that, you know, 'We do understand what he did, and it is completely wrong'."* – Clare, Survivor-Advocate

With police playing a gatekeeping role for AFMs physically attending court, few AFMs attending in-person during COVID-19, and many regional courts not fit-for-purpose or providing a safe environment for AFMs to attend, key informants expressed concern that this was limiting women's access to court-based support services, including duty lawyer, applicant/respondent workers, and other specialist family violence court support workers.

A key recommendation from recent research by the Centre for Innovative Justice is that *"All courts should develop a protocol which makes it an active goal to enable and support the safe attendance*

of AFMs. This should include protocols and information provided to AFMs about security options, as well as arrangements for safe escort where these are not already in place.” (CIJ 2021: 17).

Police response to breaches

Key points:

- Survivor-advocates and specialist family violence services continue to report significant issues with the police response to breaches.
- Survivor-advocates feel that the burden of holding perpetrators to account and collecting evidence to prove that a breach has occurred falls to them, and there is a lack of police or systems accountability.
- Failure to investigate and prosecute breaches makes women less safe, emboldens perpetrators, and limits the AFMs future legal options due to a common misconception that orders cannot be extended unless there has been a conviction for a breach.

One of the most common and significant concerns raised by survivor-advocates prior to the RCFV was the inadequate response by police to reported breaches of protection orders (Neilson & Renou 2015). In determining which incidents of family violence will be recorded, investigated, and prosecuted, police act as gatekeepers to the criminal justice system after a protection order is granted, and play a critical role in perpetrator and systems accountability.

As noted above, while there have undoubtedly been improvements in police practice and leadership through the roll out of key RCFV recommendations and the strengthened *Code of Practice*, survivor-advocates continue to report variation in the police response to breaches of FVIOs.

Three of the seven survivor-advocates we spoke to told us they had reported breaches to police on multiple occasions and received responses that they felt were inadequate.

Sarah, for example, described one of her many attempts to report her ex-partner after receiving persistent threatening phone calls. The officer Sarah spoke to was dismissive of her concerns: *“I called up [local police station]. It was at night-time, and the police said ‘Just ask them not to call’....and then I was quite persistent and said, I can’t really just ask them not to call...and he [the officer] was like, ‘Well why don’t you just change your number?’ And I just said, I have an IVO, you are meant to look into this, because that’s why I have the IVO, because he is breaking the law.”* After multiple negative experiences reporting breaches to the police, Sarah explained that she had lost faith in the police and broader justice system’s ability to keep her safe: *“Basically, the majority of breaches I’ve reported have had to be followed with a complaint...I have a big trust problem with police... ..There’s been two more [breaches] recently that I haven’t reported yet because I’m just so...I feel as though the police are just another form of abuse.”* – Sarah, Survivor-Advocate

Hannah expressed similar disappointment with the police response to breaches, and the wider justice system’s ability to hold perpetrators to account or encourage behaviour change: *“I relied on the intervention order to keep him away and it didn’t work. And then when you go to the police and*

say, 'This piece of paper that he agreed to reluctantly is not working', they should do something about it, and they don't... You should be able to rely on the police and the court system to be able to keep you safe, but it doesn't" – Hannah

Breaches involving emotional and financial abuse, and other non-physical forms of violence and coercive control, were commonly experienced by AFMs with children who had to maintain some contact with the perpetrator due to parenting arrangements. For every woman who participated in this study, the need to continue co-parenting with a perpetrator of family violence provided opportunities for him to exert power and control in abusive ways. When survivor-advocates reported breaches that occurred in this context of child handovers and communication around parenting arrangements, it was common for police to dismiss these breaches as a family law matter.

Even when reporting physical breaches to police, some survivor-advocates felt the response was inadequate. Sarah experienced a physical incident during a child handover with her ex-partner. The incident occurred in a public place with CCTV surveillance. Sarah did not call the police at the time as she was concerned about her child, and her ex-partner had left the scene, so she didn't feel it was an emergency requiring a 'Triple 0' call. Later that week, Sarah attended her local police station to report the incident. She felt the officer she spoke to did not take her seriously, because she presented as 'calm' when making the report and had not called police at the time of the incident. The incident was not investigated by police until sometime later, at which point the CCTV footage was no longer available for use as evidence.

Key informants working with affected family members also expressed concerns the inconsistent and inadequate response by police to breaches of FVIOs. As one key informant commented: *"I can't say I've really seen many women that are happy with the response from a breach of an intervention order."* – Key informant, Specialist Family Violence Worker

A court support worker similarly expressed their frustration with the police response to breaches: *"The biggest issue we have is when you explain to an AFM that 'a breach is a breach' and they've tried to report it to police, the majority of the time they're turned away, unless they've called triple-0 because there's an incident. Police either don't understand the psychological and emotional abuse and the impacts that that can have, or they just can't be bothered with the paperwork."* – Key informant, Court Support Worker

Such accounts provide a timely reminder that, despite the pace of reform to strengthen Victoria's family violence response, there remain 'blind spots' with regard to the accountability of police and other actors in the system who play critical gatekeeping and protection roles. The Centre for Innovative Justice recently interviewed a bigger sample of AFMs and similarly found that *"Even the AFM participants who spoke in glowing terms about the initial police response and their relief at getting an order in place, also indicated that they had been unsuccessful in having police respond to alleged breaches... it was clear that, despite the court and other actors' hopes and framing of the system, 'accountability' and safety (protection) are not necessarily flowing from having an order in place."* (CIJ 2021:38).

Navigating

Navigators are individuals who have a particular background, experience or knowledge that can provide support and guidance for an individual (Penney 2018).

The key roles of navigators in the FVIO process are to:

- Assist people to understand legal processes
- Assist people to identify the support or resources that they may benefit from;
- Assist people to access those supports or resources.

Survivor-advocates identified key 'navigators' as police, The Orange Door and other specialist family violence services, and friends/family/colleagues with lived experience ('community navigators'). How these actors worked together to connect an AFM to the supports she needed was often a more critical factor in determining whether AFMs had a 'positive' experience of the family violence response system and felt safe and supported, than the FVIO process itself.

Specialist family violence services as navigators

Key points:

- Access to non-legal support services often contributes more to women's feelings of safety and wellbeing than a FVIO.
- Smaller courts in outer regional areas are poorly serviced and women in these areas are being left behind in current system reforms.

Research previously undertaken by ARC Justice (Neilson & Renou 2015) found that FVIOs are only one of the tools (and a blunt tool at that) that can contribute to protection, safety and justice outcomes for women. The family violence response system includes a range of non-legal support services that assist women to assess and managed the risks posed by family violence, and to feel safe and supported before, during and beyond the FVIO process. These specialist services include family violence case management, counselling, and referral services; crisis accommodation and shelters/refuges; financial counselling services; court support workers from local family violence services; and applicant workers employed by the court.

Specialist family violence services act as both 'navigators' and 'advocates' for AFMs. They validate the experiences of victim-survivors, and assist them to access the health, child and family, housing, financial, legal and other supports they need to participate safely and meaningfully in the FVIO process. Once an FVIO is in place, these services continue to work with AFMs to ensure orders are appropriately enforced by police, and that victim-survivors are safe and supported in their recovery.

Several of the survivor-advocates we spoke to described how access to non-legal supports helped them to understand the FVIO process, and contributed to their experience of restoration.

As Sarah explained, after being connected to a specialist family violence service and the community legal centre, she felt better able to move on from her challenges experiences with family violence

and the justice system. Sarah described the role of these specialist services as *“to help me from where I am now to get on with things”* – Sarah, Survivor-Advocate

Clare felt similarly supported by family violence support service The Orange Door, *“I just felt really comfortable talking to them and they made me feel like I didn’t, like they took all the pressure off me. They pointed me in the right direction and told, or asked me things, and I didn’t have to sit there and think like ‘oh, what should I do next’... They pointed me in the right direction for lawyers.”* – Clare, Survivor-Advocate

Hannah appreciated the support she received from a court-based applicant worker who took the time to explain the FVIO processes so that she knew what was going on. *“She [the Applicant Worker] talked me through the court process because the police were useless at doing that”* – Hannah, Survivor-Advocate

Sonia was referred to a specialist family violence worker at court, and went on to receive therapeutic counselling through this service. She described the transformative nature of this ongoing, non-legal support: *“Meeting other people who have had experiences. Not feeling so alone. That was probably my biggest thing – that there were other people out there who are like me. That was probably the biggest thing – because I’d never taken counselling that far, and actually gone through with it, for myself – trying to self-love and do those things and make those better choices and know that life will get better.”* – Sonia, Survivor-Advocate

In recent research, the Centre for Innovative Justice similarly found that AFMs identified engagement with non-legal supports *“as the single most transformative outcome of their involvement in the FVIO system”* (CIJ 2021: 94).

In recent years, courts have evolved into service hubs and are an entry point for many AFMs to access legal and non-legal support. If pre-court referrals to specialist family violence services are missed, or not taken up by AFMs, attending a well-serviced court provides AFMs with a critical opportunity to connect with support services early in the FVIO process. AFMs who attend court are generally referred to court-based support services by the registrar, the FVLO/FVCLO, or duty lawyers. In smaller regional courts, court-based support services are more limited, compared to larger, better-resourced headquarter and specialist courts.

A court applicant worker we spoke to explained how they reach out to AFMs before and on the day at court to guide them through the FVIO process, and to provide referrals to ongoing supports, but indicated that COVID-19 and the move to online hearings has made contacting AFMs on police applications more difficult. The applicant worker must contact the police, who then seek consent from the AFM to share contact details. Delays in this process mean that many AFMs do not have the opportunity to engage with an applicant worker before court. As noted in the previous discussion about gatekeeping, with police discouraging AFMs from attending court, many are also missing out on the opportunity to engage with applicant workers present on the day.

Where dedicated applicant and respondent workers are not available, local family violence services are often present to provide court support to AFMs, however key informants told us that the

introduction of The Orange Door has made the coordination of court support workers more complex in some locations, with responsibility for identifying the court support needs of clients and managing a roster of court support workers from local family violence services not as clear within The Orange Door as it was when these services were directly managed by local specialist family violence services.

The Orange Door as navigator

Key points

- Survivor-advocates accessing The Orange Door report positive experiences.
- Key informants working in local family violence response report that The Orange Door has disrupted local systems and coordination mechanisms that were working well, and complicated referral processes.

The Orange Door was identified by two survivor-advocates and several key informants as one of the main 'navigators' in the FVIO response system. The Orange Door family violence service hubs were established as part of the Victorian Government's response to the recommendations of the RCFV. The Orange Door has a physical presence with large 'hubs' in most major regional cities and metropolitan areas, and smaller 'access points' in select regional towns. Its primary purpose is to provide an intake pathway to family violence services. Hubs and access points were opening in Central Victoria as this research was underway, as part of a staggered roll-out of TOD service state-wide. Prior to the establishment of TOD, other specialist family violence services performed a similar function in regional areas.

When Erin faced a family violence crisis, it was a police referral to The Orange Door that led her to connect with a local specialist family violence service that was able help her find temporary accommodation and a place to store her belongings while she looked for more permanent accommodation. Her worker called her regularly in the lead up to her FVIO matter being heard at court, and attended court with her as a supporter to make sure Erin understood and felt safe to engage in the FVIO process. She also connected Erin with a CLC lawyer for ongoing assistance with some family law property matters.

Clare also drew on the support of The Orange Door after a family member suggested that she give the service a call. TOD linked Clare in with a support worker whom she could contact whenever she needed: *"I just felt really comfortable talking to them, and they made me feel like I didn't, like they took all the pressure off me. They pointed me in the right direction and told, or asked me things, and I didn't have to sit there and think like 'oh, what should I do next'... They pointed me in the right direction for lawyers."* Once settled in her new home, Clare continued to have questions about the legal process and her children. She contacted her worker at TOD and was referred to the local community legal centre, where a lawyer has been helping her with family law parenting matters so she can safely co-parent with her ex-partner.

While Erin and Clare's experience with TOD was positive, several key informants and other survivor-advocates expressed frustration with the roll-out of this service, which has been superimposed on

existing local service networks, coordination mechanisms, and referral processes that were already felt to be working well in regional areas by many of the key informants we spoke to.

“And look, it worked before, it worked so well. Like, you know, before The Orange Door it did, it just worked. We got it [the L17], we worked this system so well and we had such a great approach. We knew each other, so it was easy. Now it’s harder. It’s definitely harder.” – Key Informant, Specialist Family Violence Service

“The Orange Door only recently opened and that’s changed things up a bit. Obviously that’s changed our referral processes and pathways. We don’t really know many of the workers over there, because some of them are new to [town]. Prior to The Orange Door opening, we had our systems and processes down pat, and we knew everyone by name, by face. We got their numbers, [and] we talked daily.” – Key Informant, Court Support Service

Referrals from The Orange Door to many other support services are now required as a prerequisite for access. One of the survivor-advocates we spoke to describe her frustration at having to go through The Orange Door multiple times, and wait for a referral, rather than contacting local support services directly. *“I’ve actually tried again [to access support], and I’ve got to go back through the process, back through The Orange Door and everything else, so it seems to be in circles...It just feels like we’re not getting anywhere either legally or feeling safe. I probably feel more unsafe since I actually went through that process.” – Ashlea, Survivor-Advocate*

Community navigators

Key points:

- Community members play an important role validating the experiences of victim-survivors and helping them to identify and access local supports.
- The benefits of continued investment in primary prevention and public education initiatives can be seen in the level of professional and personal knowledge and experience of family violence that exists now within the community.

Informal support from friends and family was identified by several survivor-advocates as a critical enabling factor in coming to terms with their experience of family violence, and navigating the local service system to access support.

The level of personal and professional expertise in the community in relation to navigating the family violence response system is indicative of the prevalence of family violence in Australian society, meaning many people know someone with lived experience. It may also be an indication of increased public awareness and understanding of family violence, following significant investment in primary prevention and education campaigns by the state government in recent years. Survivor-advocates who were able to tap into this growing community knowledge and expertise found that it helped them to navigate the system and access the supports they needed.

Clare felt well supported by her friends when she disclosed her experience of family violence. One friend who worked in the health sector helped Clare to identify and connect with local support services. A family member of Clare's who worked as a social worker also checked in with Clare about how the police were responding and suggested that Clare should seek additional assistance through The Orange Door.

Morgan contacted the family violence help line, 1800 Respect, seeking validation that the emotional abuse and coercive control she had been experiencing at the hands of her ex-partner was family violence. Morgan then spoke to a colleague at work when she became concerned about this violence escalating. Her colleague encouraged and supported Morgan to make a report to police. The colleague had a good understanding of family violence and the role of police in applying for protection orders, with one of her family members working as a police officer.

Police as navigators

Key points

- Despite police making referrals to The Orange Door or other specialist family violence services, women are not always able to engage with these supports before their matter is heard at court.
- Police actively discourage AFMs from attending court, and women are missing out on opportunities to connect with court-based support services for assistance throughout the FVIO process and beyond.
- Police have varying views on the importance of making referrals to legal and non-legal supports for all AFMs, which can limit women's access to supports, and impact their justice experience and outcomes.
- Key informants highlight the importance of multi-agency integrated responses to family violence, which are common in some smaller regional towns where police and support services are well connected, but not widespread elsewhere.

As the first point of contact for many women experiencing family violence in regional areas, police also play an important role as 'navigators', providing referrals to specialist family violence services and information and support to AFMs throughout the FVIO process.

Key informants from Victoria Police described how police FVLO and FVCLO aim to engage with AFMs before court to explain the legal process, the orders they are seeking, and to make referrals to support services. They also highlighted the growing size of family violence court lists, and increasingly heavy caseloads that FVLO/FVCLOs are juggling, which makes engaging with and supporting women prior to and at court more difficult for police who are doing their best with limited resourcing. While in some headquarter courts and specialist courts, there may be several FVLOs and FVCLOs working with AFMs, in smaller regional areas, it is common for a single FVLO to be responsible for assisting AFMs prior to and at court, across multiple court locations.

While one of the survivor-advocates we spoke to was very satisfied with the level of support she received from police prior to and at court, the other six women expressed a desire for more information and improved communication from police. These women wanted the police to provide protection, not only from further exposure to family violence, but also from the stress, confusion and difficulties associated with navigating the FVIO system.

As Clare explained, *"I was always wanting more from the police. I was still sitting there, scared, and [thinking] 'what do I do?'. I was wanting some more direction, because, like I said, it was the first time I'd ever done that, gone to the police for help. And I just felt like a fish out of water. I was wanting someone to tell me what to do because I didn't know what the next step was, or what the next step should be... ..I just think it's really important that the person who was the victim in the situation, that there is proper communication to them. I get that everyone is busy, but it takes a lot of pressure off just to be informed...I think it's really important that there is proper communication from the Police, for the victim and who they're working for...I think that's really important, and that's something that was really, sadly lacking."* – Clare, Survivor-Advocate

Hannah similarly expressed her concerns that the police assisting her were too busy to adequately support her through the FVIO process at court: *"the overall process was just as daunting as being there. You know, trying to talk to the police and get police understanding, and that's so different to how you feel and what you think should happen. You know, [the] lack of communication, because they've obviously got so many cases on...and you feel like, as if you're just another number."* - Hannah

Recognising the benefits of a multi-agency response to family violence – involving police, legal and non-legal support services – and helping AFMs to connect with specialist services prior to court can improve women's access to the information and support they need to navigate through and participate safely and meaningfully in the FVIO process. Referrals by police to specialist services prior to court can also alleviate pressure on strained police resources.

While police share family violence incident reports (L17s) with The Orange Door or other specialist family violence service, their *Code of Practice* also encourages officers to make other, more targeted, referrals at all stages throughout the FVIO process. In interviews with key informants from Victoria Police, officers demonstrated varying levels of understanding and attitudes towards their role as system 'navigators' and the needs of AFMs.

One officer recognised the benefit of making warm referrals to specialist support services prior to court. They explained that specialist family violence services can work with the AFM to assess and understand risk, and determine what supports are needed. These services can then provide information to police about the protection needs and concerns of the AFM, reducing pressure on police and AFMs to have these conversations in the chaotic environment of the court. The officer also indicated that pre-court referrals from police to legal and non-legal support services are working well in some smaller regional towns where there are strong and well-coordinated community-based supports. As this officer noted: *"Sometimes it is actually... the processes [are] more important –*

about the linking of services – than the actual outcome of an intervention order.” – Key informant, Victoria Police.

Another officer we spoke to felt that identifying the additional support needs of AFMs and making referrals to services was not the role of police, outside of an initial referral through the L17 process, and more appropriately managed by specialist services such as The Orange Door.

These variations in the attitudes and practices of individual officers were reflected in the experiences of survivor-advocates – as highlighted above – many of whom were not able to connect with support services prior to court, who described feeling left in the dark, overwhelmed or lost in the FVIO process, and wanted more guidance from police.

Advocating

The term advocacy is used widely, with different meanings in different sectors. Three types of advocacy are common in response to family violence, and reflected in the experiences of survivor-advocates participating in this research: self-advocacy, individual (or ‘client’) advocacy, and system advocacy.

As highlighted in the discussion about gatekeeping above, many of the survivor-advocates we spoke to were forced to self-advocate to ensure that police and other support services took them seriously and responded appropriately to reports of family violence and breaches of FVIOs.

Once a police application reaches court, the opportunities for AFMs to self-advocate become more limited if they do not have access to independent legal representation or a support worker with a good knowledge of the FVIO process.

Individual advocacy (or ‘client advocacy’), to ensure that the voices of AFMs are heard and their safety and wellbeing needs are met, is undertaken by various actors in the family violence system, most often lawyers and specialist family violence support services. While police are not legal advocates, they play an important role connecting AFMs to independent legal assistance.

Finally, systemic advocacy occurs when people advocate for changes to policies, laws or processes. This type of advocacy was not reflected in the stories of survivor-advocates detailed in this research, but is the form of advocacy that survivor-advocates are engaged in when they participate in research projects of this nature, in the hope that their voice and lived experience will be recognised and will lead to positive change and system reform for other women.

Legal advocacy

Key points:

- Access to independent legal assistance at all stages throughout the FVIO process (before, during and after court proceedings) increases the opportunity for women to have a voice and participate meaningfully in the justice process.

- Women are at risk of systems abuse and perverse justice outcomes when they do not have access to independent legal advice, particularly when cross-applications are made, when children are involved, or when there is risk of child protection intervention.

The role of lawyers in the FVIO process is to be independent advocates, to take instructions from, and to act on behalf of their clients, while also advising AFMs/respondents about family violence, the law, their legal options, and potential outcomes or consequences.

Police, lawyers, specialist family violence workers and survivor-advocates interviewed for this research described some of the typical ways that lawyers assist AFMs with police applications before, during and after the court-based FVIO process:

- Attending a police station with the AFM to report a family violence incident or breach and ensure that a formal statement is taken.
- Helping an AFM to understand family violence, the FVIO process, the orders police are seeking, and advising them of their rights and options, so that AFMs can better identify their needs, make informed choices, and advocate to police for appropriate orders.
- Liaising with the police to negotiate tailored conditions on FVIOs better suited to the specific needs and circumstances of the AFM.
- Advocating to the police and the court for children to be listed on FVIOs.
- Advocating for AFMs in the consent order process and making sure that the respondent and their lawyer don't manipulate this process to push for parenting plans or other inappropriate agreements.
- Advising AFMs when a cross-application has been made and advocating to the court to ensure vexatious cross-applications are not granted.
- Providing ongoing assistance, after an FVIO has been granted, with intersecting family law, child protection, civil and criminal law matters which may continue to impact the AFMs safety and wellbeing.

Most survivor-advocates interviewed for this project received little to legal advice before attending court for the first time. They described feeling 'daunted' and 'overwhelmed' by the FVIO process, and many of these women left court without a good understanding of what had happened, or the orders that had been granted.

This echoes findings from recent research conducted by the Centre for Innovative Justice, that: *"AFMs and respondents were often attending court having received very little support or advice, with this particularly the case in relation to legal advice. In the aftermath of relatively recent police intervention and crisis, the CIJ heard that this meant that few parties were in a position to make decisions or understand the content or implications of FVIOs."* (CIJ 2021: 75)

Sonia explained that despite the efforts of police to engage with her prior to court, she felt intimidated and not able to articulate or advocate for what she wanted. An officer came to her house to ask what she wanted in relation to the FVIO. Sonia told us that *"It was really hard for me to*

know what I want[ed] at the time...things had just happened, and I couldn't get much out". She agreed to the police seeking a limited order, despite feeling that that the officer did not have a good understanding of the extent of the family violence she had been subject to, or its impact: "I don't think he thought there was much of a problem...he might have asked me a few questions, but I just felt really intimidated. I didn't feel like he had the time either, [for me to] to actually give him all my mindset." – Sonia, Survivor-Advocate. A limited order was granted by the Magistrate, which the respondent quickly breached.

All the survivor-advocates we spoke to reported feeling overwhelmed in the aftermath of a family violence incident or report, and many were experiencing fear and anxiety about their immediate safety and the safety of their children. In this context, several survivor-advocates said that they struggled to understand the process they were about to engage in, and to clearly articulate their needs or make informed decisions when asked by police what they wanted. They were particularly concerned about the implications of FVIOs on housing and parenting arrangements, and many would have benefited from early legal assistance.

All of the survivor-advocates we spoke to were struggling with a range of intersecting legal problems stemming from or exacerbated by family violence. This included family law parenting and property matters, child protection matters, tenancy and housing issues, credit and debt issues, and victims of crime claims.

The survivor-advocates who did access legal support described the difference this made to their experiences at court:

"Look it was, I guess a bit overwhelming [attending court], but we knew because we had someone at our side that we were okay" – Ashlea, Survivor-Advocate

"[The lawyer] was always very good at reassuring me or letting me know what my rights were and what I, you know, could or couldn't do, and things like that. And she took a lot off, so much pressure off, because I was so torn between, you know, what [child] needed and my own fears and safety, for [child]" – Clare, Survivor-Advocate

A referral to a duty lawyer at court was often the start of a longer engagement with a legal service to address other complex and intersecting legal needs. Sonia, for example, was referred by a specialist family violence support worker to a lawyer at the community legal service. She described how access to ongoing assistance from a lawyer helped her to navigate the FVIO process and protect her rights, contributing to improved safety and feelings of restoration for herself and her children: *"[The lawyer] has been amazing, and that's all I needed – throughout this whole experience with him – is that legal side of things, the advice, on how to go about separating and care for the kids, and what's okay and what's not okay...So I had my [specialist family violence service] worker, and they got me onto [lawyer], and that was a god send. [The support worker] was able to share my story without me having to get that out. I think that was big. So then [the lawyer] was able to just come in and be like 'okay, I have had a bit of a run-down', to move forward, to help me from where I am now to get on with things." (Sonia)*

Other stories we heard from survivor-advocates pointed to examples of where a lack of access to legal assistance put women at risk of systems abuse by perpetrators, and left them open to perverse justice outcomes. Examples of 'systems abuse' included perpetrators making cross-applications for FVIOs against AFMs, using consent order negotiation processes to pressure AFMs into agreeing to parenting plans, making false reports to Child Protection, and delaying legal proceedings. The impact of these strategies can be significant for women who have not had early engagement with or sustained access to independent legal support.

Morgan, for example, was not able to access a lawyer when she first attended court. Her ex-partner had made a private cross-application for a FVIO in retaliation after police applied for an order on Morgan's behalf. Police were not able to advise Morgan on the cross-application, or advocate on her behalf in relation to this matter. The Magistrate granted both applications and told Morgan and her ex-partner to engage in mediation, despite previous attempts at mediation having failed. Morgan did not have a legal voice in this process and felt let down by the court: *"at the end of court I felt just completely...I was really disappointed, and I think the bigger thing for me was that, in his mind, this completely justifies his behaviour... ..I think I've come to the conclusion that I wish I'd never done it [pursued an IVO]. Like it hasn't really changed anything other than the righteousness in his communications around him being the victim and it's made things extremely difficult to communicate with him about anything...it's just another way of him tying my hands."* – Morgan, Survivor-Advocate. Morgan is now struggling to co-parent with a FVIO in place against her that puts her at risk of criminal charges if she breaches the order.

Ashlea was referred to a duty lawyer at court and reflected on how the assistance of an independent lawyer helped her to understand and stand up for her rights when the respondent's lawyer tried to pressure her into agreeing with a proposed parenting plan during consent order negotiations. The duty lawyer advised Ashlea not to agree: *"It was very reassuring because she [the lawyer] goes, 'You don't feel comfortable at all' and I said no, I'm not signing something I don't completely agree with."* – Ashlea, Survivor-Advocate. The matter was then listed for a Directions Hearing.

The potential for unrepresented AFMs with police application to be subject to systems abuse and unethical behaviour by respondents and their lawyers has been identified as a concern in other research: *"particularly critical needs for vulnerable AFMs include legal assistance to resist attempts by lawyers acting for respondents to get inappropriate parenting plans in place for their client, or to have children removed as named parties on the order as part of the 'negotiations'. It is in this context that the CIJ suggests that access to independent legal advice, provided to AFMs by specialist family violence lawyers, is a key protective factor that is often missing in FVIO cases."* (CIJ 2021:109).

Key informants working in the court setting acknowledged that this was not the best environment in which to meaningfully engage with AFMs. Reflecting on their experiences at court, several of the survivor-advocates we spoke to described feeling rushed and overwhelmed.

"It seemed to be such a quick amount of time that it was sort of pushed in and out of court. You kind of felt lost in the whole system." Ashlea, Survivor-Advocate

It just feels like you're another number, you go in, come out." – Sonia, Survivor-Advocate

Access to pre-court advice was considered by many key informants to be a more appropriate model of legal assistance than traditional, court-based duty lawyer services. Lawyers told us that connecting with AFMs before court enabled them to ensure that the AFM understood the FVIO process and their legal options and created a more enabling environment for AFMs to make informed decisions, and subsequently, to have a voice and participate safely and meaningfully in the FVIO process.

Other research has similarly identified the need for more investment in pre-court support for both AFMs and respondents: *"This is so that the FVIO process is not only safer and more supported in the short term, but so that the outcomes it produces are more likely to be understood as well as suited to the needs of the parties. FVIOs imposed in this context are therefore more likely to meet the objectives of the FVPA over the longer term"* (CIJ 2021: 15)

Advocacy by police

Key points:

- There is a common misconception amongst AFMs and professionals working in the justice system that police are 'representing' AFMs, and this limits women's access to independent legal advice.
- Current referral practices by police and court registrars are inconsistent and vary depending on the individuals involved, limiting women's access to timely legal assistance.
- AFMs who disagree with the orders police are seeking are more likely to be referred for legal advice, while other women with complex legal needs are often missing out.

It is a common misconception amongst both AFMs and professionals working within the family violence system that when police apply for an intervention order, they are representing, or being 'instructed' by the AFM and therefore performing a similar legal advocacy role to lawyers (CIJ 2021:101).

While key informants from Victoria Police interviewed for our research demonstrated a good understanding of how their role in the FVIO process differed from that of independent lawyers, the language used by survivor-advocates suggested a degree of confusion regarding the role of police in the FVIO process. Several survivor-advocates expressed concerns that the police assisting with their FVIO were not advocating strongly for their interests or listening to what they wanted. The Centre for Innovative Justice suggests that *"this common misunderstanding represents a significant barrier for AFMs to identify their need for, or seek out, independent legal advice."* (CIJ 2021: 101)

When a police officer initiates a FVIO application, they are the informant, and their focus is on protection for the AFM. The FVLO/FVCLO will liaise with the AFM and police prosecutors regarding the type of order and conditions that police are seeking to keep the AFM safe. Police lawyers act as the representative of the police informant, not the AFM, during court hearings.

The frameworks and standards that police use to determine the protection needs of AFMs can at times conflict with what the AFM wants, or what they know will best contribute to improved safety and wellbeing for themselves and their children.

All of the key informants, and several of the survivor-advocates we spoke to, acknowledge that police were under-resourced and time poor, struggling to work through large court lists. Lawyers reported police were focused on 'getting through the list' and tended to seek relatively standard orders for AFMs: either a full order, or a limited order with standard conditions to not commit family violence or property damage. Lawyers and support workers indicated that these orders were not always appropriate and expressed concern that police rarely tailor the conditions on orders to suit the individual needs and circumstances of AFMs.

As one lawyer explained: "Police are understaffed and time poor. They will have a five-minute phone call with an AFM, if that, therefore they can't have good conversations with women, and that doesn't help, especially if they don't have a good understanding of family violence and the risks... ..Police are pumping through people on the day at court, with no time to look at the long-term impacts of decisions." – Key Informant, Community Legal Service

Key informants indicated that there are no standard or consistent processes implemented by police or courts in the region for making referrals to legal services, particularly for AFMs who are listed on police applications. Lawyers told us that most of the AFMs that they were able to engage with and provide advice to prior to court were private applicants, women who had been misidentified as perpetrators by police, and AFMs who were listed as the respondent on cross-applications. Usually, these women were referred to the lawyers by a specialist family violence service. Lawyers explained that few referrals for pre-court advice were made by police or court staff for AFMs listed on police applications, unless the AFM disagreed with the orders police were seeking.

A notable exception was an example highlighted by several key informants of a particularly proactive FVLO working in a small regional town, who regularly referred AFMs to community legal centre lawyers and specialist family violence workers prior to court.

"So there is a family violence liaison officer, a police officer, who is probably the most passionate man I've ever met in my life. So prior to COVID, we were meeting with him weekly to go through the court list that we get sent to us, and discussing where we're at, where he is at, and then he makes a phone call to the AFM and the perpetrator, getting an idea around, you know, what the AFM wants at court." – Key informant, specialist family violence service

"[The FVLO] will talk to all the people of the FVIO list in [town] and encourage all AFMs and respondents to get assistance. He liaises with the CLC the day before court.... [He] is invested...he does not discourage AFMs from attending court, and does actively refer them to services...He will speak to AFMs on the phone pre-court and ask if they would like [legal] advice and refer them to the CLC." – Key informant, community legal service

This multi-agency and integrated approach to assisting AFMs on police applications, facilitated by pre-court referrals from a FVLO, was considered by key informants to be an example of good practice.

The experiences of survivor-advocates suggest that the varying attitudes and practices of individual officers are a key determining factor in whether or not AFMs are encouraged and supported to access independent legal advice, and subsequently, whether or not AFMs have an independent voice in the FVIO process. The importance of early referrals to legal services for AFMs with children, for example, was recognized by one key informant from Victoria Police that we spoke to: *“If there are kids in the background, I would actually encourage them [the AFM] to seek independent legal advice anyway, around the family law process, formal parenting plans, custody scenarios and things along those lines”*. This was not, however, a common view or practice reported by other police participants.

4 Discussion and findings

The *Family Violence Protection Act 2008* (Vic) stipulates that the three core purposes of FVIOs are to:

- 'maximise safety for children and adults who have experienced family violence',
- 'prevent and reduce family violence to the greatest extent possible', and
- 'promote the accountability of perpetrators of family violence for their actions.'

Strengthened by the Royal Commission into Family Violence and related system reforms, FVIOs have become a central tool through which police and the courts seek to pursue the goals of the Act.

When asked to explain what justice meant to them, survivor-advocates participating in this study described one or more of the following factors as key to their experience of justice and safety:

Voice and participation – Women wanted to feel that their experiences of violence and its impacts were understood and validated by the justice system. They wanted their lived experience, knowledge and expertise acknowledged when it came to decisions about what safety and perpetrator accountability would look like. They wanted gatekeepers, navigators and advocates to help them understand the legal process, their rights and options, and to help them advocate for their own interests.

Perpetrator accountability – Women wanted perpetrators to acknowledge the impacts of their actions and to change their behaviour. They wanted the system to clearly condemn all forms of family violence while also supporting offenders to stop and change their behaviour.

Restoration – Women wanted to be able to 'move on' from their experiences of violence, and to feel a sense of closure. They wanted ongoing assistance to resolve family law parenting and property matters. AFMs with children acknowledged the need for/reality of an ongoing relationship with the perpetrator and wanted support to ensure that their safety and wellbeing, and that of their children was protected.

System accountability – Women wanted the justice system to work for them and their children. They wanted actors within this system to be accountable for their roles and responsibilities, and for the intended outcomes of their actions under the FVPA, namely safety and accountability. They wanted police and court to hold offenders to account, to monitor and stop the behaviour of the perpetrator, to promote and support behaviour change, to proactively enforce FVIOs, and to take all reported breaches seriously, so that AFMs did not have to carry out the burden of this work themselves.

These definitions of access to justice are consistent with what we heard from women in interviews conducted more than six years ago, prior to the RCFV: *"In this research, women were clear that safety was not just a reduction of exposure to violence, but a complex state defined by the absence of fear brought about by offender accountability and change in behaviour, and confidence in the justice system being accountable and effective in its implementation."* (Neilson & Renou 2015a, 20).

This broader and more procedural understanding of what access to justice means for women is at odds with the focus by police and courts on short-term 'protection' outcomes which do not always align with women's own perspectives on safety and accountability, based on their lived experience.

The lived experiences of survivor-advocates highlight how the complexity of the family violence justice system – and the different gatekeeping, navigating and advocating functions they encounter in their interactions with police and other actors involved in family violence response – can make it difficult for women to access and move through FVIO legal processes while being fully informed of risks and options, to achieve their desired safety, wellbeing and justice outcomes.

Being listed as an AFM on a police application can carry an array of possible outcomes for women with long-term consequences that are not always apparent or addressed by police who are focused on getting orders in place. While FVIOs may contribute to short-term safety and protection outcomes for AFMs, inappropriate conditions on orders and legal issues associated with family violence that remain unaddressed – including family law, housing, credit and debt issues – limit the effectiveness of orders.

For survivor-advocates participating in this research, getting the justice outcomes that were important to them required women to navigate through complex systems, self-advocate for their rights and needs, and hold both perpetrators and system actors to account. This placed significant demands on women's time, energy, resources and wellbeing.

Rather than a system that effectively coordinates all available support to 'maximise safety' for victim-survivors in the short and long-term, the stories of women in our study suggest that they were often at the mercy of individual actors and systemic inconsistencies in local family violence response. Women experienced varying responses from individual police, court workers and some magistrates, and were subject to the attitudes of individual officers, and inconsistent applications of legislative and institutional frameworks. In regional court settings, women experienced 'postcode injustice', with older court facilities in regional towns not safe or fit-for-purpose, and limited access to critical support services in many of these locations.

Systemic responses to family violence in Victoria are intended to be 'victim-centric'. The Victoria Police strategic response, for example, aims to be 'respectful, effective and based on a deep understanding of how these crimes impact victims across the community' (Victoria Police 2017, 14). However, there is significant variation in how FVIOs are administered, and the experience of survivor-advocates suggests that women rarely feel like that have a 'voice' in the process, particularly in the absence of independent legal advice.

For several of the women in our study, a police application at the point of crisis made them feel less safe and created perverse incentives for perpetrators to continue their abuse using the tools of the legal system. Perpetrators with the knowledge and resources to make cross-applications, to complicate parenting arrangements, and to exploit child protection processes, and those who continued to harass or stalk their victims via more subtle means that did not meet the 'evidentiary thresholds' of police, also added to the burden of responsibility for women who 'didn't ask for this,'

but were required to take on responsibility for holding perpetrators to account and self-advocating for stronger responses by police and courts.

Many of the women in our study had to exercise their own agency to keep themselves and their children safe, and few women had adequate support to do so. As a result, the execution of a court-ordered protection order often fell short of its stated purposes in the Act, and in some cases, left women feeling less safe than before they had sought a justice system intervention.

To improve the effectiveness of the FVIO as a legal instrument, and to strengthen the protective framework for women experiencing family violence, particularly in regional areas, a stronger focus on systems coordination and systems accountability is required.

Our research has identified several key areas where there are challenge and opportunities to improve justice outcomes for women in regional Victoria, based on a holistic conceptualisation of access to justice. These 'opportunity areas' are discussed in more detail below, and include:

- Improving understanding the continuum of violence
- Strengthening multiagency and integrated systems of support
- Increasing access to independent legal advice
- Pre-court engagement
- Addressing postcode injustice

Improving understanding of the continuum of violence

Consistent with findings from previous research conducted with survivor-advocates, women participating in this study experienced a continuum of violence, from non-physical forms of violence and coercive control to physical abuse, including attempts on their lives.

Lack of understanding of the impact of non-physical forms of violence and coercive control, and a crisis-driven response to family violence were barrier to survivor-advocates getting the response they needed from police and courts initially, and to hold perpetrators to account once an order was made.

Survivor-advocates reporting non-physical forms of violence to police told us that they felt these experiences were trivialised, and that police were less proactive in investigating and prosecuting breachers of intervention orders involving emotional violence and coercive control that did not readily meet 'evidentiary thresholds'. This was a common experience in smaller regional communities, where women's access to police specialist family violence units and officers with extensive training in family violence response was more limited. A less than optimal initial response from local police and other services acting as 'gatekeepers' to the family violence system reduced women's confidence in the system's ability to protect them and acted as a disincentive to further engagement, and risks women 'disappearing' from the system's view.

The scale of the family violence problem in Victoria, and the immense strain on the limited resources of police and other specialist services was well acknowledged by both key informants and survivor-advocates participating in this research.

The police *Code of Practice for the Investigation of Family Violence* is robust framework guiding best practice response to all forms of family violence, and police practice continues to evolve with regular reviews and updates to the Code and significant investment in training. But the experiences of survivor-advocates in this study demonstrate that the police responses to family violence, particularly non-physical forms of violence, continues to vary significantly across regional Victoria. The importance of an effective and consistent initial response by police, and ongoing support from FVLOs/FVCLOs, was highlighted in previous research by LCCLC with victim-survivors of family violence prior to the RCFV. This remains a significant factor in determining the nature and quality women's experiences of the FVIO process.

As Domestic Violence Victoria note in their recent position paper on coercive control (DVVic 2021), the continued roll-out of the MARAM framework in Victoria is supporting the development of a shared understanding of family violence risk across the sector, although police risk assessment processes are yet to be aligned with this framework. Ongoing investment in education and training for police, and all workers involved in family violence response, is required to develop a stronger understanding of coercive control and the role it plays as both a form and an outcome of family violence, to embed consistent and best practice responses to family violence, ensuring that the protections offered to victim-survivors of coercive control in existing family violence legislation are realised.

Strengthening multiagency and integration systems of support

Although there are several opportunities in the FVIO process for gatekeepers to refer AFMs to legal and other support services, beginning with the completion of an L17 form by police, our research suggests that meaningful engagement with support services prior to the first mention date at court is not typical of many women's experiences.

A systems' focus on quickly progressing a FVIO through the court can prevent women from engaging with the supports they need to understand their rights and options, and to feel safe and supported to participate meaningfully in the FVIO process.

Limited availability of specialist family violence services in many smaller regional towns creates further barriers to women to engage with the supports they need to be able to participate safely and meaningfully in the FVIO process and to achieve desired justice, safety and wellbeing outcomes.

Once an order is granted, there are also barriers for women to access services that can assist with longer-term issues stemming from family violence, including housing and financial support and family law assistance. Lack of access to ongoing support services can limit the effectiveness of a FVIO. For many women in our study, access to ongoing legal assistance, particularly in relation to family law matters, was identified as a more critical factor in determining their safety and wellbeing than the FVIO itself.

At present, the primary opportunity for referrals to specialist agencies occurs via the Risk Assessment and Risk Management Report (L17 form), completed by police when responding to family violence incidents (Victoria Police 2019). A formal referral entails the sharing of information

with the Orange Door, which acts as an intake pathway to FV services with the 'whole family in view.'

With the introduction of The Orange Door across Victoria, all L17 referrals are now made directly to The Orange Door who are responsible for risk assessment and referrals. Several practitioners from smaller regional towns, where The Orange Door access points are in early stages of implementation, told us that the introduction of the access point had complicated existing processes for connecting AFMs to support and early engagement with legal and non-legal services. We heard from multiple practitioners that the introduction of The Orange Door had disrupted existing referral pathways and relationships between local police, legal and non-legal family violence services, which had previously worked well to facilitate early engagement of AFM with support services. Participants acknowledged that these challenges may lessen over time as the access points become more established and embedded in the community.

Increasing access to independent legal advice

Independent legal advice exists to help people reach early resolution of legal challenges, redress the imbalance of power that can exist between victims and perpetrators, and ensure that victims are informed about and able to protect and exercise their rights and legal options through the justice process, supported by an impartial advocate. In family violence matters, legal aid organisations and community legal centres provide legal information, advice and representation based on principles of equity for people who may be disadvantaged or at risk of social exclusion, with a broader view to prevention and addressing 'root causes' of social and economic injustice (Federation of Community Legal Centres Vic 2018; Victoria Legal Aid 2022). Given the workings of the FVIO process and the wider justice system, early and sustained access to this support is critical for AFMs to negotiate interactions with gatekeepers, navigate through complex systems, and advocate for just, appropriate and sustainable outcomes. Legal support is also critical to ensuring that women have the capacity to resolve future disputes and interactions with other domains of the law, including family law and child protection.

Current resourcing arrangements provide for, at a minimum, free duty lawyer services in Magistrates' Court facilities for parties to an FVIO on the day of a hearing. However, access even to this basic support can be limited; with fewer options available in regional satellite courts, and take-up of support options reliant upon women attending hearings either in person or online. Further, the accounts of women in this study highlighted how the day of court hearings—typically long after the abuse has commenced and well after police intervention—is neither the optimal timing nor setting for seeking initial legal advice. By the time they attend court—which is increasingly being discouraged by police—women often arrive with little understanding of what to expect from the process. As noted by several of our key informants including police and court workers, AFMs' anxiety can be significantly heightened by the experience of attending a court hearing, not least because they fear coming into direct contact with the perpetrator both in the courtroom and in the physical layout of court waiting areas. Several of our participants described feelings of being overwhelmed by this experience – the long waiting times; the perfunctory manner in which their experiences were

dealt with; the uncertain outcomes which often involved an adjournment – and wishing they had been ‘told’ earlier about what to expect.

At least one of the women we spoke to was glad she had attended court, as this created the opportunity for a Magistrate to speak directly to her—validating that the perpetrator’s behaviour was unacceptable. Other women said that when they didn’t attend court, they were worried about what was being said about them or on their behalf, and whether their experience was appropriately acknowledged. Several women also commented that they did not fully understand the conditions on the order that was granted, as they had not attended court, and follow up by police was limited.

Built-in or ‘fixed’ referral points in the intervention order process would ensure that all AFMs receive equitable access to independent legal advice and available support services. Gatekeepers and other actors in the system also need to understand where and how these referrals should be made. As several organisations noted in submissions to the Royal Commission, people experiencing family violence need to understand how independent legal advice can assist them to navigate legal processes and to optimise longer-term outcomes. Given the ‘haste with which police applicants sometimes bring FVIO applications before the court’ (State of Victoria 2016, 128), early mandatory referrals would help to mitigate some of the subsequent legal stresses—which the Commission also noted included family law, child protection, property or contractual issues. There are many possible ‘blind spots’ in the system for AFMs, where women may have misconceptions about who is advocating on their behalf, or where they may be unaware of the options available to them.

The Centre for Innovative Justice have similarly called for AFMs and respondents to be “*referred for independent legal advice at every juncture in the FVIO system, along with L17 support referrals, at off-site venues (such as the Orange Door, Victims of Crime Helpline, Men’s Referral Service or local CLC) and at court*” and further note that “*These referrals in turn need to be sufficiently resourced*” (CIJ 2021:18).

Because of the complex interactions and information sharing between the family law jurisdiction, child protection and FVIO process, the involvement of children indicates that specialist legal advice will be necessary to achieve meaningful accesses to justice outcomes for women and their children, regardless of whether the children are initially listed as AFMs on any order or application. Where the AFM is a parent, this should be grounds for a mandatory referral to a legal service, unless the person already has access to a private lawyer.

Pre-court engagement

Most investment in legal services for family violence matters currently goes to servicing courts with duty lawyers. Concentrating legal services to the hearing day leaves AFMs under-prepared and requires them to engage in a process that is emotionally and intellectually taxing on a day of high stress. The brevity of consultations between lawyer and AFM also leaves little room to explore and advise on other legal issues, including those intersecting with the FVIO process with potential to create further legal issues for women or to limit the effectiveness of a FVIO. Meanwhile, family law services remain limited and unaffordable for most women fleeing family violence.

Legal needs that remain addressed can result in more complex and drawn-out proceedings, requiring more court-time and system resources. Investing in legal services to engage with and advocate for AFMs from the earliest stages in their interactions with the family violence response system is a sensible and efficient use of public funding.

In the context of an intimidating and often confusing court experience, pre-court engagement with independent legal advocates and other non-legal supports can provide a crucial source of support. Lawyers working with clients in a pre-engagement service report that women are better able to understand the FVIO's purposes and processes, appreciate the implications of various decisions, and can make more informed decisions and advocate for an outcome that will better address their immediate and longer-term needs.

Throughout COVID-19, police and legal services have increased their engagement with clients before court in efforts to reduce backlog and *"provide parties with more information and an opportunity to ask questions ahead of time, when things are less stressful and when information is more likely to be absorbed"* (CIJ 2021: 5).

There are positive signs that moves to pre-court engagement may continue to become an accepted element of the family violence response system. A model is currently being developed and piloted by police, Victoria Legal Aid and Community Legal Centres in Victoria. This emerging model is yet to be rolled-out or tested in a regional setting. The development of this model (also referred to as an 'early resolution service') is a promising practice that could embed a process for access to independent legal advice in the FVIO system, which could in turn improve the experience of procedural justice for both AFMs and Respondents.

Addressing postcode injustice

Considerable resources have been invested in improving the court experience for victim-survivors at headquarter courts and in the roll-out of specialist courts across Victoria, including major regional centres. At these 'modern' courts, women are provided with a safe place to wait, enhanced security, and access to a range of court-based support services including dedicated Family Violence Magistrates, Applicant/Respondent Workers, Court Support Workers, Duty Lawyers, Legal Information Officers, and Court Network Volunteers. This enables women to engage with services at court, if they have not the opportunity to engage previously, and contributed to women understanding, participating in and feeling safe and supported in the FVIO process.

Many of these critical supports are not available AFMs at present, while courts are operating online due to the pandemic. Pre-court referrals by police, Court and The Orange Door to legal and other support services is all the more critical in this changed operating environment.

Prior to COVID-19, court-based support services were also not available in many of the smaller, satellite courts in our region, whose infrastructure and facilities are not fit-for-purpose. The discrepancy in the facilities and supports available to women in headquarter and specialist courts, compared to the more locally accessible satellite courts, creates a form of 'postcode injustice' for

women in regional and remote towns. This substantially impacts on women's access to justice experience and outcomes.

The court experience of survivor-advocates participating in this study suggest that not much has changed for women in smaller regional and rural towns following the RCFV, and that these women are being left behind in the roll-out of system reforms.

Investment in research, monitoring and evaluation of the significant reforms currently underway in the family violence sector following the RCFV is critical to systems accountability and understanding whether or not these reforms are delivering on the objectives of the FVPA, and contributing to improved protection/safety and wellbeing outcomes for women. As this research has sought to demonstrate, monitoring and evaluation must centre on the experiences of victim-survivors, particularly those in regional areas who may not be benefiting from systems reforms in the same way that women in metropolitan areas area.

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Appendix I: Survivor-Advocate Interview Guide

SEMI-STRUCTURED INTERVIEW GUIDE – FOR CLIENTS (AFMs)

This guide is not intended to be used in a linear Q&A fashion but to prompt and guide a conversation about the relevant topics

WARM UP / RAPPORT BUILDING QUESTIONS

1. Can you start by telling me a bit about yourself? For example, your family, children or work?
2. When did you first seek help for your experience of family violence?
3. Can you tell me a little about what was happening in your life at this time?

CLIENT PATHWAY MAPPING

4. What was the first person or organization you got help from?
5. How did you find out about X?
6. What prompted you, or made you choose to contact/seek help from X?
7. What did X do to help you?
8. How helpful was X?
9. Did X give you information about or refer you to any other services?
10. What happened next? *(Repeat question loop)*

FVIO / COURT PROCESS

I would now like to ask you some more detailed questions about your experience of the FVIO process:

11. How did you first hear about family violence intervention orders?
12. Who initiated the FVIO?
13. *[If self-initiated or with support from police]* Why did you decide to apply for a FVIO?
14. Did you feel supported before your FVIO matter went to court? Who supported you, and how?
15. Did you attend court for your FVIO matter? Why, why not?
16. What was your experience of court like?
 - a. How well did you understand the process and your options?
 - b. Did you feel supported at court? Why, or why not?
 - c. Who supported you and how?
 - d. Did you feel safe? Why or why not?
 - e. Did you feel listened to and understood? Why or why not?
17. Did you get what you wanted or hoped for from the FVIO process? Why, or why not?
18. What about your children? How well did the court process meet their needs?
19. Looking back, do you think you would have had a different or better outcome if you got other support while you were at court, or before you came to court? What kind of support?
20. What do you think could be improved for people going to court that have experienced family violence?

POLICE

You mentioned that you received help from the police:

21. Did you feel supported by the police? Why or why not?
22. Was there ever a time that you disagreed with what the police were asking? Why, or why not?
23. Did the police explain the FVIO process to you and your options?
24. Did the police talk to you about your children and how they could be protected by the FVIO?
25. Did the police explain the details of the FVIO order to you?
26. Did the police introduce you to, or give you any information about support services that could help you at court, or after court? (Prompt for legal services)
27. Did you contact any of these services? Why or why not?
28. Is there anything you wish the police had done differently?

LEGAL SERVICES

You mentioned that you received help from a legal service:

29. How did you hear about this legal service?
30. Why did you choose to get help from a lawyer?

31. Were you supported by the same lawyer the whole time, or by different lawyers?
32. Did you feel supported by the lawyer/s? Why or why not?
33. Did the lawyer/s explain the FVIO process to you and your options?
34. Did the lawyer/s talk to you about your children and how they could be protected by the FVIO?
35. Did the lawyer/s explain the details of the FVIO order to you?
36. Did the lawyer/s introduce you to, or give you any information about support services that could help you at court, or after court?
37. Did you contact any of these services? Why or why not?
38. Is there anything you wish the lawyer/s had done differently?

You mentioned that you did not receive help from a legal service:

39. Why didn't you get advice from an independent lawyer with your FVIO matter? What were the reasons or difficulties/barriers?
40. Looking back on your experience of the FVIO process and how things turned out, do you feel the situation might have worked out better if you had obtained advice or other support from an independent lawyer? Why, or why not?
41. What do you think would have helped you or made it easier to get help from an independent lawyer?

OTHER SERVICES

42. Other than the services you have already mentioned, did you receive help or advice from anyone else about the family violence you were experiencing? Was this helpful?
43. What about your children, did they receive any support for their experience of family violence? Was this helpful?
44. Where there any other services that you tried, but couldn't get help from? What difficulties did you experience?

AFTER COURT

45. What has been going on for you after you since court?
 - a. Have you experienced any further problems relating to family violence, or needed to extend or vary your order?
 - b. Have you experienced any other legal problems such as family law or child protection?
 - c. Have you received any legal help for these issues? Why, or why not?
 - d. Do you think you will get legal help for this issue in future? Why, or why not?

WRAP UP

46. Finally, why did you decide to participate in this research, and what do you hope it can achieve for people who have experienced family violence?
47. Is there anything else you would like to tell me about your experience, or any questions you would like to ask me?

Appendix II: Key Informant Interview Guide (non-Victoria Police)

KEY INFORMANT INTERVIEW GUIDE

ICE BREAKING

1. Can you start by telling me a little about your role in family violence response?
2. What have been some of your professional experiences in relations to police-brought FVIO applications?

BEFORE COURT

3. In what ways do you support AFMs before they attend court?
 - a. Do you refer clients to legal services before court? Why/why not?
 - b. Do you have a legal health check or similar tool to use during your initial engagement/intake process to assist in identifying legal assistance needs?
4. In your estimation, how adequate is the support available to AFMs before court? What are the gaps or challenges?
 - a. How could AFMs be better supported to engage with the legal process following a police-brought FVIO?

FVIO PROCESS

6. In your estimation, what are some of the benefits and challenges associated with police-brought FVIO applications?
Prompts: information, support, understanding of court processes, etc.

AT COURT

7. What court-based services do you work with, and how?
8. What enables you to work effectively with these services?
9. What are the barriers or challenges working with these services to provide a coordinated response?
10. Under what circumstances, if any, do you refer clients to legal services at court? Why?
11. How adequate is the support available to AFMs at X[LOCATION] Court? What are the gaps or challenges?
12. Can you tell me about any instances where AFMs disagree with the conditions of an FVIO?
 - a. If so, what is the impact on AFMs experiences, and the support you provide?

AFTER COURT

12. What support, if any, do you provide to AFMs after their application is heard?
 - a. If the Court grants a final order at the first hearing, what (if any) follow up services do you provide to the AFM?
 - b. If the Court grants an interim order, what (if any) support to you offer the AFM to prepare for a contest hearing?
 - c. Do you refer the AFM to a legal service in these circumstances? Why/why not?
13. In your experience, what are some of the factors that are common among AFMs who express:

- a. Satisfaction with the outcome at Court?
- b. Dissatisfaction with the outcome at Court?

OTHER

13. Are you aware of any instances where AFMs have wanted to change conditions on orders? What are some of the reasons AFMs might want to make changes?

- a. How do you assist AFMs in these circumstances?

14. Do you provide services when AFMs report a breach? Would you/Do you consider referring the AFM to legal support?

15. Are you aware of any promising practices involving collaboration between service providers to improve access to justice outcomes? What do these models look like?

16. Thinking about what we have discussed today, what do you think have been the main impacts to the FVIO process as a result of COVID-19?

- a. What have been the impacts of COVID-19 on clients' ability to access support?

17. What are some of the general barriers or difficulties in making referrals for AFMs to legal services?

Prompt: would you like us to help organize some CLE (community legal education) about incorporating a legal health check or increasing your services' knowledge of the support lawyers can provide to AFMs?

18. What would need to change (policy, codes of practice, referral pathways, etc.) to enable AFMs to have optimal access to legal information, advice, and other supports when going through an FVIO process?

19. Is there anything else you'd like to share?

Appendix III: Key Informant Interview Guide (Victoria Police)

KEY INFORMANT INTERVIEW GUIDE (VICPOL)

ICE BREAKING / FVIO

1. Can you start by telling me a little about your role in family violence response?
 2. How does your role fit within the wider organisational response to family violence in Victoria Police?
 3. What have been some of your professional experiences in relation to FVIO applications made by Police?
 4. In your estimation, what are some of the benefits and challenges associated with FVIOs?
- Prompts: information, support, understanding of court processes, etc.*

BEFORE COURT

5. In what ways do you engage with AFMs before they attend court?
 - a. Do you refer AFMs to legal services before court? Why/why not?
 - b. Do you use any particular tools or strategies in identifying AFMs' support needs?
6. In your estimation, how adequate is the support available to AFMs before court? What are the gaps or challenges, and how could these be addressed (and by whom)?
7. In your experience, under what circumstances could family violence matters be resolved without the need to go to court? What support would be required for AFMs under these circumstances?
8. Under what circumstances would you recommend that AFMs not attend court?

AT COURT

9. Can you walk me through how FVIOs are dealt with by Victoria Police at court? What are the roles for Victoria Police at court following an application?
10. What service providers or supports does Victoria Police partner with or refer AFMs to at Court?
11. What are the barriers or challenges working with these services to provide a coordinated response?
12. Under what circumstances, if any, do you refer AFMs to legal services at court?
13. Are there any specific challenges or issues that you have observed at X[LOCATION] Court?

AFTER COURT

14. What engagement, if any, do you have with AFMs after their application is heard?
15. In your experience, what are some of the factors that are common among AFMs who express:
 - a. Satisfaction with the outcomes of an FVIO?
 - b. Dissatisfaction with the outcomes of an FVIO?
16. Are you aware of any instances where AFMs have wanted to change conditions on orders? What are some of the reasons AFMs might want to make changes?

OTHER

17. How is family violence response promoted and incentivised within Victoria Police?
18. Are you aware of any promising practices involving collaboration between police, courts, service providers or other stakeholders to improve outcomes for AFMs? What do these models look like?
19. Thinking about what we have discussed today, what do you think have been the main impacts to the FVIO process as a result of COVID-19?
 - a. What have been the impacts of COVID-19 on AFMs' ability to access support?

20. What other things would need to change (policy, legislation, codes of practice, referral pathways, etc.) to enable AFMs to have optimal access to legal information, advice, and other supports when going through an FVIO process?
21. Is there anything else you'd like to share?

Not for circulation