



Family Violence Implementation Reform Monitor

YOUTHLAW SUBMISSION

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Introduction

Youthlaw's Family Violence program, set up in 2016, is an integrated service comprised of a Family Violence lawyer and a Family Violence youth worker working hand-in-hand to support young people experiencing and/or using family violence in the home, to respond holistically to their legal and non-legal needs.

Youthlaw provides a service to young people using and experiencing family violence who are appearing in the Melbourne Children's Court each Wednesday. Youthlaw works alongside Victoria Legal Aid (VLA) to duty lawyer in the intervention order list. VLA plays a coordination role: in-taking people who present at court without a lawyer. VLA allocates unrepresented litigants to their own in-house lawyers, to Youthlaw or to private practitioners for representation.

Youthlaw's submission focuses predominately on the six recommendations of the 2016 Victorian Royal Commission into Family Violence that address and respond to Adolescent Violence in the Home (AVITH), and necessary broader systemic reform.

1. How has the family violence service system changed since the Royal Commission?

The 2016 Victorian Royal Commission into Family Violence (RCFV) made six recommendations that highlighted issues related to Adolescent Violence in the Home (AVITH) that have previously been poorly understood.

From our observations since the Royal Commission there seems to be heightened conversation and increased awareness that AVITH is a distinct phenomenon to adult-perpetrated intimate partner violence and requires a distinct response. This includes recognising that the adolescent may themselves also be a victim of family violence and potentially currently still at risk of violence being perpetrated by a parent or other family member.

Below (in Q3) we reflect on the importance of implementing the AVITH family violence reforms that have not yet progressed significantly and require more attention, and make suggestions to enhance the approach to the reforms being implemented.

While we support and welcome the full implementation of the AVITH recommendations, we submit they do not go far enough to introduce the specialised systemic response for adolescents required. The RCFV AVITH-specific recommendations do not significantly challenge the current underlying settings of a 'one size fits all' family violence response system. The RCFV did not have the time or opportunity to intensively interrogate the adult-centric setting, but rather accepted much established practice and wisdom. For example, the RCFV:

- accepted that around 10% of police callouts related to AVITH perpetrators without really questioning what lay underneath that figure, and
- did not comment on the fact the Family Violence Protection Act does not require any consideration of a respondent's capacity to understand or comply with an FVIO .

The recently released Positive Interventions for Perpetrators of Adolescent violence in the home (PIPA) report expands on the analysis and recommendations made by the RCFV, and identifies response and service gaps across Victoria. PIPA confirmed what we have observed in practice, finding that police, courts, child protection services and social support services are not equipped to respond constructively and holistically to AVITH, and service responses are not tailored to the unique situation and vulnerabilities of adolescents who use violence in the home. The report's recommendations and their implementation are an essential addendum to RCFV report.

2. Impact of the COVID-19 pandemic

Since the government introduced 'stay at home measures' in response to the COVID-19 pandemic, the Children's Court had issued practice directions, aimed to prioritise the safety of young people and families, whilst also minimising the need for face-to-face appearances from parties at court. The court gave family violence matters priority listing as appropriate and advising parties to attend on the first listing of their matter.

Over this period Youthlaw and VLA have noticed that few young people were attending court. We are concerned that young people already isolated from school, extended family and friends during the lock-down and at heightened risk of violence at home; were also missing out on the opportunity for a positive intervention through the court process.

With the court compelled to adjourn FVIO matters for 12 weeks, interim orders already in place will remain so for the intervening period. This meant that young people who had been using or experiencing violence at home are likely to be subject to interim FVIOs which they don't understand, and are likely to go for longer before they attend court and have contact with a duty lawyer. Given that conditions of interim orders generally tend to be more onerous than those of final orders, children are also likely to be more vulnerable to breach for extended periods of time.

In order to try to reach these young people (and their families) and offer legal advice and non-legal supports at an early stage, VLA and Youthlaw collaborated to streamline early referral processes with the court. In collaboration with the family violence registry at Melbourne Children's Court, Youthlaw and VLA agreed a process for the court to collect and pass on contact details of parties in family violence matters (with appropriate consent) to legal services so that parties could be contacted and offered legal advice much earlier.

Youthlaw and VLA have also collaborated on an information flyer, which the court is currently approving for inclusion in information that is served personally on all parties to intervention order proceedings as soon as an application is filed. This information tells parties how to access free legal services and encourages them to do this as early as possible ahead of court.

We recommend embedding these moves toward pre-court referrals and advice for parties in family violence matters. This amounts to a significant change in practice. Whereas previously, parties would routinely only receive advice on the day of court (which could be some weeks after a violent incident in the home), we hope earlier advice, advocacy and referral may increase the safety of young people and their families from the point of crisis.

3. Looking forward – what is still required in the family violence system

The Victorian Government should implement and adequately resource recommendations 123 to 128 from the RCFV for establishing a specialised response for adolescents, and key recommendations of the PIPA project.

Several of the recommendations of the Royal Commission related to AVITH have been implemented and the remaining recommendations are listed as '*in progress*'. However two of the most significant recommendations of the RCFV have still not been implemented in any substantive way, namely:

- recommendation 123: state-wide roll out of Adolescent Family Violence Program, and
- recommendation 124: additional crisis and longer term supported accommodation options for adolescents who use violence in the home.

Adolescent Family Violence programs - Recommendation 123

Despite recommendation 123, there is still a critical service gap in the family violence service system for adolescents who are using violence in the home and there is a chronic need for more specialist services which are both willing and adequately resourced to safely work with this complex cohort of young people and their families.

In relation to AVITH Family Violence program we understand the three formal existing services have received extra resourcing, but to date we are unaware of any further expansion or roll out of these programs. These services are in high demand and the program is quite inaccessible for many adolescents.

Current AVITH family violence programs have restrictive eligibility criteria that exclude young people who have been removed from the home, meaning even less young people can access much needed support.

Youthlaw has observed some aggrieved family members expressing the view that they felt they had no option, but to call police when in fact they needed the opportunity to connect the child or young person with services and interventions to help address their support needs and use of violence. We know that responding to children who use violence in the home by preventing contact with their parents and criminalising their behaviour is not always appropriate and may be counterproductive. Some parent victims do not seek assistance from the police or support services for fear of repercussions for their child and broader family unit.

Others who do seek police assistance have expressed regret for calling police, as the resulting court process and the associated risk of the young person being removed from the family home raise the prospect of criminalising (on breach) the young person.

We also note that many children caught up in the family violence court system have undiagnosed mental health issues, an intellectual disability or are on the disability spectrum. We note that these families and young people have often not received support to understand or meet the associated support needs in these situations. Despite these contextual issues, these young people will often be ordered to comply with a Family Violence Intervention Order (FVIO), which could exclude them from their home, putting them at risk of becoming involved in the criminal justice system if they are later charged with breaching the FVIO.

Research has also found that childhood trauma is a major contributor to adolescent's use of violence in the home, yet our family violence court system does not systematically record or necessarily understand or respond to intergenerational violence and trauma.

Police response - Recommendation 125

Up until COVID 19, Youthlaw had observed a high rate of FVIO being brought by Victoria Police where an adolescent is the respondent pursuant to their Code of Conduct that requires an order *in any situation in which they determine that a risk of violence is present*.

The matter is referred to court and processed through the family violence court system with an interim FVIO ordered in most cases. The adolescent respondent is dealt with exactly as in the adult family violence system. This includes the issuing of an FVIO order that if breached is a criminal offence.

We are keen to see the development of an evidence based intervention model for police call outs to adolescent family violence. Police have a critical role to play in ensuring that affected families get the intervention that they need to be safe, however any such attendance & intervention will be inadequate and of potentially detrimental to young people if it this attendance does not either identify or facilitate identification of violence dynamics (possible adult perpetrators) & therapeutic and support needs within that family unit.

Recommendation 125 of RCFV may provide dedicated youth resource officers to provide support to young people and their families following police attendance at an incident in which an adolescent has used violence. However more is needed to address the absence of non-legal interventions when they are called out to situations of adolescent family violence.

In this regard Youthlaw supports PIPA recommendation (4(c) (i)):

When Victoria Police are called in relation to a potential AVITH incident, the Victoria Police Code of Conduct should clearly provide the option of referring the matter to Orange Door or another form of Support and Safety Hub for risk assessment and triage as an alternative to applying for an FVIO.

Crisis Accommodation – Recommendation 124

Despite recommendation 124, there is still a critical service gap in the family violence service system for adolescents who are using violence in the home and more dedicated crisis accommodation is desperately needed.

As noted in Youthlaw's submission to the *Homelessness Parliamentary Inquiry* (2020), without adequate support or crisis accommodation, young people excluded from their homes, are at risk of entering homelessness system.

We have observed that young people ordered to be removed from home have a high rate of non-appearance at court. Often this means the young person does not get the support needed, is living in an unsafe environment, and final orders may be made in their absence. We have been involved in a research project lead by Jesuit Social Services, *Family Assisted Adolescent Response* scoping short term accommodation options which can be used to

support adolescents who are not able to return to the home. We recommend their research to you.

Melbourne Children’s Court family violence applicant and respondent workers – Recommendation 126

As you would know there has been a hiatus in operation of over six months (December 2019 to now) since the Court’s contract with provider Merri Health finished at the end of 2019. We understand the Court plans to recommence the service under its own governance in the near future.

As previously mentioned Youthlaw currently operates on an integrated practice model, within Melbourne Children’s Court on a Wednesdays and has worked closely with FVARSS workers.

While we are yet to see the new Court service, we submit that it will be critical this iteration of the applicant and respondent support program has a higher level of integration with court based legal services (Victoria Legal Aid and Youthlaw) and other court based services such as RESTORE, Court Network and the Salvation Army.

It will be critical that the model promotes services working together via clear service delivery pathways. These should minimise delays for the young person and Court, prevent the young person and victims of family violence having to repeat their story a number of times. This can be facilitated through encouraging better information sharing (i.e. risk assessments, safety plans, non-incriminating summaries for the Court), where appropriate and with consent, between workers and legal representatives so that legal advice is properly informed about family violence risk.

Specialist Family Violence Courts (SFVC) - including Recommendation 60

We are excited by the vision of SFVCs as centres for excellence in the delivery of integrated family violence court services. We support the Victoria Legal Aid led specialist court model with its emphasis on staff specialisation and support, user centred and innovative practices, inclusivity and improved safety for families attending court.

We appreciate the enormous volume of work lead by Victoria Legal Aid in consulting, designing and setting up these courts. Youthlaw will contribute to those processes as much as we can.

We take the opportunity to emphasise the critical need for the design, implementation of the model and the funding allocated to give specific focus to developing a specialised court response for children and young people engaged in the FVIO court system.

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