

Family and domestic violence

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13 FAMILY AND DOMESTIC VIOLENCE

The legal system is increasingly asked to consider and respond in different ways to matters involving family and domestic violence; it is recognised that more effective community responses to such violence may prevent death, serious injury and harm.¹

This recognition of family and domestic violence, as a matter of public concern and as a community responsibility, had its origins in the 1970s “battered women’s movement”;² and the most recent Western Australian *Family and Domestic Violence State Plan 2004-2008* is underpinned by the United Nations *Convention on the Elimination of All Forms of Discrimination Against Women*.³ As a result the focus in this area has been on domestic violence, understood as abuse between intimate partners, and in particular on the gendered nature of that abuse given the predominance of men’s violence against their female partners (see sections 10.1.6 and 13.1.1).

The Family and Domestic Violence Unit — now with the Department for Child Protection — notes that:

*Aboriginal and Torres Strait Islander peoples generally prefer the term “family violence”. This concept describes a matrix of harmful, violent and aggressive behaviours and is considered to be more reflective of an Indigenous world view of community and family healing ... the use of this term should not obscure the fact that Indigenous women and children bear the brunt of family violence.*⁴

In this context, although the terminology of “family violence” is used, the focus continues to be on intimate partner abuse and the impact of that abuse on children.

The terminology in this area is rarely used consistently, and the Law Reform Commission of WA recently described “family violence” as a broad expression encompassing domestic violence and the abuse of children, the elderly and other family members. It also stated:

*Violence within a family or intimate relationship is different to other forms of violence. First, it is hidden: violence of this kind is generally not carried out in public, and is often concealed by both the perpetrator and the victim. Second, it is ongoing. As a consequence of the relationship between the perpetrator and the victim, and the fear of further abuse, family and domestic violence is different to a series of isolated violent incidents. Further, the relationship between the perpetrator and the victim can make it both difficult and dangerous for the victim to resist ongoing abuse or leave the relationship.*⁵

The definition of family violence recently adopted by the Family Court of WA for the purposes of its Family Violence Policy, as taken from the Family Violence Committee of the Family Court of Australia, also encompasses this broader understanding of the term:

¹ Law Reform Commission of Western Australia, *Court Intervention Programs: Consultation Paper* (2008) 122-123, available at: www.lrc.justice.wa.gov.au/3_poc_pub.html (accessed 30 July 2009).

² Stop Violence Against Women, *Evolution of Theories of Violence* (2006), available at www.stopvaw.org/Evolution_of_Theories_of_Violence.html (accessed 30 July 2009).

³ Department for Community Development, *Western Australian Family and Domestic Violence State Strategic Plan 2004-2008* (2004), available at: www.community.wa.gov.au/dcp/resources/familydomesticviolence/ (accessed 30 July 2009).

⁴ Department for Community Development, *The Western Australian Family and Domestic Violence Student Information Kit* (2006), available at: www.community.wa.gov.au/dcp/resources/familydomesticviolence/ (accessed 30 July 2009).

⁵ Law Reform Commission of Western Australia, *Court Intervention Programs: Consultation Paper* (2008) 122-123, available at: www.lrc.justice.wa.gov.au/3_poc_pub.html (accessed 30 July 2009).

*Family violence covers a broad range of controlling behaviours, commonly of a physical, sexual and/or psychological nature, which typically involve fear, harm, intimidation and emotional deprivation. It occurs within a variety of close interpersonal relationships such as between spouses, partners, parents and children, siblings and in other relationships where significant others are not part of the physical household but are part of the family and/or are fulfilling the function of family.*⁶

Much of the research and discussion in this area focuses on the abusive relationship between intimate partners, with recognition of the impact upon children, for example, largely confined to the consequences of their witnessing or intervening in the violent relationships of their parents, or of one parent and their intimate partner. In some contexts, sexual and other forms of direct abuse of children within the family may not be regarded as family violence.⁷

Although the broader definition of family violence is adopted for the purposes of this *Bench Book*, care needs to be taken in relation to how the terms “family violence” and “domestic violence” are used in different contexts. Recently the Australian Bureau of Statistics (ABS) cautioned:

*There are a range of ways of defining family and domestic violence, depending on the context of the inquiry. These definitions can have a broad or narrow scope, and may be focussed on legislative requirements, particular behaviours, or impacts upon victims and the community.*⁸

Illustrating this point, submissions relating to this chapter of the *Bench Book* have defined domestic and family violence to include financial, emotional, psychological, sexual and spiritual⁹ abuse such as name-calling, control of contact with family and friends, control of money and rape within marriage. While not all these behaviours constitute “violence” in a legal sense, there can be little doubt that all can contribute to the fear experienced by victims of such abuse.

⁶ Family Court of Western Australia, *Family Violence Policy* (2008) 2, available at: www.familycourt.wa.gov.au/V/violence_policy.aspx?uid=2146-6679-8432-4649 (accessed 30 July 2009). Note that family violence is also defined in s 5(1) of the *Family Court Act 1997* (WA) and s 4(1) of the *Family Law Act 1975* (Cth) to mean:

conduct, whether actual or threatened, by a person towards, or towards the property of, a member of the person's family that causes that or any other member of the person's family reasonably to fear for, or reasonably to be apprehensive about, his or her personal wellbeing or safety.

⁷ See for example, Children and Teens First (chatfirst), *Domestic and Family Violence* (2006-07), available at: www.chatfirst.com.au/parents/04_4_effectsoffv.php (accessed 30 July 2009); Better Health Victoria, *Domestic violence and children* (2008), available at:

www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/Domestic_violence_and_children (accessed 30 July 2009).

⁸ Australian Bureau of Statistics (ABS), *Conceptual Framework for Family and Domestic Violence* Cat No 4529.0 (2009), available at: www.abs.gov.au/ausstats/abs@.nsf/DetailsPage/4529.02009 (accessed 30 July 2009).

⁹ Spiritual abuse is considered to be the perpetrator's denial or control of, or humiliation for, the practice of the victim's religious or faith-based beliefs.

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- Armadale Domestic Violence Intervention Project (Inc) (17 April 2007);
- Same Sex Domestic Abuse Group (SSDAG) (20 April 2007);
- Fremantle Multicultural Resource Centre (26 April 2007);
- Office of Women's Policy (17 July 2007);
- Legal Aid Commission of Western Australia (27 October 2008, 26 February 2009);
- Office of Women's Policy & Family & Domestic Violence Unit (16 January 2009);
- Women Lawyers of Western Australia (Inc) (19 January 2009); and
- Women's Council for Domestic & Family Violence Services (WA) (21 January 2009).

13.1 Some statistics

As many instances of family and domestic violence often go unreported, the true extent of such violence is difficult to measure.

13.1.1 Women and family and domestic violence¹⁰

- According to a study conducted in 1998 by the Australian Institute of Criminology (AIC), most assaults against women where the victim knows the offender go unreported.
- The 2005 Australian Bureau of Statistics (ABS) Personal Safety Survey estimates that 36% of women who experienced physical assault by a male perpetrator reported it to the police, compared to 19% in 1996, and that 19% of women who experienced sexual assault reported it to the police in 2005, compared to 15% in 1996.
- In 2002/03, domestic violence was estimated to cost the Australian economy \$8 billion each year; victims of domestic violence were considered to bear the largest burden of these costs, estimated at \$4 billion.¹¹
- In 2009 it was estimated that the cost of (reported) domestic and non-domestic violence against women and children would total \$13.6 billion in that year alone.¹²
- Men and women experience family and domestic violence differently. Statistics show that women experience it at far greater rates than men:
 - Almost a third (31%) of women physically assaulted said that the perpetrator was a current or previous partner, and 37% reported their attacker as being a family member or friend.¹³
 - 12% of women who had a current or previous partner had experienced sexual violence from a partner.¹⁴
 - Women were less likely to be physically assaulted by a stranger (22%) than by someone they knew (82%). In contrast, around two thirds (66%) of men physically assaulted over the previous 12 months said that the perpetrator was a stranger.¹⁵
 - Note, however, that because men are generally far more likely to be physically assaulted than women, it is also true that one in five of those reporting physical assault by a current or previous partner were male (21,200 males compared to 73,800 females).¹⁶

¹⁰ Unless otherwise indicated, the following data is sourced from Carrington K and Phillips J, *E-Brief — Domestic Violence in Australia: An Overview of the Issues* (revised 2006), available at: www.aph.gov.au/library/intguide/sp/Dom_violence.htm (accessed 30 July 2009).

¹¹ Access Economics Pty Ltd, *The Cost of Domestic Violence to the Australian Economy* (2004) vii, available at: www.fahcsia.gov.au/sa/women/pubs/violence/cost_violence_economy_2004/Pages/default.aspx (accessed 30 July 2009).

¹² National Council to Reduce Violence against Women and Children, *The Cost of Violence against Women and their Children* (2009) 4, available at: www.fahcsia.gov.au/sa/women/pubs/violence/Pages/default.aspx (accessed 30 July 2009).

¹³ ABS, *Yearbook 2008 Cat No 1301.0* (2008) "Physical violence", available at: www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/1301.0Feature%20Article13012008 (accessed 30 July 2009).

¹⁴ Marcus G and Braaf R, *Domestic and Family Violence Studies, Surveys and Statistics: Pointers to Policy and Practice* (2007), available at: www.austdvclearinghouse.unsw.edu.au/PDF%20files/Stakeholderpaper_1.pdf (accessed 30 July 2009).

¹⁵ ABS, *Yearbook 2008 Cat No 1301.0* (2008) "Physical violence", available at: www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/1301.0Feature%20Article13012008 (accessed 30 July 2009).

¹⁶ ABS, *Personal Safety, Australia 2005 (Reissue)* Cat No 4906.0 (2006) 9, available at: www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0 (accessed 31 July 2009).

- Indigenous women reported particularly high levels of violence: 20% of Indigenous women reported physical violence in the preceding 12 months, compared to 7% of non-Indigenous women; and 12% of Indigenous women reported sexual violence, compared to 4% of non-Indigenous women.¹⁷ Other research has found the levels of violence against Indigenous women to be even more disproportionate (see section 13.1.4).
- Women from culturally and linguistically diverse backgrounds reported lower levels of physical violence but similar levels of sexual violence during the previous 12 months, in comparison to other women.¹⁸ Although they also reported lower rates of physical and sexual violence over their lifetimes, research has identified factors which influence culturally and linguistically diverse women's perceptions of what is considered to be violent behaviour as well as their willingness to report.¹⁹ In its submission, the Legal Aid Commission advised that this group of women "may well underreport violence experienced", stating that access to qualified interpreters was an important access and equity issue (see section 13.2.6.4).²⁰

Studies of the relationship between domestic violence and homicide have shown that domestic violence plays a significant role in the lead-up to lethal violence:²¹

- In a 1998 study, the AIC found evidence of domestic violence in 27% of all homicides in Australia between 1989 and 1996.
- A study in 2002 showed that during the period 1989 to 2002:
 - On average there were 129 family homicides each year and 77 related to domestic disputes.
 - Killings between partners/spouses accounted for 60% of all family homicides in Australia, with 75% of the victims being women killed by their male partners.
 - A quarter of intimate partner homicides occurred after separation or divorce.

¹⁷ Office for Women, *Women in Australia 2007* (2007) part 7, available at: www.fahcsia.gov.au/sa/women/pubs/general/Pages/default.aspx (accessed 31 July 2009). This data, however, had a high standard error due to the small sample size (see Marcus G and Braaf R, *Domestic and Family Violence Studies, Surveys and Statistics: Pointers to Policy and Practice* (2007), available at: www.austdvclearinghouse.unsw.edu.au/PDF%20files/Stakeholderpaper_1.pdf (accessed 31 July 2009).

¹⁸ Marcus G and Braaf R, *Domestic and Family Violence Studies, Surveys and Statistics: Pointers to Policy and Practice* (2007), available at: www.austdvclearinghouse.unsw.edu.au/PDF%20files/Stakeholderpaper_1.pdf (accessed 31 July 2009).

¹⁹ Mouzos J and Makkai T, *Women's Experiences of Male Violence: Findings from the Australian Component of the International Violence Against Women Survey (IVAWS)* (Research and public policy series no 56) (2004), available at: www.aic.gov.au/en/publications/current%20series/rpp/41-60.aspx (accessed 31 July 2009).

²⁰ Submission from the Legal Aid Commission (26 February 2009).

²¹ Carrington K and Phillips J, *E-Brief — Domestic Violence in Australia: An Overview of the Issues* (revised 2006), available at: www.aph.gov.au/library/intguide/sp/Dom_violence.htm (accessed 31 July 2009).

13.1.1.1 Experiences of controlling behaviours²²

- Around 37–40% of women reported experiencing controlling behaviours from their current partners. The most commonly experienced controlling behaviours were incidents of name calling and put-downs, which were experienced by 28% of all women in current relationships.
- Those women who experienced controlling behaviours from a current partner were twice as likely to have also experienced violence in the previous 12 months (6%). When the controlling behaviour involved their partners damaging or destroying property, women reported levels of violence at a significantly higher rate than the average for current intimate partner violence rates in general (23% compared with 3%).

13.1.1.2 Risk factors for women

Women with particular characteristics may be at higher risk of family and domestic violence. A study in 2005 found that in the 12 months prior to interview:²³

- Women aged 25–34 years had the highest rate of partner violence (2.8%), compared with women aged 55 years and over (0.5%) who experienced the lowest rate.
- A higher proportion of women born in Australia (1.7%) reported experiencing partner violence than those born overseas (1.0%).²⁴
- The World Health Organisation has reported that while some studies have found a relationship between physical assault and male perpetrators' socioeconomic status and educational level, the data is not fully consistent.²⁵
- The rate of partner violence reported differed among women with different levels of education. Women who did not have non-school qualifications were more at risk of partner violence (1.8%) than those with a degree, diploma or higher qualification (1.0%).
- Those women living in areas with the greatest socioeconomic disadvantage reported the highest rate of partner violence (2.0%) while those living in areas with the lowest socioeconomic disadvantage reported the lowest rate (0.9%).
- The World Health Organisation has reported that it is as yet unclear why poverty increases the risk of violence — whether it is because of low income in itself or because of other factors that accompany poverty, such as overcrowding or hopelessness. It has also reported that while women living in poverty are disproportionately affected, physical violence against partners cuts across all socioeconomic groups.²⁶

²² Mouzos J and Makkai T, *Women's Experiences of Male Violence Findings from the Australian Component of the International Violence Against Women Survey (IVAWS)* (Research and public policy series no 56) (2004), available at: www.aic.gov.au/publications/current%20series/rpp/41-60.aspx (accessed 31 July 2009).

²³ Unless otherwise indicated, data is drawn from ABS, *Australian Social Trends, 2007* Cat No 4102.0 (2007) "Women's experience of partner violence", available at: www.abs.gov.au/ausstats/abs@.nsf/Lookup/4102.0Main+Features12007 (accessed 31 July 2009).

²⁴ However, see the comments at 13.1.1 in relation to culturally and linguistically diverse women. Fremantle Multicultural Resource Centre also indicated that for some immigrants both the perpetrator and victim may not know that domestic violence is an offence and, in any event, it often may not be part of the cultural background for a woman to take action in response (26 April 2007).

²⁵ Kruug EG, Dahlberg L, Mercy JA, Zwi AB and Lozano R (eds), *World Report on Violence and Health* (2002) 97, available at: www.who.int/violence_injury_prevention/violence/world_report/en/ (accessed 30 July 2009).

²⁶ Kruug EG, Dahlberg L, Mercy JA, Zwi AB and Lozano R (eds), *World Report on Violence and Health* (2002) 99, available at: www.who.int/violence_injury_prevention/violence/world_report/en/ (accessed 30 July 2009).

- Women were at a higher risk of partner violence if they had a history of abuse as a child. The partner violence rate for women who had experienced abuse as a child (before the age of 15 years) was 3.5%.
- Women who had experienced partner violence were more likely to have experienced violence from another known person during the 12 months prior to the survey (8.2% compared with 1.5% of women overall).
- Ethnicity is known to affect a woman's level of risk, particularly for Aboriginal women.²⁷
- While exploration of domestic violence has tended to focus on its occurrence in heterosexual relationships, there is an increasing recognition that same-sex relationships must also be examined. Domestic violence can be, and is, experienced within lesbian relationships and in all forms of relationships.²⁸ See chapter 12 on diverse sexuality, sex and gender for more information.

13.1.2 Children and family and domestic violence

Given the nature of family and domestic violence, children are especially at risk:

- 61% of persons who experienced violence from a previous partner had children in their care during that relationship; and 36% said these children had witnessed the violence.²⁹
- 40% of women and 25% of men who experienced violence from a previous partner reported that it was witnessed by children in their care.³⁰
- 49% of persons who reported that they were experiencing violence from their current partner had children in their care, and 27% said that these children had witnessed the violence.³¹
- Over half (55%) of the Aboriginal and Torres Strait Islander women who had been victims of physical or threatened violence had primary caring responsibility for a child aged 12 or under.³²
- Data collected by the Joondalup Family Violence Court during the first years of its operation indicated that children were present in 73% of incidents of domestic violence requiring police attendance.³³

²⁷ See, for example, Department for Community Development, *A Review of Literature Relating to Family and Domestic Violence in Culturally and Linguistically Diverse Communities in Australia* (2006), available at: www.community.wa.gov.au/dcp/Resources/FamilyDomesticViolence/ (accessed 31 July 2009).

²⁸ University Department of Rural Health, Tasmania, *Responding to Domestic Violence Resource Package* (2004) "Module 2.2: The impact of domestic violence on women", available at: www.ruralhealth.utas.edu.au/padv-package/module2-2.html (accessed 31 July 2009).

²⁹ ABS, *Personal Safety, Australia 2005 (Reissue)* Cat No 4906.0 (2006) 9, available at: www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0 (accessed 31 July 2009).

³⁰ ABS, *Personal Safety, Australia 2005 (Reissue)* Cat No 4906.0 (2006) 9, available at: www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0 (accessed 31 July 2009).

³¹ ABS, *Personal Safety, Australia 2005 (Reissue)* Cat No 4906.0 (2006) 9, available at: www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0 (accessed 31 July 2009).

³² ABS, *The Health and Wellbeing of Aboriginal and Torres Strait Islander Women: A Snapshot, 2004-05* Cat No 4722.0.55.001 (2007), available at: www.abs.gov.au/ausstats/abs@.nsf/Lookup/4722.0.55.001Main+Features12004-05 (accessed 31 July 2009).

³³ Department of Justice, *Joondalup Family Violence Court: Final Report* (2002) 16.

- A survey conducted by the Crime Research Centre (WA) found that about one quarter (23%) of young people reported witnessing at least one act that could be described as physical or domestic violence against their mothers or stepmothers.³⁴

Children may also be the direct victims of intra-familial abuse and violence:³⁵

- The proportion of women who reported experiencing physical abuse before the age of 15 was 10%, and the majority of physical abuse against these young women was perpetrated by their fathers/step fathers (52.8%) or mothers/step mothers (34.3%).
- Before the age of 15, 12% of women had been sexually abused compared to 4.5% of men. Only 8.6% of these females were sexually abused by strangers. Most of the abuse was perpetrated by other male relatives (35.1%), fathers/step fathers (16.5%), family friends (16.5%) and acquaintance/neighbours (15.4%).
- Overall, 29% of women surveyed in the 2002/03 Australian International Violence against Women Survey (IVAWS) reported that they had experienced physical and/or sexual violence before the age of 16 years:
 - Almost one in five experienced this abuse from parents.
 - 16% of women reported sexual abuse by some other person (relative or some other male).
 - Women who experienced abuse during childhood were one and a half times more likely to experience violence in adulthood.
- In 2007, the highest rate of sexual assault was recorded for females 10–14 years of age, at 544 per 100,000 females in that age group.³⁶
- For males, sexual assault rates in 2007 were also highest for those aged 10–14 (95 per 100,000 relevant persons) and for those under 10 (78 per 100,000 relevant persons).³⁷
- Boys made up 32% of sexual assault victims aged under 10.³⁸
- Where the relationship between victim and offender was stated, most sexual assault victims had some form of relationship with the offender (78%).³⁹
- Two in five sexual assaults were perpetrated by a family member. The figure is higher (47%) for male victims.⁴⁰

³⁴ Indermaur D, "Young Australians and domestic violence" *Trends & Issues in Crime and Criminal Justice no 195* (2001), available at: www.aic.gov.au/en/publications/current%20series/tandi/181-200.aspx (accessed 31 July 2009).

³⁵ Unless otherwise indicated, the following data is drawn from Phillips J and Park M, *E-Brief — Measuring Domestic Violence and Sexual Assault against Women: Review of the Literature and Statistics* (revised 2006), available at: www.aph.gov.au/library/intguide/SP/ViolenceAgainstWomen.htm (accessed 31 July 2009).

³⁶ Australian Institute of Criminology, *Australian Crime: Facts and Figures 2007* (2008), available at: www.aic.gov.au/publications/current%20series/facts.aspx (accessed 31 July 2009).

³⁷ Australian Institute of Criminology, *Australian Crime: Facts and Figures 2007* (2008), available at: www.aic.gov.au/publications/current%20series/facts.aspx (accessed 31 July 2009).

³⁸ Australian Institute of Criminology, *Australian Crime: Facts and Figures 2007* (2008), available at: www.aic.gov.au/publications/current%20series/facts.aspx (accessed 31 July 2009).

³⁹ Australian Institute of Criminology, *Australian Crime: Facts and Figures 2007* (2008), available at: www.aic.gov.au/publications/current%20series/facts.aspx (accessed 31 July 2009).

⁴⁰ Australian Institute of Criminology, *Australian Crime: Facts and Figures 2007* (2008), available at: www.aic.gov.au/publications/current%20series/facts.aspx (accessed 31 July 2009).

- In 38% of sexual assaults the offender was a non-family member known to the victim.⁴¹
- Females (23%) were more likely than males (15%) to be sexually assaulted by strangers.⁴²
- 27 children under the age of 15 years were killed in 2006/07; 15 were male and 12 were female.⁴³
- No child was killed by a complete stranger in 2006/07 and four children were killed by non-family members.⁴⁴
- The overwhelming majority of child homicides were committed by a parent:⁴⁵
 - 11 homicides involved the mother killing her child.
 - 11 were committed by the father.
- Between 1989/90 and 2006/07, there were 752 homicide victims in Australia aged 17 or younger.⁴⁶
 - The proportion of child victims increased from 12% of all homicides in 1989/90 to just under 15% in 2006/07.
 - This was principally an increase, as a proportion of all homicide victims, in those under 10.
 - Of victims aged less than 10, 91% were killed by a parent or step-parent.

13.1.2.1 Risk factors for children⁴⁷

- The rate of young people and children being exposed to domestic violence varied considerably depending on the nature of household living arrangements. For example:
 - The witnessing of male-to-female parental violence ranged from 14% for those young people living with both parents to 41% for those living with “Mum and her partner”.
- Young people of lower socioeconomic status were about one and a half times more likely to be aware of violence towards their mothers or fathers than those from upper socioeconomic households.

⁴¹ Australian Institute of Criminology, *Australian Crime: Facts and Figures 2007* (2008), available at: www.aic.gov.au/publications/current%20series/facts.aspx (accessed 31 July 2009).

⁴² Australian Institute of Criminology, *Australian Crime: Facts and Figures 2007* (2008), available at: www.aic.gov.au/publications/current%20series/facts.aspx (accessed 31 July 2009).

⁴³ Dearden J and Jones W, *Homicide in Australia: 2006-07 National Homicide Monitoring Program Annual Report* (Monitoring report no 1) (2008) 10, available at: www.aic.gov.au/publications/current%20series/mr.aspx (accessed 31 July 2009).

⁴⁴ Dearden J and Jones W, *Homicide in Australia: 2006-07 National Homicide Monitoring Program Annual Report* (Monitoring report no 1) (2008) 10, available at: www.aic.gov.au/publications/current%20series/mr.aspx (accessed 31 July 2009).

⁴⁵ Dearden J and Jones W, *Homicide in Australia: 2006-07 National Homicide Monitoring Program Annual Report* (Monitoring report no 1) (2008) 10, 11, available at: www.aic.gov.au/publications/current%20series/mr.aspx (accessed 31 July 2009).

⁴⁶ AIC, “Child victims of homicide” *Crime Facts Info no 183* (2008), available at: www.aic.gov.au/publications/current%20series/cfi.aspx (accessed 31 July 2009).

⁴⁷ The following data is drawn from Indermaur D, “Young Australians and domestic violence” *Trends & Issues in Crime and Criminal Justice no 195* (2001), available at: www.aic.gov.au/publications/current%20series/tandi/181-200.aspx (accessed 31 July 2009).

- Indigenous youth were significantly more likely to have experienced physical domestic violence among their parents or parents' partners. In the case of male to female violence, the rate was 42% compared to 23% for all respondents, and for female to male violence the rate was 33% compared to 22%.
- Although only representing 14% of a group of young people surveyed, in over half (55%) of those households where the male carer "gets drunk a lot", the young person witnessed male to female violence.
- It was estimated that of the young people surveyed, one in ten lived in households where the male carer had hit the young person and/or their siblings for other than bad behaviour. In these households, 55.3% of young people reported having been aware of male-to-female physical domestic violence occurring at some time. This was more than double the rate for the sample as a whole (23.4%).
- Young people growing up in homes where there has been couple violence (both male and female carers perpetrating and being victimised by domestic violence) were more likely to be victims of violence and perpetrators of violence in their own relationships. For example, they were twice as likely to have been forced to have sex and four times as likely to have admitted forcing their partner to have sex.
- Overall, the best predictor of perpetration (and victimisation) of violence in young people's relationships was found to be witnessing certain types of male to female violence in the home.
- It is important to note that the majority of those who have grown up in violent homes do not go on to perpetrate violence in their own relationships.

13.1.3 Men and family and domestic violence

At present there are only limited statistics relating to men as victims of domestic violence. On the evidence available from a study in Duluth, Minnesota over ten years from 1980, although women's violence toward their male partners that is neither in self-defence nor in response to being abused was rare, it could still be very dangerous. During the 10 years the Domestic Abuse Intervention Project (DAIP) worked with just under 100 women who had physically assaulted their partners (representing 3.5 % of offenders mandated by the courts to participate in DAIP). In seven of these cases, the men were unable to leave the situation without increasing their partner's violence:

*These seven men, like the thousands of women who had sought safety at the shelter, were being pursued and terrorized by their partners. They, like many battered women, needed legal protection, safe housing, and tremendous emotional support.*⁴⁸

According to DIAP, what separated those seven men from the 90 other male assault victims was their fear and their inability to leave without their abusers escalating the violence and threats.

⁴⁸ Pence E and Paymar M, "The Duluth domestic abuse intervention project" (1993).

A study to investigate domestic abuse committed against men, to be conducted by researchers from Edith Cowan University, was announced in November 2008. It aims to explore the perceptions of intimate partner abuse, taking into account the experience of both victims and perpetrators.⁴⁹

13.1.3.1 Experiences of violence and controlling behaviours⁵⁰

The existing literature, although limited, provides some insights into the experiences of male victims of family and domestic violence.

Qualitative data about men's experiences of domestic violence collected in 2000 reflects that men report a range of physical abuse including direct assaults, being spat at, scratched, rushed at, kicked, choked, threatened with a knife, and having hair pulled and pots thrown. They did not report sexual assaults from their partner but, rather, emotional taunts that had an effect on their sexual performance. Further verbal and emotional abuse included putdowns, accusations of infidelity, "bitchy" comments and name-calling.

Men's physical size and strength is often greater than that of their female partners, which may partly explain why men report that they do not generally live in fear of their partners. Men's descriptions of abuse identified within the studies tended to centre on issues such as financial dependence on a partner, limiting access to resources, tactics of isolation, preventing access to children, and being exposed to irrational and threatening behaviour.

The Western Australian 2006 Men's Project surmised that "bona fide" male victims of family and domestic violence included men who suffered physical abuse or emotional, psychological and financial abuse, and extended to the inability to leave an abusive relationship without fear of reprisal or retribution (not necessarily economic inability, but fear for the safety of, or accessibility to, their children).⁵¹

13.1.3.2 Risk factors

There is little documented research into the prevalence of gay domestic violence within WA and the Men's Project report could offer only anecdotal numbers. Despite the apparent silence surrounding domestic violence within the homosexual community, the homosexual men interviewed suggested that the prevalence of domestic violence in the homosexual community is comparable to that found among heterosexuals.⁵² Gay men cited concerns about police perceptions of their sexual preference, the lack of appropriate services and stigma within the gay community as contributing to keeping such incidents well hidden. Additional information on abuse in same-sex relationships is provided in chapter 12 on diverse sexuality, sex and gender.

⁴⁹ Edith Cowan University Corporate Communications, "ECU researchers uncover intimate partner abuse" (4 November 2008), available at: www.ecu.edu.au/pr/mediareleases_show.php?release=0000000876 (accessed 3 August 2009).

⁵⁰ Unless otherwise indicated, data is drawn from Mulroney J and Chan C, *Men as Victims of Domestic Violence* (Topic Paper no 15) (2005) 6, available at: www.adfvc.unsw.edu.au/PDF%20files/Men_as_Victims.pdf (accessed 3 August 2009).

⁵¹ Family and Domestic Violence Unit, *The Men's Project: Exploring Responses to Men who are Victims or Perpetrators of Family and Domestic Violence* (2006) 32, available at: www.community.wa.gov.au/dcp/resources/familydomesticviolence/ (accessed 3 August 2009).

⁵² Family and Domestic Violence Unit, *The Men's Project: Exploring Responses to Men who are Victims or Perpetrators of Family and Domestic Violence* (2006) 30-31, available at: www.community.wa.gov.au/dcp/resources/familydomesticviolence/ (accessed 3 August 2009).

The Men's Project report found that there was a marked distinction between metropolitan and rural and remote settings in terms of the reporting of male victims of domestic violence, with rural and remote areas found to be much more forthcoming.⁵³ The study also found that male victims in rural and remote areas tended to be Aboriginal men. However, police and service providers in Kalgoorlie, Karratha and Broome, in particular, suggested that such violence was mostly retaliatory action or self-defence undertaken by the partners of violent men. Department for Communities workers and police in Merredin were quite adamant that rural areas have a number of male victims, and offered comments like "we build our women tough, here in the bush" in explanation. The Men's Project suggested that this explanation was suggestive of retaliatory violence being seen as the only method of conflict resolution in an intimate relationship.

It was extremely difficult to ascertain exact numbers, but the Men's Project concluded that it seemed that rural and remote communities included relatively high numbers of male victims of domestic violence.

13.1.4 Aboriginal people and family and domestic violence

Aboriginal people, particularly females, are likely to be subject to family and domestic violence:⁵⁴

- A study of Aboriginal women in Western Australia in 1996 found that they were 45 times more likely to be the victims of family and domestic violence than non-Aboriginal women.⁵⁵
- A more recent study, in 2001, indicated that the rate of victimisation for domestic violence against Aboriginal people in non-metropolitan WA was 33 times higher than for non-Aboriginal people; in Perth the rate of victimisation was 17 times higher.⁵⁶
- In 2003/04, Indigenous females and males were 35 and 22 times more likely to be hospitalised after family violence-related assaults than other Australian females and males.⁵⁷
- For Aboriginal and Torres Strait Islander females, about one in two hospitalisations for assault (50%) were found to be related to family violence, compared to one in five for males. Most hospitalisations for females were found to be a result of spouse or partner violence (82%) compared to 38% for males.⁵⁸
- Indigenous males and females were approximately 12 times more likely to be hospitalised as a result of violence by a parent than non-Indigenous males and females.⁵⁹

⁵³ Family and Domestic Violence Unit, *The Men's Project: Exploring Responses to Men who are Victims or Perpetrators of Family and Domestic Violence* (2006) 32, available at: www.community.wa.gov.au/dcp/resources/familydomesticviolence/ (accessed 3 August 2009).

⁵⁴ Unless otherwise indicated, the following data is drawn from ABS, *The Health and Wellbeing of Aboriginal and Torres Strait Islander Women: A Snapshot, 2004-05* Cat No 4722.0.55.001 (2007), available at: www.abs.gov.au/ausstats/abs@.nsf/Lookup/4722.0.55.001Main+Features12004-05 (accessed 31 July 2009).

⁵⁵ Ferrante A, Morgan F, Indemaur D and Harding R, *Measuring the Extent of Domestic Violence*, (1996) 34.

⁵⁶ Crime Research Centre, *Aboriginal Involvement in the Western Australian Criminal Justice System: A Statistical Review, 2001* (2003) iii, 5, available at: www.law.uwa.edu.au/research/crc/reports (accessed 31 July 2009).

⁵⁷ Australian Institute of Health and Welfare (AIHW), *Family Violence among Aboriginal and Torres Strait Islander Peoples* Cat No IHW 17 (2006), available at: www.aihw.gov.au/publications/ihw/fvaatsip/fvaatsip.pdf (accessed 31 July 2009).

⁵⁸ AIHW, *Family Violence among Aboriginal and Torres Strait Islander Peoples* Cat No IHW 17 (2006), available at: www.aihw.gov.au/publications/ihw/fvaatsip/fvaatsip.pdf (accessed 31 July 2009).

⁵⁹ AIHW, *Family Violence among Aboriginal and Torres Strait Islander Peoples* Cat No IHW 17 (2006), available at: www.aihw.gov.au/publications/ihw/fvaatsip/fvaatsip.pdf (accessed 31 July 2009).

- For 2006/07, domestic altercation was the most common homicide motive identified in Indigenous homicides (45.2%), significantly more than in non-Indigenous homicides (22.0%). The main motive in non-Indigenous homicides was “other arguments” (37.0%).⁶⁰
- In 2004/05, 77.1% of Indigenous homicides involved partners and other family members while 39.9% of non-Indigenous homicides took place among these groups.⁶¹

13.1.4.1 Risk factors for Aboriginal people

- The 2002 ABS Aboriginal and Torres Strait Islander Social Survey outlines the social profile of Aboriginal people, including multiple disadvantages.⁶² Aspects of that profile indicate that Aboriginal people are significantly more likely than non-Aboriginal people to be at risk of being perpetrators and/or victims of family and domestic violence, because of their:
 - population context (demographics);
 - employment and housing;
 - financial stress; and
 - education.

Aboriginal people in remote and regional areas are especially vulnerable to family and domestic violence.

- Elderly Aboriginal people are especially at risk of elder abuse due to:
 - loss of respect for old people and culture and the need to teach young people respect;
 - alcohol and substance abuse within the community;
 - grandmothers/grandparents raising grandchildren; and
 - poor housing conditions.⁶³

Additional information is provided in chapter 11 on Aboriginal people and in chapter 6 on older people.

⁶⁰ Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2009* (2009) 4.134, available at www.pc.gov.au/gsp/reports/indigenous (accessed 31 July 2009).

⁶¹ Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2007* (2007) 98, available at www.pc.gov.au/gsp/reports/indigenous (accessed 31 July 2009).

⁶² ABS, *National Aboriginal and Torres Strait Islander Social Survey 2002* Cat No 4714.0 (2004), available at: www.abs.gov.au/ausstats/abs@.nsf/Lookup/4714.0Main+Features12002 (accessed 31 July 2009).

⁶³ Office of the Public Advocate, *Mistreatment of Older People in Aboriginal Communities Project* (2005), available at: <http://apeawa.advocare.org.au/publications.php> (accessed 31 July 2009).

13.2 Some information

13.2.1 Theories of family and domestic violence

While long-standing stigma surrounding family and domestic violence makes it difficult to ascertain exactly how prevalent it is in society, theories about family and domestic violence inform the responses to such cases that are reported. A brief outline of the theories relating to domestic violence, underpinned by an understanding of this as primarily gender-based violence, follows.⁶⁴

Early models of abusive behaviour attributed domestic violence to the mental state of the perpetrator, identifying mental illness, or some sort of “trigger” (i.e. alcohol, stress, anger), as leading to a loss of control and to violence. Psychological tests, however, did not support the theory that violence was caused by mental illness. As understanding regarding the prevalence and different manifestations of domestic violence grew, it became obvious that a loss of control could not explain the patterns of behaviour being observed. Perpetrators were not indiscriminate in their violence; they targeted certain people and often took great pains to hide this abuse from society.

New models evolved, given the difficulty in fixing the cause of violence solely on the perpetrator, and it was surmised that the victim must play some role in either passively or actively facilitating the continuation of violence.

One such theory was that women who had been repeatedly victimised suffered from “learned helplessness” as a result. This prevented them from resisting violence or leaving a violent relationship. This theory proved inadequate as further research highlighted the many social, economic and cultural reasons why women do not leave relationships; what is more, it is inconsistent with the many ways in which women in such relationships attempt to leave or often act in very conscious ways to minimise the abuse directed at them and to protect their children.

The fact that some women consciously resisted domestic violence gave credence to another theory, the so called “family conflict model”. This model surmises that domestic violence occurs as a result of both partners’ actions, feeding a cycle of violence. This theory was inadequate and potentially harmful, as it implied that the victim’s actions somehow justified abusive responses by the perpetrator.

One understanding of the dynamics involved in family and domestic violence that has currency is the Stockholm Syndrome;⁶⁵ and the Legal Aid Commission WA suggests that it should be taken into account when dealing with these cases. The Commission describes the syndrome in the following terms:

⁶⁴ Drawn from Stop Violence against Women, *Causes and Theories of Domestic Violence* (2003), available at www.stopvaw.org/Domestic_Violence_Training_Modules.html (accessed 31 July 2009).

⁶⁵ Seely J and Plunkett C, *Women and Domestic Violence: Standards for Counselling and Practice* (2002) 9, available at: www.salvationarmy.org.au/reports/Women&Domestic_Violence_Counselling_Standards.pdf (accessed 29 July 2009).

The “Stockholm Syndrome” is a survival strategy and the theory behind it attempts to describe the behaviour of those experiencing abuse similar to the psychological experience of those in a hostage situation. Research includes observations on those trying to help the abused party. The helpers are considered to be “troublemakers” which is a mechanism used to further isolate the victim. Victims generally display gratitude to the abuser where the abuser has demonstrated an act of kindness. Victims find themselves locked in the situation and justifying why they have chosen to stay in the relationship. At the same time the perpetrator claims acts of kindness towards the victim are the highlights in the relationship. The perpetrator does not take responsibility for the abusive and violent behaviour and focus is only on few acts of kindness.⁶⁶

Another broadly accepted model for understanding domestic violence holds that violence is a manifestation of an unequal power relationship. Domestic violence is seen as being causally related to traditional patriarchal beliefs that women occupy a subordinate role in society, and as being learned through exposure to social values and beliefs regarding the appropriate roles of men and women.

While there is no such thing as a “typical” perpetrator of domestic violence, studies reveal certain common behaviours among these men. They often:⁶⁷

- use violence and emotional abuse to control their families;
- believe that they have the right to behave in whatever way they choose while in their own home;
- think that a “real” man should be tough, powerful and the head of the household. They may believe that they should make most of the decisions, including about how money is spent;
- believe that men are entitled to sex from their partners;
- don’t take responsibility for their behaviour and prefer to think that loved ones or circumstances provoked their behaviour;
- make excuses for their violence: for example, they will blame alcohol or stress;
- report “losing control” when angry around their families, but control their anger around other people. They do not tend to use violence in other situations: for example, around friends, bosses, work colleagues or the police; and
- try to minimise, blame others for, justify or deny their use of violence or the impact of their violence towards women and children.

⁶⁶ Submission from Legal Aid WA (17 July 2009).

⁶⁷ Better Health Victoria, *Domestic Violence: Why Men Abuse Women* (2008), available at: www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/Domestic_violence_why_men_abuse_women (accessed 31 July 2009).

The Legal Aid Commission suggests that the “Power and Control Wheel” is by far the most acceptable concept by which behaviour based on power and control can be explained.⁶⁸ This understanding of family and domestic violence was developed in 1990, in the context of domestic violence as substantially being perpetrated by men against women.⁶⁹ The depiction of the “Power and Control Wheel” identifies a number of tactics by which the perpetrator seeks to control the victim:

- intimidation;
- coercion and threats;
- emotional abuse;
- economic abuse;
- isolation;
- male privilege;⁷⁰
- using children;⁷¹ and/or
- minimisation, denial and blame.

The need to retain power and control is reflected in the statistics, which indicate that a victim of domestic violence leaving the relationship does not always end the violence. Nearly all the women (97.5%) in one study had experienced violence or abuse after separation, and many described an increase in violence immediately post-separation, although some said that it had later declined or, in a small number of instances, ceased as time passed.⁷²

As indicated by the tactics described, domestic violence is not limited to physical abuse and extends to several forms of abuse, some of which may not be overt.⁷³ The Department for Communities defines domestic violence as “behaviour, which results in physical, sexual and/or psychological damage, forced social isolation, economic deprivation, or behaviour which causes the victim to live in fear”, and as including:⁷⁴

- sexual abuse — any unwanted sexual contact, including rape;
- emotional abuse — including psychological and verbal abuse, occurring most often in the form of humiliation, threats, insults, harassment or constant criticism;
- verbal abuse — continued verbal harassment, put-downs, insults, name calling and swearing;

⁶⁸ Submission from Legal Aid WA (17 July 2009).

⁶⁹ Pence E and Paymar M, “Power wheel” (1990), available at: www.dvrc.org.au/index.php?action=view&view=24399 (accessed 30 July 2009). See also Pence E and Paymar M, “The Duluth domestic abuse intervention project” (1993).

⁷⁰ This is described as “Treating her like a servant. Making all the big decisions. Acting like the ‘master of the castle’. Being the one to define men’s and women’s roles.” Domestic Violence Resource Centre Inc, “Power wheel” (1990), available at: www.dvrc.org.au/index.php?action=view&view=24399 (accessed 30 July 2009).

⁷¹ This is described as “Making her feel guilty about the children. Using the children to relay messages. Using visitation to harass her. Threatening to take the children away.” Domestic Violence Resource Centre Inc, “Power wheel” (1990), available at: www.dvrc.org.au/index.php?action=view&view=24399 (accessed 12 October 2009).

⁷² Kaye M, Stubbs J and Tolmie J, *Negotiating Child Residence and Contact Arrangements against a Background of Domestic Violence* (2003) 35.

⁷³ This is reflected in the expanded definition of “act of family or domestic violence” in s 6(1) of the *Restraining Orders Act 1997* (WA) — see section 13.2.2.1 of this *Bench Book*.

⁷⁴ Department for Communities, *The Western Australian Family and Domestic Violence Student Information Kit* (2006), available at: www.community.wa.gov.au/dcp/resources/familydomesticviolence/ (accessed 20 May 2009).

- social abuse — not allowing the victim to have friends, isolating the victim from their family members, denying access to a car, telephone or medical care; and
- economic abuse — one person taking total control of the family income so that the victim is allowed either no money or money only for household expenses and not for personal use.

The tactics described in the “Power and Control Wheel” are common to many individuals or groups in positions of power. The current understanding of such behaviours is that these critically involve the need to gain power and control over another person. This understanding of abuse and violence as primarily a means of control within close interpersonal relationships can be extended to the dynamics of family violence.

13.2.1.1 Family and domestic violence as “gender-based violence”

Women experience sexual, physical, psychological or economic violence from an intimate partner or someone they know at far greater rates than men. The UN has noted that:

Overwhelmingly perpetrated by men against women, gender-based violence both reflects and reinforces gender inequity. The toll it extorts on the dignity, autonomy and health of women is shocking: Worldwide, one in three women has been beaten, coerced into unwanted sexual relations, or abused often by a family member or acquaintance.⁷⁵

However, the statistics highlighted in section 13.1.2 in particular indicate that a solely gender-based understanding of such crimes may not be sufficient to understand, and therefore address, family violence, which is more broadly defined and covers all acts of abuse by family members, including child sexual abuse and elder abuse. For example, research conducted on behalf of the Australian Institute of Criminology (AIC) highlights that in relation to intra-familial homicide:

- The trend for child homicide victims to have been killed by family and those best known to them is much stronger than in relation to adult victims.⁷⁶
- In 2006/07 there were approximately equal numbers of females and males killed by intimates or family members.⁷⁷
- Female offenders were twice as likely as male offenders to be charged with killing an intimate partner or a family member — although females were far less likely to be offenders to start with, at 0.5 per 100,000 compared to males at 2.3 per 100,000; and male offenders murdered partners in greater numbers.⁷⁸

⁷⁵ United Nations Population Fund, *State of World Population 2005: The Promise of Equality: Gender Equity: Reproductive Health and the Millennium Development Goals* (2005) 5, available at: www.unfpa.org/swp/2005/pdf/en_swp05.pdf (accessed 29 July 2009).

⁷⁶ Dearden J and Jones W, *Homicide in Australia: 2006-07 National Homicide Monitoring Program Annual Report* (2008) 10, available at: www.aic.gov.au/publications/current%20series/mr.aspx (accessed 30 July 2009).

⁷⁷ Dearden J and Jones W, *Homicide in Australia: 2006-07 National Homicide Monitoring Program Annual Report* (2008) 8, 12, available at: www.aic.gov.au/publications/current%20series/mr.aspx (accessed 30 July 2009).

⁷⁸ Dearden J and Jones W, *Homicide in Australia: 2006-07 National Homicide Monitoring Program Annual Report* (2008) 2, 12, available at: www.aic.gov.au/publications/current%20series/mr.aspx (accessed 30 July 2009).

- In 43% of homicides between intimates in 2006/07, the parties had a prior history of domestic violence in some form, suggesting that, in many of these cases, the homicide is a tragic end to a cycle of domestic violence.⁷⁹ (Information identifying what proportion of these domestic violence-related homicides involved the perpetrator or the victim of prior domestic violence was not available in the AIC report — but see 13.2.2.2.)

It is important to acknowledge, therefore, that while family and domestic violence is predominantly perpetrated by men against women, it is also the case that men, the elderly, disabled people and children of both sexes can be its victims and that such violence may be perpetrated by others within the family unit than men. The Same Sex Domestic Abuse Group (SSDAG) suggests that stereotypes of femininity and masculinity can get in the way of identifying who is enacting or experiencing abuse/violence; for example, in same-sex relationships, SSDAG cautions that it should not be assumed that it is the bigger, stronger, more masculine or financially secure person who is enacting the abuse/violence.⁸⁰

Victims and perpetrators of family and domestic violence come from various socioeconomic and cultural groups across the community; however, the risks and prevalence of the problem vary across the population, particularly in relation to the victims' gender and age. It is known that the prevalence and risk are greater within regional and remote areas of Australia and within Aboriginal communities.⁸¹

13.2.2 Recent initiatives

13.2.2.1 Restraining orders

In Western Australia, family and domestic violence legislation underwent significant amendment in 2004 following a review by the then Department of Justice.⁸² The *Acts Amendment (Family and Domestic Violence) Act 2004* made amendments to the *Restraining Orders Act 1997* (WA), the *Criminal Code* (WA), and the *Bail Act 1892* (WA) to afford greater protection to victims of family and domestic violence.

Reforms to the *Restraining Orders Act 1997* (WA) centred on recognition of the seriousness of family and domestic violence and the way it differs from other violent crimes: specifically that, unlike most other assaults, there is enormous potential for domestic violence to be repeated and to escalate in seriousness. Section 6 of the Act was repealed and a new definition of family and domestic violence introduced, recognising that in the context of family and domestic violence an “act of abuse” could be something other than a personal assault.⁸³ Section 6(1) now defines “act of family and domestic violence” as follows:

one of the following acts that a person commits against another person with whom he or she is in a family and domestic relationship —

(a) *assaulting or causing personal injury to the person;*

⁷⁹ Dearden J and Jones W, *Homicide in Australia: 2006-07 National Homicide Monitoring Program Annual Report* (2008) 15, available at: www.aic.gov.au/publications/current%20series/mr.aspx (accessed 30 July 2009).

⁸⁰ Submission from Same Sex Domestic Abuse Group (SSDAG) (20 April 2007).

⁸¹ Carrington K and Phillips J, *E-Brief — Domestic Violence in Australia: An Overview of the Issues* (revised 2006), available at: www.aph.gov.au/library/intguide/sp/Dom_violence.htm (accessed 31 July 2009).

⁸² Department of Justice, *Report on a Review of Legislation Relating to Domestic Violence Final Report* (2004), available at: www.department.dotag.wa.gov.au/D/domestic_violence_2004.aspx?uid=2056-2881-8154-4677 (accessed 31 July 2009).

⁸³ Western Australia, *Parliamentary Debates* Legislative Assembly 2 June 2004, 3303c-3306a (Hon JA McGinty, Attorney General).

- (b) *kidnapping or depriving the person of his or her liberty;*
- (c) *damaging the person's property, including the injury or death of an animal that is the person's property;*
- (d) *behaving in an ongoing manner that is intimidating, offensive or emotionally abusive towards the person;*
- (e) *pursuing the person or a third person, or causing the person or a third person to be pursued —*
 - (i) *with intent to intimidate the person; or*
 - (ii) *in a manner that could reasonably be expected to intimidate, and that does in fact intimidate, the person;*
- (f) *threatening to commit any act described in paragraphs (a) to (c) against the person.*

A family or domestic relationship is defined to include current or former intimate partners, persons who are related and children who ordinarily reside with a person.⁸⁴

The amendments also address the damage that can be done to children as a result of exposure to domestic violence. New provisions in the *Criminal Code* introduced more severe penalties for people who commit acts of family and domestic violence in the presence of children.⁸⁵ Amendments to the *Restraining Orders Act 1997* (WA) allow child protection agencies to intervene on behalf of children in restraining order applications where the well-being of a child may be affected.⁸⁶ Children are also protected from re-victimisation as a result of court processes by amendments that introduced special rules relating to children giving evidence.⁸⁷ (See section 13.3.3 for practical guidance in relation to restraining orders.)

13.2.2.2 “Battered woman syndrome”

Another recent legislative change in this area concerns long-term or repeated abuse as a contributory factor to violence, and “battered woman syndrome”.

It is widely accepted within trauma literature that there are some instances in which some women respond to long-term or repeated abuse, assault or threats from their partner by assaulting, or in very rare cases killing, their abuser. In this situation, some women and their legal representatives have used evidence of this, which has been termed “battered woman syndrome”, as a defence.

Reference to the “battered woman syndrome”, also known as “battered wife syndrome”, as a defence to women assaulting or killing their partner in response to long-term or repeated abuse was included in the 2007 final report on the *Review of the Law of Homicide* by the Law Reform Commission of Western Australia. The Commission defined battered women’s syndrome as:

⁸⁴ *Restraining Orders Act 1997* (WA) s 4(1).

⁸⁵ *Criminal Code* (WA) s 221.

⁸⁶ *Restraining Orders Act 1997* (WA) s 50D.

⁸⁷ *Restraining Orders Act 1997* (WA) ss 53A–53F.

*a psychological theory that has been developed in response to the difficulties that women who kill their abusive partners experience when seeking to rely on the available defences. The theory describes the behaviour of a woman who kills her violent partner and was developed because the behaviour of women in violent relationships was considered to be beyond the understanding of the average juror.*⁸⁸

There is considerable controversy about the wisdom of using the “battered woman syndrome” as the means of supporting a defence argument. The arguments against allowing the “battered woman syndrome” as a separate defence include that it does not extend to battered husbands and children, or to abused women who have retaliated to violence and therefore do not fit the typical “battered woman” profile. The main concern is that the use of the notion of a “syndrome” pathologises the woman in question, rather than focusing on the circumstances in which the offence occurred and whether (in the context of the defence of self defence) her actions were reasonable.

The Law Reform Commission of Western Australia recommended that:

*rather than introduce a separate defence, it is preferable to amend the law so that it better accommodates the experiences of victims of domestic violence who kill.*⁸⁹

In March 2008, amendments to the laws relating to homicide were introduced into the Western Australian Parliament, including proposed s 248(4) of the *Criminal Code* (WA):

- (4) *A person’s harmful act is done in self-defence if—*
- (a) *the person believes the act is necessary to defend the person or another person from a harmful act, including a harmful act that is not imminent; and*
 - (b) *the person’s harmful act is a reasonable response by the person in the circumstances as the person believes them to be; and*
 - (c) *there are reasonable grounds for those beliefs.*

The then Attorney General indicated that:

Under proposed section 248(4) [of the Criminal Code (WA)] a harmful act is done in self-defence where the person reasonably believes that the act is necessary to defend himself, herself or another person from a harmful act, whether imminent or not, and where the person’s harmful act is a reasonable response in the circumstances as the person believes them to be.

*The reference to whether or not the threatened harmful act is imminent allows this defence to apply to the battered spouse scenario so long as the response is reasonable to the circumstances as the person believed them on reasonable grounds to be. The requirement that the response be reasonable would preclude pre-emptive attacks where it would instead be reasonable for police to be called.*⁹⁰

The amendment came into effect on 1 August 2008 (see section 13.3.6).

⁸⁸ Law Reform Commission of Western Australia, *Review of the Law of Homicide: Final Report* (2007), available at: www.lrc.justice.wa.gov.au/097p.html (accessed 31 July 2009).

⁸⁹ Law Reform Commission of Western Australia, *Review of the Law of Homicide: Final Report* (2007), available at: www.lrc.justice.wa.gov.au/097p.html (accessed 31 July 2009).

⁹⁰ Attorney General, *Explanatory Memorandum Criminal Law Amendment (Homicide) Bill 2008* (2008) 3-4; available at: www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Bills+-+All (accessed 3 June 2009).

13.2.2.3 Family Violence Courts⁹¹

The first Family Violence Court in Western Australia opened in Joondalup in 1999. It was established following recommendations made by the Family and Domestic Violence Taskforce Action Plan in 1995.

The pilot court was evaluated during 2000 and 2001 and it was concluded that, overall, the pilot court was a “qualified success”. The report made clear that there were significant problems with the way the existing court processes operated with respect to family and domestic violence matters, and that although perpetrator programs and case management in the pilot court were based on sound principles, further evaluation was necessary.

The Department of the Attorney General has stated that the success of the pilot court in Joondalup led to the Western Australian government’s decision to expand the Family Violence Court model throughout the metropolitan area.

Despite the Western Australian Family and Domestic Violence Action Plan 2006–2007 stating that the new courts “are primarily modelled on the Joondalup pilot court”, however, there are some significant differences between the new Family Violence Courts and the pilot court, described below. Notably, despite the lack of Aboriginal participation in the pilot court, the funding for the expansion of the family violence courts in the metropolitan area was obtained as part of an initiative to reduce the rate of imprisonment of Aboriginal people in Western Australia.

13.2.2.3.1 Expansion of the Family Violence Courts

There was limited Aboriginal participation in the Joondalup Family Violence Court pilot, but after the pilot phase in 2005/06 and before the expansion of the Family Violence Court model, approximately 20% of participants referred to the Joondalup Family Violence Court were Aboriginal.⁹² The pilot did not specifically target the engagement of Aboriginal people, unlike the newly expanded Family Violence Courts.

As an initiative to reduce Aboriginal imprisonment, the expansion of Family Violence Courts across the metropolitan area is focused on engaging Aboriginal people. The first expansion of the pilot commenced in Rockingham in June 2006 and up until the end of 2008/09 there had been 126 Aboriginal people referred to the Rockingham Family Violence Court. Of these referrals, 75 were accepted into the Family Violence Court regime and 28 of those participants have completed the regime, while 25 were terminated, 3 withdrew and 19 were still participating in the program at the end of 2008/09.⁹³

An integral component of engagement in the Family Violence Court is participation in a behaviour change program. Prior to the expansion of the Family Violence Court model as an initiative to reduce Aboriginal imprisonment, the Department of Corrective Services did not provide any specific Aboriginal family violence behaviour change programs. There are now four Aboriginal family violence programs operating across the metropolitan area, and in the 2008/09 financial year 28.8% of people referred to the Family Violence Courts were Aboriginal.⁹⁴

⁹¹ Unless otherwise indicated, the information in this section is drawn from Law Reform Commission of Western Australia, *Court Intervention Programs: Consultation Paper* (2008) 131-134, 138-139, available at: www.lrc.justice.wa.gov.au/3_poc_pub.html (accessed 31 July 2009).

⁹² Data provided by the Department of the Attorney General, Family Violence Service (31 July 2009).

⁹³ Data provided by the Department of the Attorney General, Family Violence Service (31 July 2009).

⁹⁴ Data provided by the Department of the Attorney General, Family Violence Service (31 July 2009).

13.2.2.3.2 Current operations of the Family Violence Courts

By the end of 2008/09 there were Family Violence Courts operating in Joondalup, Fremantle, Rockingham, Midland, Perth and Armadale.⁹⁵ At each location, the Family Violence Court sits one day per week and has a dedicated magistrate and a Family Violence Service worker.

Only offenders charged with a “family violence related offence” are eligible for the Family Violence Court, and those offences are defined (in the Court’s operating procedures) as “an offence that has resulted from a family violence related incident”.

Family violence is defined in the Court’s operating procedures as:

*Conduct by a person with a family and/or domestic relationship with the victim whether actual, or threatened towards the victim and/or their property, and/or their family and/or their property that causes the victim, that member or any other member of the person’s family to fear about their well being and safety. Such conduct may be emotional, physical, sexual, financial, spiritual or psychological.*⁹⁶

Additionally, in order to participate in the case management list, an offender must be willing to participate in, and must be assessed as suitable for, the perpetrator program. Generally, a plea of guilty (and an admission of the statement of material facts as provided by the police) is required, but in some circumstances an offender who is found guilty at trial may be referred for an assessment. Importantly, an offender will not be accepted onto the case management list unless the magistrate considers that there is a “reasonable prospect” of ensuring the safety of the victim while the offender is on bail.

It is of note that the Family Violence Courts do not have special jurisdiction over violence restraining orders (see section 13.2.2.1).

The Family Violence Courts, as they currently operate, are described as utilising a collaborative case management model involving the Department of the Attorney General, Department of Corrective Services, Western Australia Police and Department for Child Protection.⁹⁷ That case management model involves:⁹⁸

- Early review by the integrated case management team to assess an individual’s suitability for inclusion in the court case management process.
- Deferral of sentencing to enable the offender to participate in an identified family and domestic perpetrators program and the case management process.

⁹⁵ Department of the Attorney General, Court and Tribunal Services website, “Family Violence Court” (2009), available at: www.courts.dotag.wa.gov.au/F/family_violence_court.aspx?uid=0389-9078-9386-5409 (accessed on 2 June 2009).

⁹⁶ According to the Law Reform Commission Consultation Paper:

This definition of family violence is taken from the Family Law Act 1975 (Cth) s 4. The operating procedures state that this definition was preferred to the definition of family and domestic violence found in the 2004 amendments to the Restraining Orders Act 1997 because it was considered to be “more inclusive of the nature of family violence in Aboriginal relationships”. (Law Reform Commission of Western Australia, *Court Intervention Programs: Consultation Paper* (2008) 133, available at: www.lrc.justice.wa.gov.au/3_poc_pub.html (accessed 29 July 2009)).

⁹⁷ Department of the Attorney General, Court and Tribunal Services website, “Family Violence Court” (2009), available at: www.courts.dotag.wa.gov.au/F/family_violence_court.aspx?uid=0389-9078-9386-5409 (accessed 2 June 2009).

⁹⁸ Department of the Attorney General, Court and Tribunal Services website, “Family Violence Court” (2009), available at: www.courts.dotag.wa.gov.au/F/family_violence_court.aspx?uid=0389-9078-9386-5409 (accessed 2 June 2009).

- Once accepted into the Family Violence Court case management process, the offender is subject to ongoing case management and review by the integrated case management team. This involves:
 - a progress review by the integrated case management team;
 - the offender appearing in court before the family and domestic violence magistrate. A community justice services (CJS) officer also attends the court. The CJS represents the integrated case management team and reports the offender’s progress in case management and the perpetrator program; and
 - all relevant agencies in the integrated case management process as it gives a holistic review of the individual’s progress.

13.2.2.3.3 The Barndimalgu Court

In August 2007 the first regional based Family Violence Court commenced operation in Geraldton Magistrates Court, the Barndimalgu Court, a specialist Aboriginal court dealing with Aboriginal family and domestic violence offenders. “Barndimalgu” means “to fix things, make good” in the local Wajarri language. The aim of the Court was to give Aboriginal offenders who are facing a term of imprisonment an opportunity to address their offending behaviour through pre-sentence programs. The eligibility criteria are broad and flexible: if the offender is pleading guilty and willing to participate in the program, and if the community corrections officer considers him or her suitable, then the offender is able to participate. Unlike other Family Violence Courts, the Barndimalgu Court permits offenders with significant drug and alcohol problems to participate.

Key components of the Barndimalgu Court include the role of two respected Aboriginal community members who address the offender directly about his or her behaviour and the impact that it has on the community, and discuss the offence and any factors (such as drug or alcohol abuse) that may have contributed to the offending behaviour. The elders, magistrate and other relevant participants determine collaboratively what steps the offender should be required to take to address his or her offending behaviour. Another key component of the Barndimalgu Court is the family violence program that Community Justice Services (Department of Corrective Services) has adapted from a model used in the Northern Territory.

There is no victim representative on the Court as it was not considered desirable for the victim, or a victim representative, to be directly involved in the Court because of the importance placed on enabling the offender “to be up front and honest in meetings”. The magistrate may request a victim impact statement, or the community corrections officer may contact the victim during the program to hear his or her views about the offence and the offender’s progress on the program, if appropriate.

13.2.2.4 The Family Court

The Family Court of Western Australia deals with family violence matters if relevant to cases within its jurisdiction, recognising the impact of violence on children as well as the possibility that serious and sometimes fatal family violence occurs *after* separation. It also recognises that family violence may impact significantly on a person's capacity to effectively participate in court events.⁹⁹

Amendments to the *Family Court Act 1977* (WA) and the *Family Law Act 1995* (Cth) in 2006 recognised the rights of children to be protected from exposure to family violence.¹⁰⁰ In determining what is in a child's best interests, the Family Court is bound to consider the primary and additional considerations as set out in the legislation. One of the two primary considerations is "the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence". The Family Court conducts Case Assessment Conferences, in which, among other things, the Family Consultants undertake a risk assessment at an early stage in the proceedings to identify matters which involve allegations of family and domestic violence, including child abuse and sexual abuse.

As indicated in the introduction to this chapter, the Family Court of Western Australia developed a Family Violence Policy in 2008. That policy provides a guideline for the management of cases involving family violence and the protection of children, parents, family members, court staff and people who attend the Family Court of Western Australia.¹⁰¹

13.2.2.5 Family Violence Prevention Legal Services¹⁰²

Family Violence Prevention Legal Services (FVPLS) were originally funded by the Aboriginal and Torres Strait Islander Commission (ATSIC), which identified family violence and sexual assault as some of the most serious issues confronting Indigenous communities.¹⁰³ The FVPLS were established to implement a range of holistic programs encompassing direct services to victims of family violence and sexual assault and the development and delivery of preventative and educational initiatives.

Currently FVPLS units are funded by the Commonwealth Attorney-General's Department to provide legal assistance, casework, counselling and court support to Aboriginal and Torres Strait Islander adults and children who are "victims-survivors of family violence and sexual assault". Local Aboriginal and Torres Strait Islander communities are intended to take a lead role in the development of the units through representation on management committees, steering committees and auspice bodies.

Units must not provide any services to perpetrators of family violence. Because no services can be provided to perpetrators, units may not provide mediation services. Where appropriate, a client may be supported in mediation sessions by a staff member who attends in the capacity of that client's advocate or support person.

⁹⁹ Family Court of Western Australia, *Family Violence Policy* (2008) 2, available at: www.familycourt.wa.gov.au/V/violence_policy.aspx?uid=2146-6679-8432-4649 (accessed 30 July 2009).

¹⁰⁰ *Family Court Act 1997* (WA) s 66C, *Family Law Act 1975* (Cth) s 60CC.

¹⁰¹ The policy is available from the Family Court of Western Australia website, at: www.familycourt.wa.gov.au/V/violence_policy.aspx?uid=2146-6679-8432-4649 (accessed 30 July 2009).

¹⁰² Unless otherwise indicated, this information is drawn from Attorney-General's Department, "Family violence prevention legal services — Operational framework" (2006), available at: www.ag.gov.au/www/agd/agd.nsf/page/Publications (accessed 31 July 2009).

¹⁰³ Braybrook A, "The Aboriginal and Torres Strait Islander family violence prevention legal service: Working with Indigenous women and their communities" (2004) *Indigenous Law Bulletin* 35.

Eight of the 31 Family Violence Prevention Legal Services units operate in WA; a list with the contact details is included at section 13.4.2. Note that these units do not provide state-wide coverage and are limited to those areas which have been identified as high-need (see section 10.3.3.4.1 for more information).

13.2.3 Women as victims of family and domestic violence

Men and women have different experiences of violence. Violence against women must be understood in the context of unequal power relations between men and women in our society. See chapter 10 on women for more information about the gender bias and inequality experienced by women.

Family and domestic violence has long-term, detrimental implications widely evidenced in research on the health and well-being of women and children. Many women and children feel shame and fear, and may have been threatened by perpetrators or told that they are responsible for the abuse they experience. See section 13.2.4 for more information about the impact on children.

The systematic nature of family and domestic violence creates an enduring fear in victims which is rarely the result of one-off threats.

The law in Western Australia has been amended to reflect the widespread occurrence and severity of violence against women in the community — see for example the *Acts Amendment (Family and Domestic Violence) Act 2004* which came into operation on 1 December 2004. Section 13.2.2 above provides more information about recent WA initiatives.

13.2.3.1 Impact on women¹⁰⁴

A Victorian study measuring the burden of disease caused by intimate partner violence on women found that “Intimate partner violence has wide ranging and persistent effects on women’s physical and mental health”. Health outcomes included:

- death as a result of homicide, suicide, life-threatening sexually transmitted disease;
- self-harming behaviours;
- physical injuries including bruising, lacerations or tears, and fractures;
- sexually transmitted diseases and other reproductive health issues;
- depression and anxiety;
- eating disorders;
- traumatic and post-traumatic stress symptoms;
- phobias, somatisation and dissociative disorders; harmful tobacco and alcohol use;
- illicit and licit drug use;
- chronic pain disorders;

¹⁰⁴Unless otherwise indicated, information in this section is sourced from Victorian Department of Health (2004), *Measuring the Burden of Disease Caused by Intimate Partner Violence*, available at: www.vichealth.vic.gov.au/Resource-Centre/Publications-and-Resources/Mental-health-and-wellbeing.aspx (accessed 31 July 2009) and Marcus G and Braaf R, *Domestic and Family Violence Studies, Surveys and Statistics: Pointers to Policy and Practice* (2007), available at: www.austdvclearinghouse.unsw.edu.au/PDF%20files/Stakeholderpaper_1.pdf (accessed 31 July 2009).

- gastrointestinal and digestive disorders; and
- sleep problems.

The Victorian study noted that:

Although men are among the victims of intimate partner violence, evidence suggests that the vast majority of victims are women and that women are more vulnerable to its health impacts.

Another major impact of domestic violence is homelessness, with women and children often forced to leave their homes to escape family and domestic violence. They face not only the loss of their homes but also the disruption of their social support, as well as of children's schooling and social networks. In many cases the perpetrator of the violence remains in the family home. Women often seek emergency accommodation through shelters and refuges, but many do not seek assistance from any agencies, preferring to seek help from family or friends. Sometimes they do not meet refuge criteria: for example, if they have adolescent male children.

A report on the assistance provided through the Supported Accommodation Assistance Program (SAAP),¹⁰⁵ a major part of the Commonwealth Government's overall response to homelessness, during the financial year 2007/08 indicated that the most common main reasons that clients gave for seeking assistance were domestic or family violence (in 22% of support periods¹⁰⁶) and that in WA this accounted for 29% of support periods. Females with children cited domestic or family violence most often (in 50% of their support periods). Unaccompanied females aged 25 years and older most commonly cited domestic or family violence (in 37% of their support periods). In contrast, for males with children, relationship or family breakdown was the main reason given (in 16% of their support periods), and males aged 25 years and over most commonly reported drug, alcohol or substance use as their main reason for seeking assistance (in 15% of their support periods).

13.2.4 Children and young people as victims of family and domestic violence

Children and young people will have different experiences of family and domestic violence from adults. Some children may be directly harmed by physical or sexual violence within their family; others may directly observe domestic violence or become aware of it in other ways (for example, seeing broken furniture). Children must live with the consequences of violence and its effects on the health and parenting capacity of their parents.¹⁰⁷ In some cases, a proliferation of litigation in relation to children may be used by a perpetrator of domestic violence as a means of further abusing their primary victim.¹⁰⁸

¹⁰⁵ AIHW, *Homeless people in SAAP: SAAP National Data Collection annual report* Cat No HOU 191 (2009), available at: www.aihw.gov.au/publications/hou/hou-191-10662/hou-191-10662.pdf (accessed 31 July 2009).

¹⁰⁶ Around a third of all support periods included a period of supported accommodation. The median length of support was 10 days. The median length of accommodation was 12 days.

¹⁰⁷ Laing L, "Children, young people and domestic violence" *Australian Domestic & Family Violence Clearinghouse Issues Paper no 2* (2000), available at: www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009)

¹⁰⁸ Laing L, "Children, Young people and domestic violence" *Australian Domestic & Family Violence Clearinghouse Issues Paper no 2* (2000), available at: www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

13.2.4.1 Impact on children

Although the following data primarily concerns the impact of domestic violence upon children and young people, it appears that:

*the distinction between witnessing domestic violence and direct abuse may be a false one and it should not be the principal criterion for understanding the severity of the impact on children and their need for protection. Children's age, stage of development, proximity and the severity of violence, along with an understanding of the complex range of ways children are drawn into domestic violence, are intervening variables that need consideration. It is an area where further research is clearly needed to understand the interplay between protective factors and harm, and one in which there has been little Australian development to date.*¹⁰⁹

Exposure to domestic violence impacts on each of the developmental stages from *in utero* to young adulthood. It is possible that some children are affected by domestic violence by being disabled before birth when their mother is assaulted, or by the impact of stress on foetal growth.¹¹⁰ Children's vulnerability extends beyond initial effects such as anxiety or depression, because these initial reactions can disrupt children's progression through age-appropriate developmental tasks.¹¹¹

Young people's and children's responses to domestic violence will depend on a variety of factors including age, gender, personality and family role; but they can suffer both short- and long-term consequences from exposure to violence or threats of violence. Pre-school children living with domestic violence tend to show the most behavioural disturbance.¹¹² Young children are particularly vulnerable as they are less able to control their environment and are dependant on their parents for care.¹¹³

Typical short-term responses of children and young people to witnessing regular episodes of violence between family members may include:¹¹⁴

- blaming themselves for violence (especially among younger children);
- experiencing sleeping difficulties;
- regressing to an earlier stage of development, such as thumb sucking and bedwetting;
- becoming increasingly anxious and fearful;
- displaying aggressive or destructive behaviour;
- starting to withdraw from people and events;
- becoming a victim or perpetrator of bullying;
- starting to show cruelty to animals;
- experiencing stress-related illness such as headache or stomach pain;

¹⁰⁹Humphreys C, "Domestic violence and child protection" *Australian Domestic & Family Violence Clearinghouse Issues Paper no 13* (2007) 12, available at www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

¹¹⁰Laing L, "Children, young people and domestic violence" *Australian Domestic & Family Violence Clearinghouse Issues Paper no 2* (2000), available at: www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

¹¹¹Laing L, "Children, young people and domestic violence" *Australian Domestic & Family Violence Clearinghouse Issues Paper no 2* (2000), available at: www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

¹¹²Humphreys C, "Domestic violence and child protection" *Australian Domestic & Family Violence Clearinghouse Issues Paper no 13* (2007) 12, available at www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

¹¹³Family Court of Australia, *Family Violence Strategy* (2004-05), available at: www.familycourt.gov.au/wps/wcm/resources/file/ebafe24a321c9b8/violence.pdf (accessed 31 July 2009).

¹¹⁴Better Health Channel, *Domestic Violence and Children* (2008), available at: www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/Domestic_violence_and_children (accessed 31 July 2009).

- displaying difficulties with speech, such as stuttering; or
- misusing drugs and alcohol (predominantly young adults).

Importantly, however, research demonstrates that many children will recover their competence and behavioural functioning within six months, once they are in a safer, more secure environment.¹¹⁵

In the longer term, studies have shown that the effects of family violence on children and young people are more than just behavioural. Neglect, trauma and exposure to serious family violence, especially during infancy, can produce measurable changes in brain function.¹¹⁶

Persistent fear and adaptations to threats may cause children to become “hyper-vigilant”. Children in this state of arousal experience persistent anxiety, which ultimately impairs their capacity to benefit from social, emotional and cognitive experiences.¹¹⁷

The conventional view of the intergenerational theory states that children who are exposed to prolonged domestic violence will go on to perpetuate their own violent relationships.¹¹⁸

However:

- Research has shown that while children who are exposed to domestic violence are more likely to become future perpetrators of domestic violence, the majority of children exposed to domestic violence do not grow up to be either perpetrators or victims.¹¹⁹
- The link between witnessing and perpetrating is complex and mediated by a number of social and situational factors.¹²⁰

As indicated, it is thought that the distinction between witnessing domestic violence and direct interfamilial abuse for young people and children “may be a false one”; and in any event, domestic violence and abuse of children often coalesce. However, it is of note that:¹²¹

- A study of juveniles incarcerated in Australian detention centres found that these juveniles reported direct violent abuse against them most frequently (36%) followed by emotional abuse (27%) and neglect (18%). When combined, almost half the young people (46%) reported directly experiencing at least one of these types of abuse. Further analysis revealed that when neglect or abuse did occur, it was most likely to be by a parent or guardian, followed by a sibling. The experiences of neglect and abuse appeared to be linked to both drug use and crime.¹²²

¹¹⁵Humphreys C, “Domestic violence and child protection” *Australian Domestic & Family Violence Clearinghouse Issues Paper no 13* (2007) 12, available at www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

¹¹⁶Family Court of Australia, *Family Violence Strategy* (2004-05), available from www.familycourt.gov.au/wps/wcm/resources/file/ebafe24a321c9b8/violence.pdf (accessed 31 July 2009).

¹¹⁷Perry B, “Understanding traumatised and maltreated children: The core concepts” *Children and Violence Video 7*, (2004).

¹¹⁸Indermaur D, “Young Australians and domestic violence” *Trends & Issues in Crime and Criminal Justice no 195* (2001), available at: www.aic.gov.au/en/publications/current%20series/tandi/181-200.aspx (accessed 31 July 2009).

¹¹⁹Laing L, “Children, young people and domestic violence” *Australian Domestic & Family Violence Clearinghouse Issues Paper no 2* (2000), available at: www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

¹²⁰Indermaur D, “Young Australians and domestic violence” *Trends & Issues in Crime and Criminal Justice no 195* (2001), available at: www.aic.gov.au/en/publications/current%20series/tandi/181-200.aspx (accessed 31 July 2009).

¹²¹Unless otherwise indicated this data is drawn from AIC, “Pathways from child maltreatment to juvenile offending” *Trends & Issues in Crime and Criminal Justice no 241* (2002), available at: www.aic.gov.au/publications/current%20series/tandi/241-260.aspx (accessed 31 July 2009).

¹²²AIC, “Experiences of neglect and abuse amongst juvenile detainees” *Crime Facts Info no 118* (2006), available at: www.aic.gov.au/publications/current%20series/cfi/101-120.aspx (accessed 31 July 2009).

- While a number of risk factors have been identified as increasing the likelihood of juvenile offending, none are as consistent as the detrimental effect of child abuse and neglect. In particular, direct physical abuse and neglect are significant predictive factors.
- 25% of maltreated males were more likely to subsequently offend, compared to 11% of maltreated females.
- 42% of maltreated Indigenous children later offended, compared to 14% of non-Indigenous maltreated children.
- Placement of the child outside the home influenced the likelihood of a child offending. Twenty-six percent of maltreated children who were placed outside the home subsequently offended at least once, compared with 13% of children who were never placed outside the home.

13.2.4.2 Child protection and domestic violence

Domestic violence and child abuse often co-exist. Studies that have explored the relationship between domestic violence and the abuse of children suggest domestic violence is present in between 30-60% of child abuse cases.¹²³

The interface between services available to adults who are exposed to domestic violence and the child-focused, statutory and involuntary child protection system, is not always straightforward.¹²⁴

Child protection legislation often provides that a child needs a parent who is willing and able to protect the child from significant harm; in Western Australia s 28 of the *Children and Community Services Act 2004* defines a child to be “in need of protection” if, among other things, “the child’s parents have not protected, or are unlikely or unable to protect, the child from harm, or further harm”. It has been argued that too often the non-abusive parent is held accountable for failure to deal with their violent partner.¹²⁵

Fear that children may be “taken away” is common among women who are experiencing domestic violence, and particularly among Aboriginal women. This fear can be compounded by the tactics of abuse used by the perpetrator, who may threaten to report the other parent to the authorities for neglecting the children.¹²⁶

The Department of Child Protection and the WA Police recently announced new protocols that will facilitate the provision of services to families experiencing domestic violence where it may be affecting children’s well-being. Following a successful trial in Armadale and Cannington police stations over five years, child protection workers working from a number of additional metropolitan police stations will liaise with police on issues of child protection, safety and risk, and refer both women and men to domestic violence services.¹²⁷

¹²³Laing L, “Children, young people and domestic violence” *Australian Domestic & Family Violence Clearinghouse Issues Paper no 2* (2000), available at: www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009)

¹²⁴Humphreys C, “Domestic violence and child protection” *Australian Domestic & Family Violence Clearinghouse Issues Paper no 13* (2007) 12, available at www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

¹²⁵Laing L, “Children, young people and domestic violence” *Australian Domestic & Family Violence Clearinghouse Issues Paper no 2* (2000), available at: www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

¹²⁶Humphreys C, “Domestic violence and child protection” *Australian Domestic & Family Violence Clearinghouse Issues Paper no 13* (2007) 12, available at: www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

¹²⁷Minister for Child Protection and Minister for Police, “Police and child protection unite to tackle child abuse and domestic violence” *Ministerial Media Statement*, (15 February 2009) available at: www.mediastatements.wa.gov.au/Lists/Statements/DispForm.aspx?id=131328 (accessed 31 July 2009)

13.2.5 Men as victims of family and domestic violence

The way in which domestic violence is understood has changed steadily since the 1960s and the belief that violence against women is the result of a patriarchal social order has been central to this reorientation.¹²⁸ While it must be acknowledged that the majority of victims of domestic abuse are women and the majority of perpetrators are men, this can create barriers for men who are victims of domestic violence, compromising their ability to seek help and respond appropriately to abuse.

Defining what constitutes a male victim of domestic violence is difficult and contentious: it has been argued that men who report that they are victims of domestic violence may employ victimhood as a part of their manipulative and controlling behaviour. Although male victims do exist, there is still considerable debate about what constitutes a male victim of domestic violence.¹²⁹ In one study not all of the men's depictions of themselves as victims of domestic violence were compatible with details of the abuse that they described; although it is also true that in half the sample researchers found the men's account of victimisation were less controvertible, and thought some had experienced "genuinely harrowing forms of abuse".¹³⁰

Less contentious is that the experiences of men who identify as victims of domestic violence are different to those of women, particularly in relation to their ability to leave an abusive relationship. Available research also indicates that:¹³¹

- males reported that they were not living in an ongoing state of fear from the perpetrator;
- males did not have prior experiences of violent relationships; and
- males rarely experienced post-separation violence: in the one reported case, it was far less severe than in male-to-female violence.

¹²⁸University Department of Rural Health, Tasmania, *Responding to Domestic Violence: Resource Package* (2004)

"Module 2.4: The impact of domestic violence on men", available at:
www.ruralhealth.utas.edu.au/padv-package/module2-4.html (accessed 31 July 2009).

¹²⁹Family and Domestic Violence Unit, *The Men's Project: Exploring Responses to Men who are Victims or Perpetrators of Family and Domestic Violence* (2006) 6, available at:
www.community.wa.gov.au/dcp/resources/familydomesticviolence/ (accessed 26 May 2008).

¹³⁰Mulroney J and Chan C, *Men as Victims of Domestic Violence* (Topic Paper no 15) (2005) 6, available at:
www.adfvc.unsw.edu.au/PDF%20files/Men_as_Victims.pdf (accessed 3 August 2009).

¹³¹Mulroney J and Chan C, *Men as Victims of Domestic Violence* (Topic Paper no 15) (2005) 6, available at:
www.adfvc.unsw.edu.au/PDF%20files/Men_as_Victims.pdf (accessed 3 August 2009).

13.2.5.1 Impact on male victims

Physical consequences tend to be less for men than for women, with less need for medical care; however, damage may be largely psychological. The following list provides examples of potential effects:¹³²

- fear of disclosing;
- depression;
- humiliation;
- guilt;
- anger with abuser;
- fear of continued violence;
- fear of loss of male identity;
- concern about financial security; and
- changed behaviour to suit the abuser.

A prevalent frustration among men who identified as victims of family and domestic violence was that they felt that people did not believe them — they spent most of their time trying to convince service providers that they were in fact victims, rather than exploring suitable interventions. They also claimed that some police had ridiculed them for being weak and ignored their requests for assistance; that they felt ashamed and marginalised; and that they felt like “collateral damage in the war against domestic violence”.¹³³ The lack of support services for male victims of family and domestic violence, and difficulties in approaching female services, act as obstacles to seeking help.

13.2.6 Other vulnerable populations

13.2.6.1 Rural and regional communities

While the data is scant, research suggests that domestic violence is a significant problem in remote and regional Australia. A report prepared in 2000 for the Commonwealth Department of Transport and Regional Services by the Women’s Services Network (WESNET), *Domestic Violence in Regional Australia*, provides a literature review of some of this research. That review found that:¹³⁴

- A greater proportion of people living in regional Australia were victims of domestic violence than people living in urban Australia.
- Women experiencing domestic violence and residing on stations or farms faced increased vulnerability due to the higher prevalence of firearms, their isolation and the absence of domestic violence responses to these areas.

¹³²University Department of Rural Health, Tasmania, *Responding to Domestic Violence Resource Package* (2004) “Module 2.4: The impact of domestic violence on men”, available at: www.ruralhealth.utas.edu.au/padv-package/module2-4.html (accessed 3 August 2009).

¹³³As reported to the Men’s Domestic Violence Helpline in 2008 — see Family and Domestic Violence Unit, *The Men’s Project: Exploring Responses to Men who are Victims or Perpetrators of Family and Domestic Violence* (2006) 33, available at: www.community.wa.gov.au/dcp/resources/familydomesticviolence/ (accessed 3 August 2009).

¹³⁴The Women’s Services Network (WESTNET), *Domestic Violence in Regional Australia: A Literature Review* (2000), available at: <http://wesnet.org.au/publications/reports> (accessed 3 August 2009).

- Women in mining communities could also face a unique mix of social, economic and political marginalisation and isolation, which made it difficult for those experiencing domestic violence to seek assistance or end a violent relationship.

A 2008 Bureau of Transport and Regional Economics publication, *About Australia's Regions*,¹³⁵ reported that domestic violence rates were highest in Very Remote Australia (13.7 Supported Accommodation Assistance Program (SAAP) periods per 1000 population), followed by Remote Australia (9.0), Outer Regional (3.2), Inner Regional (2.5) and Major Cities (2.0). It is of note that the numbers for Very Remote and Remote Australia showed a decrease from 2004/05, when the rates were 16.7 and 12.8 respectively.

Additional information about regional and remote WA is provided in chapter 9 of this *Bench Book*.

13.2.6.2 The elderly — domestic violence and elder abuse¹³⁶

- Distinctions between elder abuse and domestic or family violence can be blurred, with elder abuse presenting in a variety of forms, involving different relationships (refer to section 6.2.2) and taking place in a variety of settings, whereas family and domestic violence against the elderly generally occurs within the home environment by a family member.¹³⁷
- Violence against older people predominantly takes place within the home setting.
- Partnerships against Domestic Violence defines domestic elder abuse as a pattern of behaviours, including intentional neglect as well as physical, sexual and/or emotional abuse, designed to establish and maintain power and control over the older person.
- Additional information on elder abuse is provided in section 6.2.2.

¹³⁵ Department of Transport and Regional Services, *About Australia's Regions* (2006) 11, available at: www.btre.gov.au/info.aspx?NodId=128 (accessed 3 August 2009).

¹³⁶ University Department of Rural Health, Tasmania, *Responding to Domestic Violence Resource Package* (2004) "Module 2.5: The impact of domestic violence on older people", available at: www.ruralhealth.utas.edu.au/padv-package/module2-5.html (accessed 3 August 2009).

¹³⁷ University Department of Rural Health, Tasmania, *Responding to Domestic Violence Resource Package* (2004) "Module 2.5: The impact of domestic violence on older people", available at: www.ruralhealth.utas.edu.au/padv-package/module2-5.html (accessed 3 August 2009).

13.2.6.3 People with disabilities

- People with disabilities face additional forms of abuse to those experienced by other groups, as they are often reliant on their partner or family members to provide them with medicine and care. In some cases of abuse, care may be withheld to the detriment of the person with a disability. The higher incidence of disabilities among elderly people makes them especially susceptible to this.
- A joint project report between People with Disabilities (WA) Inc, the Ethnic Disability Advocacy Centre and the Centre for Social Research at Edith Cowan University explored the risk of family and domestic violence, the direct and indirect effects of abuse and the barriers to seeking help that women with disabilities face. The report found that:

Women with disabilities face the silence of double oppression. As women and as individuals with disability they experience numerous inequities and injustices. At the root of this double discrimination are sexism and ableism, which set standards for “women” and “normal” that exclude, devalue and marginalise women with disabilities. Even though many women with disabilities living in the community today experience new freedoms, rights and responsibilities, they continue to confront cultural stereotypes and discriminatory practices. Of prime concern, is that double discrimination perpetuates violence against women with disabilities, justifying that violence on the basis of their devalued status in society. In addition, for perpetrators, it is even easier to put women with disabilities into a state of uncertainty and to assign guilt and responsibility to them.¹³⁸

- Like women, men with disabilities experience violence and abuse; however, research into this area is yet to be undertaken.
- Additional information on people with disabilities is provided in chapter 4 of this *Bench Book*.

13.2.6.4 Women from culturally and linguistically diverse backgrounds

Women from culturally and linguistically diverse backgrounds often face additional challenges in the context of family and domestic violence such as:

- dependency on their spouse for their residency status, which makes it difficult for the woman to leave an abusive partner;
- limited understanding of Western Australian laws relating to family and domestic violence and sexual assault (including sexual assault/rape within marriage or an intimate relationship);
- although the family violence provisions under the *Migration Regulations 1994* (Cth) allow people applying for permanent residency under partner visas and several Skilled Stream visas to continue with their applications after the breakdown of their relationship when family violence has occurred, this protection is not available for women and children subject to a Temporary Visa 457; and
- limited access to professionally accredited interpreters. It is important that family members, especially children or the alleged perpetrators of the abuse, are not used as interpreters.

Additional information on culturally and linguistically diverse people is provided in chapter 7 of this *Bench Book*.

¹³⁸Cockram J, *Silent Voices: Women with Disabilities and Family and Domestic Violence* (2003), available at: www.wwda.org.au/silent1.htm (accessed 3 August 2009).

13.3 Practical considerations

13.3.1 Dealing with children

It is important to be familiar with legislative provisions which protect children from re-victimisation during court proceedings in cases involving family and domestic violence. Keep in mind that these provisions apply to all children, including those who may be perpetrators of, or witnesses to, family violence; and not just to child complainants.

More information about dealing with children and young people can be found in:

- section 13.3.2 — on Family Court proceedings;
- section 13.3.3 — on restraining orders;
- section 13.3.4 — on family and domestic violence matters including sexual assault; and
- chapter 5 — on children and young people.

Points to consider

- Evidence suggests that exposure to domestic violence can interfere with the neurological development of young children.¹³⁹ It is not uncommon for children to suffer Post Traumatic Stress Disorder as a result of exposure to domestic violence.¹⁴⁰
- The *Children and Community Services Act 2004* (WA) does not specifically provide that children who witness domestic violence should qualify for protective measures; it does, however, offer protection to children who are likely to suffer some harm as a result of abuse (physical, emotional, sexual or psychological) or neglect.¹⁴¹
- Legislation in some Australian jurisdictions explicitly states that children who witness domestic violence are in need of protection.¹⁴²
- The importance of protecting children from exposure to domestic violence is recognised in other WA statutes:
 - Committing certain criminal offences in the presence of a child is a circumstance of aggravation under the *Criminal Code* (WA).¹⁴³
 - The *Family Court Act 1997* (WA) states that a child's best interests are served by protecting them from being subjected or exposed to abuse, neglect or family violence.¹⁴⁴

¹³⁹Humphreys C, "Domestic violence and child protection" *Australian Domestic & Family Violence Clearinghouse Issues Paper no 13* (2007) 12, available at www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

¹⁴⁰As experienced by Magistrate Schwass, of the Perth Children's Court, Department of the Attorney General, *A Review of Division 3A Part 2 of the Restraining Orders Act 1997* (2008) 50, available at: www.department.dotag.wa.gov.au/R/reports_publications.aspx?uid=1773-6898-0492-5233 (accessed 3 August 2009).

¹⁴¹*Children and Community Services Act 2004* (WA) s 28.

¹⁴²AIHW, *Child Protection in Australia 2007-2008* (2008) 86, 90, available at: www.aihw.gov.au/publications/index.cfm/subject/5 (accessed 3 August 2009).

¹⁴³*Criminal Code* (WA) s 221.

¹⁴⁴*Family Court Act 1997* (WA) s 66(1)(b); *Family Law Act 1975* (Cth) s 60B(1)(b).

– The *Restraining Orders Act 1997* (WA) states that a violence restraining order can be made on a child’s behalf where they have been exposed to family or domestic violence committed by or against a person with whom the child is in a family and domestic relationship and the child is likely again to be exposed to such an act or it is reasonably feared that this will occur.¹⁴⁵

13.3.2 Family Court proceedings

The Family Court of WA has special procedures in place for dealing with parties experiencing family and domestic violence, including screening for risk issues in children’s cases. The Family Court Counselling and Consultancy Service can answer questions relating to issues arising from family and domestic violence.

In 2009, the Family Violence Best Practice Principles was launched as part of the Family Court of Australia’s Family Violence Strategy. This aims to provide decision-makers with practical guidance in dealing with matters in which a notice has been filed alleging family violence or the risk of family violence, or abuse or the risk of abuse.¹⁴⁶

Points to consider

- In some circumstances Family Court proceedings or orders have been used by a perpetrator of family or domestic violence to reassert their power and control.¹⁴⁷
- The requirement under *Family Law Act 1997* (WA) to provide for a meaningful relationship with both of a child’s parents can lead to circumstances where perpetrators of domestic violence are brought into contact with their former partner.¹⁴⁸
- Family Court orders may result in situations where the perpetrator of family violence and victims will come into close contact.
- A restraining order is invalid to the extent of any inconsistency with a Family Court parenting order.¹⁴⁹
- Parties to Family Court proceedings *must*, and other parties may, inform the Family Court of the existence of a restraining order which applies to a child or a member of the child’s family.¹⁵⁰
- Where the Family Court makes an order which is inconsistent with an existing restraining order it must identify the inconsistency and explain the order, its purpose and the parties’ obligations to all relevant persons. The Family Court must, within 14 days, provide a copy of its order to persons bound by it, the persons affected by the restraining order, the registrar/principal officer of the court that made the restraining order, the Commissioner of Police and the Department for Child Protection.¹⁵¹

¹⁴⁵*Restraining Orders Act 1997* (WA) s 11B.

¹⁴⁶ Refer Family Court of Australia, *Family Violence Best Practice Principles* (2009), available at: www.familycourt.gov.au/wps/wcm/connect/fcoa/home/about/FV/ (accessed 3 August 2009).

¹⁴⁷ Laing L, “Children, young people and domestic violence” *Australian Domestic & Family Violence Clearinghouse Issues Paper no 2* (2000), available at: www.adfvc.unsw.edu.au/issues_Papers.htm (accessed 31 July 2009).

¹⁴⁸ *Family Court Act 1997* (WA) s 66(1)(a) — see also *Family Law Act 1975* (Cth) s 60B(1)(a).

¹⁴⁹ *Family Court Act 1997* (WA) s 175; *Family Law Act 1975* (Cth) s 68Q.

¹⁵⁰ *Family Court Act 1997* (WA) s 66F(1) and (2); *Family Law Act 1975* (Cth) s 60CF(1) and (2).

¹⁵¹ *Family Court Act 1997* (WA) s 174(2) and (3); *Family Law Act 1975* (Cth) s 68P(2) and (3).

- In considering what order is in the child's best interests, the Family Court must ensure so far as possible that a parenting order is consistent with a restraining order and does not expose a person to an unacceptable risk of family violence.¹⁵²
- The Family Court must also take prompt action in relation to allegations of child abuse or family violence, including considering what interim or procedural orders should be made.¹⁵³
- In the event that a Notice of Risk of Abuse and/or Family Violence is filed, it is forwarded to the Department for Child Protection, which provides a written report to the Family Court in relation to the allegations.
- In conducting child-related proceedings the Family Court must give effect to certain principles including the requirement to conduct the proceedings "in a way that will safeguard the child concerned against family violence, child abuse and child neglect; and the parties to the proceedings against family violence".¹⁵⁴
- Protocols are in place between the Family Court of WA, the Department for Child Protection and Legal Aid WA to share and exchange information to achieve the aim of providing the best possible outcomes for children.

13.3.3 Restraining orders

The 2004 amendments to the *Restraining Orders Act 1997* (WA) were intended to afford greater protection to victims of family and domestic violence and had a significant focus on children.¹⁵⁵

Points to consider

- The Department for Child Protection may intervene in any proceedings under the *Restraining Orders Act 1997* (WA) if these involve a child who may be in need of care and protection or where the order may affect the welfare of a child.¹⁵⁶
- Orders cannot generally be made under the *Restraining Orders Act 1997* (WA) in relation to a child who is under the control or in the care (however described) of a person under a child welfare law, or that will affect orders made or actions taken under a child welfare law.¹⁵⁷
- When considering whether to make a violence restraining order, you should have regard to the need to ensure that children are not exposed to acts of family and domestic violence.¹⁵⁸
- You should not assume that children who are not direct targets of violence want or will benefit from contact with the perpetrator of violence.

¹⁵² *Family Court Act 1997* (WA) s 66G(1); *Family Law Act 1975* (Cth) s 60CG(1).

¹⁵³ *Family Court Act 1997* (WA) s 66J(1) and (2); *Family Law Act 1975* (Cth) s 60K(1) and (2).

¹⁵⁴ *Family Court Act 1997* (WA) s 202B(6); *Family Law Act 1975* (Cth) s 60ZN(5).

¹⁵⁵ See *Restraining Orders Act 1997* (WA) Part 6, Division 1.

¹⁵⁶ *Restraining Orders Act 1997* (WA) s 50D(2).

¹⁵⁷ *Restraining Orders Act 1997* (WA) s 50B.

¹⁵⁸ *Restraining Orders Act 1997* (WA) s 12(1)(ba).

- Only under exceptional circumstances should children be required to give oral evidence in restraining order proceedings; and when they do, they must be afforded all the protections available under the *Restraining Orders Act 1997* (WA).¹⁵⁹ This includes the child giving evidence by CCTV, being entitled to a support person, not being cross-examined by an unrepresented person, and the admissibility of evidence of a representation made by the child about a relevant matter.¹⁶⁰ Children can also be referred to the Child Witness Service for specialist support and preparation.
- Only a child who is 10 years of age and older can be a respondent to a restraining order. Orders made against children generally may not exceed six months; and where the respondent is a child under the age of 16, and the applicant is a parent or guardian, the court must notify the Department for Child Protection before the order can be made.¹⁶¹
- Consider the effect of the restraining order on an existing order or proceedings in another court; for example, an order of the Family Court (see 13.3.2).
- A court that does not have jurisdiction to adjust Family Court parenting orders can not make a restraining (family violence) order that conflicts with the orders of the Family Court.¹⁶²
- As a result, when you are making, revoking or modifying a restraining order, it is important that you are aware of any existing or potential orders of the Family Court.
- Before you grant an application for a restraining order, or modify or revoke an existing restraining order, the Duty Registrar of the Family Court should be contacted to ascertain whether the parties are, or have been involved in, child-related proceedings before the Family Court.
- Protocols are in place to allow information to be shared between the Family Court and other jurisdictions in child-related proceedings involving parties who have sought a restraining order.
- Be aware that restraining orders may be used by perpetrators of domestic violence as a way to control and punish the primary victim.
- It may be necessary to make enquiries about whether or not an applicant has given any thought to a Safety Plan.¹⁶³
- If an applicant has not contacted an external support agency prior to the application for a restraining order you may wish to let them know that such support is available. A list of agencies and organisations which help people who are at risk of family and domestic violence can be found at the end of this chapter.

¹⁵⁹ *Restraining Orders Act 1997* (WA) s 53A.

¹⁶⁰ *Restraining Orders Act 1997* (WA) Part 6 Division 1.

¹⁶¹ *Restraining Orders Act 1997* (WA) ss 50, 50A, 50C, 63A.

¹⁶² *Restraining Orders Act 1997* (WA) s 65.

¹⁶³ A Safety Plan is a list of contingency measures which may help a person focus on what their immediate responses should be in the event that they or their children feel threatened or in danger, such as who the victim will call and where will they go. See Domestic Violence Resource Centre, *Safety Planning* (2007), available at: www.dvrc.org.au/index.php?action=view&view=24405 (accessed 29 May 2009).

Additional information about safety planning and an online directory of services is available on the Western Australian Government Community Safety website at:

<http://wa.gov.au/governmentservices/communitysafety/domesticviolence/>

13.3.4 Family and domestic violence and sexual assault

Most sexual assault victims had some form of relationship with the offender (78%) — two in five sexual assaults were perpetrated by a family member and in an additional 38%, the offender was a non-family member known to the victim.¹⁶⁴

Although not all sexual assault occurs in the context of family and domestic violence, the issue of sexual assault is included in this chapter because it is often one way in which perpetrators of family and domestic violence attempt to exercise power and control over their victims. Often, too, similar issues arise in relation to how the legal system responds to allegations of sexual assault (irrespective of the nature of the relationship between the accused and the complainant) and family and domestic violence offences.

In cases of sexual assault, studies have indicated that “the vast majority of people who are sexually assaulted avoid engagement with the criminal justice system, perceiving it as inappropriate to their needs or fearing the additional trauma of the legal process”.¹⁶⁵

A recent Parliamentary Inquiry in WA found that only 1% of all alleged sexual assaults (reported and unreported) resulted in conviction.¹⁶⁶ That Inquiry also reported the following, from a submission by the Sexual Assault Referral Centre (SARC):

*The clinical research evidence indicates that the most therapeutic way to process the traumatic event and hence reduce symptoms of hyper-arousal, re-experiencing the event, avoidance and numbing is to allow the victim to tell their story in their own way and at their own pace so they feel they are able to regain some control over a situation that was out of their control. However, in gathering “evidence” the justice system (police, prosecutors) often require the victim to tell the story all at once in a logical manner, recalling all aspects of the event/s in detail and to repeat it a number of times to people they do not know. Hence victims, who initially reported the alleged crime and wanted to pursue the justice system, may subsequently withdraw from the process due to the fact that the requirements of the justice system are counter therapeutic and in fact can exacerbate the traumatic reaction by the justice system, repeatedly re-traumatising them.*¹⁶⁷

Issues relating to control by the perpetrator and the loss of control by the victim arise in relation to domestic and family violence generally (see section 13.2.1); as does the risk of re-traumatisation through participating in the legal process.

¹⁶⁴In cases where the relationship between victim and offender was stated: Australian Institute of Criminology, *Australian Crime: Facts and Figures 2007* (2008), available at: www.aic.gov.au/publications/current%20series/facts.aspx (accessed 28 July 2009).

¹⁶⁵Heeth M, “The law and sexual offences against adults in Australia” *Australian Centre for the Study of Sexual Assault Issue no 4* (2005) 1, available at: www.aifs.gov.au/acssa/pubs/issue/i4.html (accessed 29 July 2009).

¹⁶⁶Community Development and Justice Standing Committee, *Inquiry into the Prosecution of Assaults and Sexual Offences* (Report No 6) (2008) 54, available at: www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Committees+-+Reports (accessed 29 July 2009).

¹⁶⁷Community Development and Justice Standing Committee, *Inquiry into the Prosecution of Assaults and Sexual Offences* (Report No 6) (2008) 123, available at: www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Committees+-+Reports (accessed 29 July 2009).

For more information and statistics about domestic violence and sexual assault as it affects women, please refer to chapter 10. For more information about children as victims, the accused, or witnesses in court proceedings, please refer to chapter 5.

Points to consider

- Develop and demonstrate an informed understanding of the nature of family and domestic violence and sexual assault, and their impact on the victim.
- Do not dismiss or undervalue the nature and impact of family and domestic violence or sexual assault. Males and females from all cultural and social backgrounds can be affected by sexual abuse.
- Do not repeat in court any of the unfounded assumptions and myths about family and domestic violence or sexual assault. Instead, cite the facts based on accurate statistics and research — for example:
 - It is not easy for a victim to leave a violent relationship — it takes considerable emotional and practical strength for an abused and frightened victim to do this, particularly if the victim is a parent and children are involved. Many who do leave or threaten to leave are coerced into returning or staying by threats or further violence from their partner.
 - There are often insufficient support and protection structures to enable a victim to either leave or leave safely. This can be even more difficult for Aboriginal victims, victims from culturally and linguistically diverse backgrounds, victims with disabilities and victims in rural and remote locations. Statistically, the most dangerous time for a victim in a violent relationship is at separation or after leaving the relationship.
 - People do not ask to be assaulted or raped. It is no more acceptable for a person to assault another person because he or she felt that the other person was acting, behaving or dressing in a manner that was “asking for it”, than it is for a person to rob another person “asking for it” by walking through a park at night wearing an expensive suit and carrying an expensive briefcase.
- People who are sexually assaulted can react in many different ways — there is no standard way to react or behave.
- Homosexuals, lesbians and bisexual, transgender and intersex people can be violently and sexually abused by their partners too — for more information refer to chapter 12, on diverse sexuality, sex and gender.
- Do not dismiss or undervalue the impact of family and domestic violence or sexual assault on a victim. In this connection, note prostitutes (male or female) are entitled to the same protection of the law as any other citizen.¹⁶⁸
- Be aware of the widespread criticism in relation to the use of the defence of provocation — it is no less acceptable for a person to hit or kill their spouse, partner or lover (or partner’s lover) than it is to hit or kill a work colleague.

¹⁶⁸*Michael v The State of Western Australia* [2008] WASCA 66 [98], [240], [244].

- It is important that victims of family and domestic violence are reassured that their victimisation is not their fault and that violence and abuse are not acceptable in our society. The Department for Communities indicates that hearing these messages from a person in authority, such as a judge, can be one of the most powerful interventions that can be provided.¹⁶⁹

13.3.5 Evidentiary issues

Consider the difficulties for a victim in presenting evidence about family or domestic violence or sexual assault in our adversarial system — the victim may have to come face to face with their alleged attacker and generally has to be prepared to have their reputation attacked. The Armadale Domestic Violence Intervention Project (Inc) advises:

*Victims have expressed feeling tremendous intimidation and shame when engaging with the court process. The expectations around victims disclosing extremely traumatic experiences, especially when there is an intimate or family relationship connection with the perpetrator is overwhelming. Victims of domestic and family violence generally minimise violence and abuse experienced in their every day reality. Therefore it is essential that Magistrates [and other judicial officers] are aware of the special circumstances of vulnerability associated with victims within this context.*¹⁷⁰

There are legislative provisions available which may address these difficulties and which should be considered. *Guidelines for the taking of Evidence of Children and Special Witnesses — for the use of closed circuit, videotapes and other means of giving evidence*, being drafted by a District Court Committee, will provide additional guidance on some of these issues when available.

Points to consider

- Intervention by you will be required where, in proceedings for a sexual offence, evidence relating to the sexual reputation or disposition of the complainant is raised on behalf of the accused: see ss 36B, 36BA of the *Evidence Act 1906* (WA).
- Intervention by you will be required where, in proceedings for a sexual offence, evidence relating to the sexual experience of the complainant that is not directly part of the incident/s at issue is raised on behalf of the accused without leave of the court: s 36BC(1) *Evidence Act 1906* (WA).
 - You should only grant leave for that evidence to be raised if it has “substantial relevance” to the facts and the value of allowing the evidence “outweighs any distress, humiliation or embarrassment which the complainant might suffer as a result of its admission”: s 36BC(2) *Evidence Act 1906* (WA).
- If the alleged perpetrator is unrepresented, that person may not directly cross-examine any child witness, or any complainant in serious sexual offences unless the complainant is not a child and consents to the cross-examination: see *Evidence Act 1906* (WA) s 106G.

¹⁶⁹Submission from the Department for Communities (17 July 2007).

¹⁷⁰Submission from Armadale Domestic Violence Intervention Project (Inc) (17 April 2007).

- An unrepresented respondent or a person subject to an order under the *Restraining Orders Act 1997* (WA) may not directly cross-examine a person with whom they are in a family and domestic relationship, or an imagined personal relationship: see s 44C of the *Restraining Orders Act 1997* (WA). No unrepresented party in these proceedings is entitled to directly cross-examine a child: see s 53D of the *Restraining Orders Act 1997* (WA).
- You have a discretion to allow any witness in any criminal proceeding to give evidence by video-link, while screened, or without being directly questioned by the accused — having regard to the nature of the charge, the wishes of the witness and the availability of any necessary facilities or equipment.¹⁷¹
- Note that you can declare any witness in any proceedings to be a special witness if, among other things, that person would suffer severe emotional trauma or be so intimidated or distressed by reason of relationship to any party to the proceeding or the nature of the subject-matter of the evidence, as to be unable to give evidence satisfactorily.¹⁷²
- The *Evidence Act 1906* (WA) provides that in any cases of serious sexual assault you must declare the complainant to be a special witness, unless you are satisfied the complainant would otherwise be able to give evidence satisfactorily and the complainant does not wish this to occur: see s 106R(3a).
- If you have declared the witness to be a special witness in criminal proceedings you can allow them to give evidence at a special hearing and be visually recorded, or they can give evidence by video-link or while screened.¹⁷³
- If you have declared a person to be a special witness in any court proceedings you can allow them to be accompanied by a support person and/or communicator.¹⁷⁴
- Note that there is also provision under s 121 the *Evidence Act 1906* (WA) for you, on your own initiative or on the application of any party to the proceedings, to allow evidence to be taken by video-link from outside the place where the court is sitting — although you should not do so if satisfied that this is not in the interests of justice.
- Note the special arrangements available for complainants and witnesses who are children (see section 5.4).
- You may need to consider whether, in the circumstances of any particular case, to close the court or allow for the presentation of evidence in narrative form.
- You should consider discussing with the parties and/or their legal representatives in any proceedings the use of any special measures referred to above — irrespective of whether the person has been declared a special witness — if to do so would be in the interests of justice.

¹⁷¹*Evidence Act 1906* (WA) s 25A.

¹⁷²*Evidence Act 1906* (WA) s 106R(3).

¹⁷³*Evidence Act 1906* (WA) ss 106R(3), 106RA.

¹⁷⁴*Evidence Act 1906* (WA) s 106R(4).

- When allowing a witness to present evidence using alternative means, ensure that any jury is properly directed at that time that this is routine, and does not mean they should give it any less (or any more) weight than if the evidence was presented in the usual way.¹⁷⁵ You may also need to intervene if the accused or their legal representative tries to suggest that evidence presented in this way should be given less weight.
- Section 26 of the *Evidence Act 1906* (WA) enables you to disallow a question put to a witness in cross-examination, or to inform the witness that it need not be answered, if the question is misleading or unduly annoying, harassing, intimidating, offensive, oppressive or repetitive. Among other things, you may take into account any relevant condition or characteristic of the witness in determining whether to disallow a question. You may also consider whether the questioning is unfairly based on any false assumptions or myths about family or domestic violence and sexual assault.

13.3.6 Long-term or repeated abuse as a contributory factor to violence

Points to consider

- Consider the impact of long-term and continually repeated abuse, assault and threats on a victim — it is very different to be subjected to such behaviour long-term from a partner or other family member than to be subjected to one act of violence from a stranger.
- Issues of duress, provocation and/or self-defence should be carefully considered in the light of the considerable amount of research about long-term family and domestic violence and its impact, as opposed to considering them in the light of case law about responses to one-off acts of violence.
- Remember that the recent changes to the laws of self-defence,¹⁷⁶ although originating from a review by the Legal Aid Commission (WA) of the “battered women’s syndrome” defence to homicide (see section 13.2.2.2), apply to any “harmful act”, including assaults and wounding, provided it is reasonable and the accused believes it is necessary to defend themselves or another from a harmful act — even if that act is not imminent.

¹⁷⁵*Evidence Act 1906* (WA) ss 25A(4), 106P, 106RA(7).

¹⁷⁶*Criminal Code* s (WA) s 248(4).

13.3.7 Directions to the jury

Points to consider

- It is important that you ensure that the jury does not allow any stereotyped or false assumptions about family and domestic violence or sexual assault to unfairly influence their judgement. You should raise any such points with the parties' legal representatives first.
- For example, you may need to provide specific guidance as follows:
 - Explain that they must try to avoid making stereotyped or false assumptions about the nature and impact of either family and domestic violence or sexual assault. Instead they must carefully consider the particular evidence presented.
 - If appropriate, explain what needs to be taken into account in relation to long-term abuse in a relationship and the defences of duress, provocation and/or self-defence.
- In your final directions to the jury, you may need to remind them of any points in relation to these aspects that you alerted them to during the proceedings, or cover them for the first time now — in particular how they must treat evidence presented as a result of restricting direct cross-examination by a self-represented accused, or by alternative means, ensuring that any jury is properly directed that this is routine, and does not mean they should give it any less (or any more) weight than if it was presented in the usual way.¹⁷⁷

13.3.8 Sentencing, other decisions and judgment writing

Your sentencing, decision(s) and/or written judgment or decision must be fair and non-discriminatory to any victim of family or domestic violence who is affected by or referred to in your sentencing, decision and/or written judgment or decision — and preferably should be considered to be fair and non-discriminatory by them.

Points to consider

- In order to ensure that any victim of family and domestic violence referred to or specifically affected by your sentencing, decision(s) and/or written judgment or decision also considers it/them to be fair and non-discriminatory, you may need to pay due consideration to (and indeed specifically allude to) any of the points raised in the rest of 13.3 (including the points made in the box in 13.3.7 immediately above) that are relevant to the particular case.
- If a witness is not personally capable of giving a victim impact statement for any reason, consider whether it is appropriate for some one else to do so on the victim's behalf.¹⁷⁸
- Consider whether to quote from a victim impact statement in court.¹⁷⁹

¹⁷⁷*Evidence Act 1906*(WA) ss 25A(4), 106P, 106RA(7).

¹⁷⁸*Sentencing Act 1995* (WA) s 24(2).

¹⁷⁹See Part 3, Division 4 of the *Sentencing Act 1995* (WA). Note that a court may make a written victim impact statement available to the prosecutor and to the offender, on such conditions as it thinks fit.

13.4 Further information or help

13.4.1 Family violence courts

The metropolitan family violence courts are located at the Armadale, Joondalup, Rockingham, Fremantle, Midland and Perth Magistrates Courts. Geraldton operates the Barndimalgu Court, which deals only with family violence cases concerning Aboriginal people.

Email: FVCProject@justice.wa.gov.au

Joondalup Family Violence Court

Joondalup Courthouse

21 Reid Promenade

Joondalup WA 6027

Phone: (08) 9400 0707

Fax: (08) 9400 0728

Rockingham Family Violence Court

Rockingham Courthouse

Whitfield Street

Rockingham WA 6168

Phone: (08) 9592 4018

Fax: (08) 9527 9280

Fremantle Family Violence Court

Fremantle Courthouse

8 Holdsworth Street

Fremantle WA 6160

Phone: (08) 9431 0324

Fax: (08) 9335 9783

Perth Family Violence Court

Perth Central Law Courts

Level 2, 30 St Georges Terrace

Perth WA 6000

Phone: (08) 9425 2459

Fax: (08) 9425 2465

Midland Family Violence Court

Midland Courthouse

24 Spring Park Road

Midland WA 6056

Phone: (08) 9250 0229

Fax: (08) 9274 6676

Armadale Family Violence Court

Armadale Courthouse
109 Jull Street
Armadale WA 6112
Phone: (08) 9399 0722

Barndimalgu Court

Geraldton Courthouse
Marine Terrace
Geraldton WA 6530
Phone: (08) 9921 3722
Fax: (08) 9964 1864

13.4.2 Family Violence Prevention Legal Services (FVPLS)

Attorney General's Department (Cth)

Social Inclusion Division
Central Office
3-5 National Circuit
Barton ACT 2600
Phone: (02) 6141 6666

Web:

www.ag.gov.au/www/agd/agd.nsf/Page/Indigenous_law_and_native_titleIndigenous_law_programs

The following units provide legal, advisory and referral services to Aboriginal victims of family violence within the identified high-needs areas.

ALBANY

Albany Family Violence Prevention Legal Service

Boyd House
45-47 Aberdeen Street
Albany WA 6332
Phone: (08) 9842 7777
Fax: (08) 98427780

BROOME

Broome Family Violence Prevention Legal Service

1/46 Dampier Terrace
Broome WA 6725
Phone: (08) 91 93 7917
Fax: (08) 91 93 7913

CARNARVON

Carnarvon Family Violence Prevention Legal Service

13 Skipworth St

Carnarvon WA 6701

Phone: (08) 9941 3633

Fax: (08) 9941 3801

FITZROY CROSSING

Marninwarntikura Family Violence Prevention Legal Unit

Balannjangarri Road

Fitzroy Crossing WA 6765

Phone: (08) 9191 5284

Fax: (08) 9191 5611

Mobile: 0439 915 284

Email: mwrccounsellor@bigpond.com (cc emails to): marninwarntikura@bigpond.com

GERALDTON

Yamatji Family Violence Prevention Legal Service

103 George Road (View Street Entry)

Geraldton WA 6530

Phone: (08) 9965 4654

Fax: (08) 9921 6377

KALGOORLIE

Thungula Goothada Family Support Legal Centre

45 Brookman Street

Kalgoorlie WA 6430

Mobile: 0417 926 267

KIMBERLEY

Kimberley Family Violence Prevention Legal Service

4 Papuana Street

Kununurra WA 6743

Phone: (08) 9169 3100

Fax: (08) 9169 3200

Email: kcls@wn.com.au

PORT HEDLAND

South Hedland Family Violence Prevention Legal Services

PO Box 2807

3 Brand Street

South Hedland WA 6722

Phone: (08) 9172 5024, (08) 9172 5048

Fax: (08) 9172 5035

Email: coordinator@pfvpls.com.au

13.4.3 Further information or assistance in relation to family and domestic violence

Legal Aid of WA

55 St Georges Terrace

Perth WA 6000

Phone: (08) 9261 6222

Fax: (08) 93255430

TTY: 1800 241 216

Info Line: 1300 650 579

Web: www.legalaid.wa.gov.au

Women's Information Services

Department for Communities

Level 7, Dumas House

2 Havelock Street

West Perth WA 6005

Phone: (08) 6217 8230

Freecall: 1800 199 174

Interpreting

Services: 131450

National Relay

Services: 133677

Email: wis@communities.wa.gov.au

Web:

www.communities.wa.gov.au/serviceareas/women/Pages/WomensInformationService.aspx

Office of Women's Interests

Department for Communities

Level 7, Dumas House

2 Havelock Street

West Perth WA 6005

Phone: (08) 6217 8200

Freecall: 1800 199 179

Fax: (08) 9481 0441

Email: owp@communities.wa.gov.au

Web: www.communities.wa.gov.au/serviceareas/Women/

Women's Law Centre (WA) Inc

920 Beaufort Street

Inglewood WA 6932

Phone: (08) 9272 8800

Fax: (08) 9272 8866

TTY: (08) 9272 9500

Freecall: 1800 625 122

Email: Womens_WA@fcl.fl.asn.au

Department for Child Protection

Central Office

189 Royal Street

East Perth WA 6004

Phone: (08) 9222 2555

Freecall: 1800 622 258 (freecall STD)

TTY: (08) 9325 1232

Fax: (08) 9222 2776

Web (for Family & Domestic Violence information):

www.community.wa.gov.au/DCP/Resources/FamilyDomesticViolence/

Contact details for all metropolitan offices available at:

www.community.wa.gov.au/DCP/ContactUs/DCD_Metropolitan_Offices.htm

Contact details for all country offices available at:

www.community.wa.gov.au/DCP/ContactUs/DCD_Country_Offices.htm

Family and Domestic Violence Unit

Dumas House

Level 7, 2 Havelock Street

West Perth WA 6005

Phone: (08) 6217 8300

Fax: (08) 9481 0445

Email: info@communities.wa.gov.au

Web:

www.community.wa.gov.au/dcp/resources/familydomesticviolence/about_the_family_and_domestic_violence_unit.htm

13.4.4 Violence and assault services

Anglicare WA Inc

23 Adelaide Terrace

East Perth WA 6839

Phone: (08) 9325 7033

Fax: (08) 9325 6969

Email: info@anglicare.wa.org.au

Web: www.anglicarewa.org.au

Breathing Space (Communicare)

Provides accommodation and therapeutic services for men who have been violent or abusive within their family relationships

35-41 Kenton Way

Calista WA 6167

Phone: (08) 9439 5707

Fax: (08) 9439 4437

Email: breathingspace@communicare.org.au

Web:

www.communicare.org.au/Family_Services/Accommodation_Services_Home/Accommodation_Services.htm

Centrecare

Provides Family and Domestic Violence services including perpetrator programs for men, services for women experiencing and managing the consequences of abuse, support and advocacy services for Indigenous people, victim support and child witness services

456 Hay Street

Perth WA 6000

Phone: (08) 9325 6644

Web: www.centrecare.com.au/

Crisis Care Unit

24 hour crisis support (violence, child protection, suicide, etc)

Phone: (08) 9325 1111

Freecall: 1800 199 008

TTY: (08) 9325 1232

Dad's @ Lifeline (Livingston Foundation)

Phone: (08) 9261 4444 or 13 11 14

Department for Child Protection

189 Royal Street

East Perth WA 6004

Phone: (08) 9222 2555

Freecall: 1800 622 258 (freecall STD)

TTY: (08) 9325 1232

Fax: (08) 9222 2776

Email: info@dcp.wa.gov.au

Web: www.community.wa.gov.au/DCP/Resources/FamilyDomesticViolence/

The Department has a Domestic Violence Online Resource Guide which contains information on the services available, on a region by region basis, to assist people living with family and domestic violence in Western Australia, including crisis and emergency services, safe accommodation, counselling and support, legal services and services for children.

Available at: www.community.wa.gov.au/onlineresourceguide/

Kids Help Line

PO Box 2000, Milton QLD 4064

Phone: (07) 3369 1588

Phone: 1800 55 1800 - Counselling Line

Fax: (07) 3367 1266

Email: admin@kidshelp.com.au

Web: www.kidshelp.com.au/index.php

Lifeline

Provides 24 hour 7 days a week counselling

Phone: 13 1114 or

1300 13 11 14

Men's Domestic Violence Helpline

A free telephone information, referral and counselling service for men to help them change their violent behaviour towards female partners.

Phone: (08) 9223 1199

Freecall STD:

1800 000 599

Mensline Australia

Provides 24 hour 7 days a week counselling for men with relationship and family concerns

Phone: 1300 78 99 78

Mensplace (Meerilinga Children's Foundation)

115 Cambridge Street
West Leederville WA 6007
Phone: (08) 9489 4028

Multicultural Women's Advocacy Service

Operates from Northbridge, Mirrabooka, Gosnells and Rockingham/Fremantle
Phone: (08) 9328 1200 or
(08) 9227 8122

Relationships Australia (WA)

15 Cambridge Street
West Leederville WA 6007
Phone: (08) 9489 6300 or
1300 364 277 (will automatically direct the caller to the nearest Relationships
Australia office)
Fax: (08) 9489 6301
Email: info@wa.relationships.com.au
Web: www.relationships.com.au

Same Sex Domestic Abuse Group (SSDAG)

Based at:
Hepatitis Council of WA
187 Beaufort St
Northbridge WA 6000
Phone: (08) 92279800
Mobile: 0428 958 873
Email : ssdag@hepatitiswa.com.au
Web: www.ssdag.org.au

Sexual Assault Resource Centre (SARC)

SARC is a free 24 hour 7 days a week emergency service that offers assistance and support to any person, female or male, aged 13 years and over who has experienced any form of unwanted sexual contact or behaviour in the last two weeks. A free counselling service is also available (during business hours) to people who have experienced sexual assault or sexual abuse in the past (more than two weeks ago).

King Edward Hospital

Phone: (08) 9340 1820
24 hr Crisis Line:
(08) 9340 1828
Freecall: 1800 199 888
Fax: (08) 9381 5426
Email: SARCDuty@health.wa.gov.au

SAMSSA (Service Assisting Male Survivors of Sexual Assault)

Unit 2, 114 Maitland Street

Hackett ACT 2602

Phone: (02) 6262 7377

Mobile: 0411 847 108

Fax: (02) 6262 7388

Emergency 24 hour

hotline: (02) 6247 2525

Email: samssa@effect.net.au

Women's Health Services

100 Aberdeen Street

Northbridge WA 6003

Phone: (08) 9227 8122

Freecall: 1800 998 399 (Country only)

Fax: (08) 9227 6615

E-mail: info@whs.org.au

Web: www.whs.org.au

Women's Council for Domestic and Family Violence Services (WA)

PO Box 8437

Perth Business Centre WA 6849

Phone: (08) 9420 7264

Fax: (08) 9486 8744

Email: info@womenscouncil.com.au

Web: www.womenscouncil.com.au

Victim Support and Child Witness, and the Family Violence Service

See their searchable online directory (link below) for all victim support services by location and type.

Victim Support Service

District Court Building

Level 2

500 Hay Street

Perth WA 6000

Phone: (08) 9425 2850

Facsimile: (08) 9221 2533

Freecall: 1800 818 988

Web: www.courts.dotag.wa.gov.au/O/online_directory_of_services_for_victims_of_crime.aspx

Women's Refuge & Multicultural Service

Outreach support for immigrant women who are victims of domestic violence

Phone: (08) 9325 7716

13.5 Further reading

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13.6 Your comments

Feedback on how this *Equal Treatment before the Law Bench Book* can be improved is welcomed.

We would be especially interested in receiving relevant practice examples, including any relevant model directions that you would like to share with other judicial officers.

Additionally, you may discover an error, or wish to advise further references to legislation, case law, specific sections of other bench books, discussion or research material.

Please refer to chapter 14, which contains information about how to send us your comments and/or feedback.