

WA Magistrates' Court and WA Family Violence Pathways Network Event

The Victorian Royal Commission into Family Violence: What Courts are expected to deliver to families experiencing family violence as part of an integrated family violence response

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Family Violence Court Division

Commenced operation 14 June 2005 at Ballarat (Regional) and Heidelberg (Metropolitan) court venues as a pilot to 2007, then

Specialist Family Violence Service

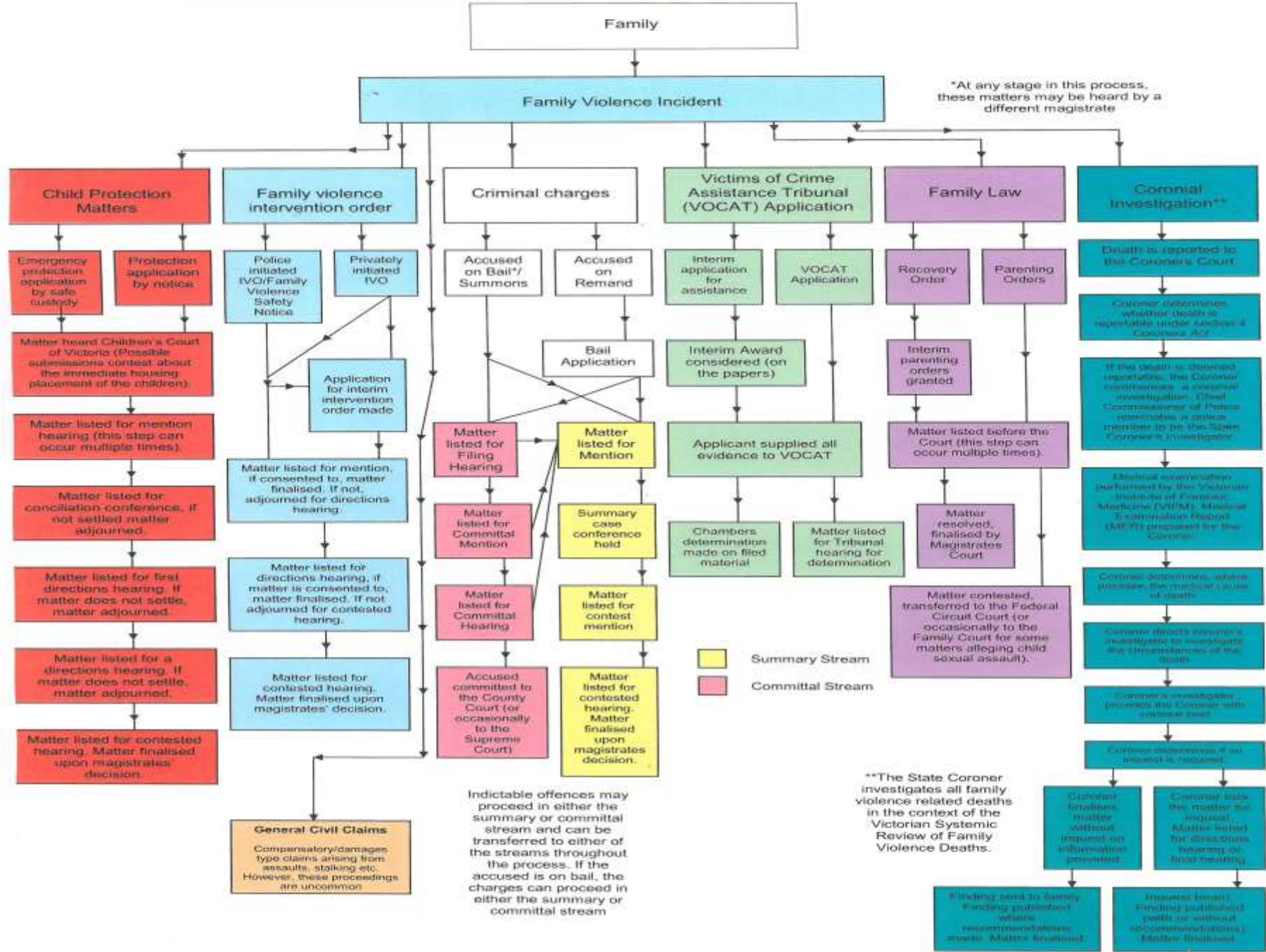
Expansion of majority of the elements of the FVCD to Melbourne, Frankston/ Moorabbin, Sunshine and Werribee (Metropolitan) court Melbourne venues in 2006

- since 2014 Frankston / Moorabbin have the same features as FVCD - mandated counselling orders

Family Violence Court Division Jurisdiction

- Intervention Orders
- Crime - summary and indictable
- Family Law
- Victims of Crime Assistance
- Civil proceedings

By using all the available resources of the court – the aim is to provide a one stop shop where there is no ‘wrong door’ to obtain an effective response to violence



FV Royal Commission

- Report tabled on 30 March 2016 - 227 recs
- Overwhelmed fragmented system
- Inconsistent and uneven court practices

Court Research

- Huge increase in reports to police, court applications
- About 2/3 of intervention order applicants are female (similar for emergency department presentations)
- Increase in police reports of children present at incidents
- A significant proportion of those against whom orders were made were recidivists

Rec 60 FV Court Division

All MCV headquarter & specialist courts have FVCD functions with:

- specialist FV magistrates, registrars, applicant and respondent workers;
 - dedicated police prosecutors and civil advocates;
 - facilities for access to Specialist FV service providers and legal representation for applicants and respondents;
 - power to make Counselling Orders;
 - remote witness facilities for applicants;* and
 - FVCD jurisdictional powers including the power to make parenting and property orders under the Family Law Act.
- Within 2 years

*Rec 71 - remote evidence

presumption of remote evidence for family violence victims
- within 3 years

Rec 61 RCFV FV Court Division

Legislation to ensure that, subject to exceptional circumstances and the interests of the parties, all family violence matters are heard and determined in specialist family violence courts
- within 5 years

RCFV research - Recidivism

- over 10 years; 63% of applicants had only one recorded incident
- 9% had five or more incidents recorded, (34% of all incidents)
- More likely to be younger males
- More likely to have other recorded offences
- More likely to have drug/alcohol problems

Recommendations about court process

- **Recs 65-67** - Management of family violence list using risk assessment factors
- Better information for Magistrates eg
 - police affidavit
 - information on family law matters
 - risk assessment material
- Extension of time for first mention date for a safety notice, to support provision of more detailed information
- Risk assessment material to be provided to Magistrates as a matter of course

Infrastructure – buildings Rec 70

Within 5 years, all headquarter courts to:

- provide safe waiting areas and rooms for co-located service providers
- provide accessibility for people with disabilities
- provide proper security staffing and equipment
- provide separate entry and exit points for applicants and respondents
- provide private interview rooms for use by registrars and service providers

Infrastructure – buildings

Rec 70 (cont)

- provide remote witness facilities, to allow witnesses to give evidence off site and from court-based interview rooms
- provide adequate facilities for children and ensure that courts are ‘child-friendly’
- use multi-lingual and multi-format signage
- use pre-existing local facilities and structures to accommodate proceedings or associated aspects of court business—for example, for use as safe waiting areas.

RCFV - Aboriginal communities

- FV has a disproportionate impact upon Aboriginal communities, in particular Aboriginal women and children.
- FV is driving the over-representation of Aboriginal children in child protection.
- Prevention and early intervention initiatives need sustained resourcing.
- Under-investment is jeopardising safety when women and children return to the perpetrator because of lack of suitable crisis and long term accommodation.
- Cultural safety is the foundation for an effective response.
- While progress has been made the justice response needs concerted effort.
- Lack of data and culturally appropriate evaluation is hampering effort.



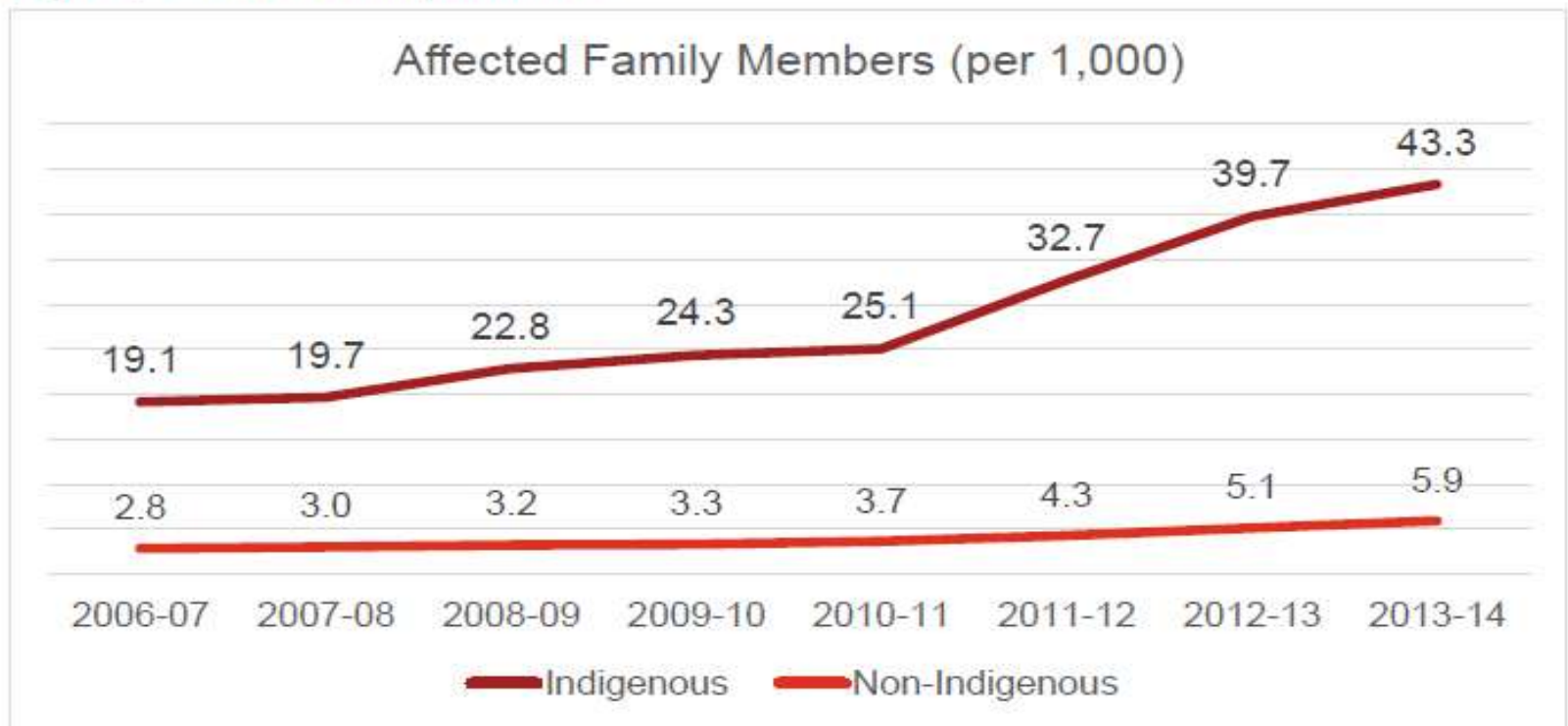
We need
culturally
SAFE
SERVICES

Indigenous Family Violence in Victoria – 10 year plan

- 2008 - Indigenous Family Violence 10 Year Plan: Strong Culture, Strong Peoples, Strong Families; Towards a safer future for Indigenous families and communities
- 2015 - Mid-term evaluation of the Ten Year Plan

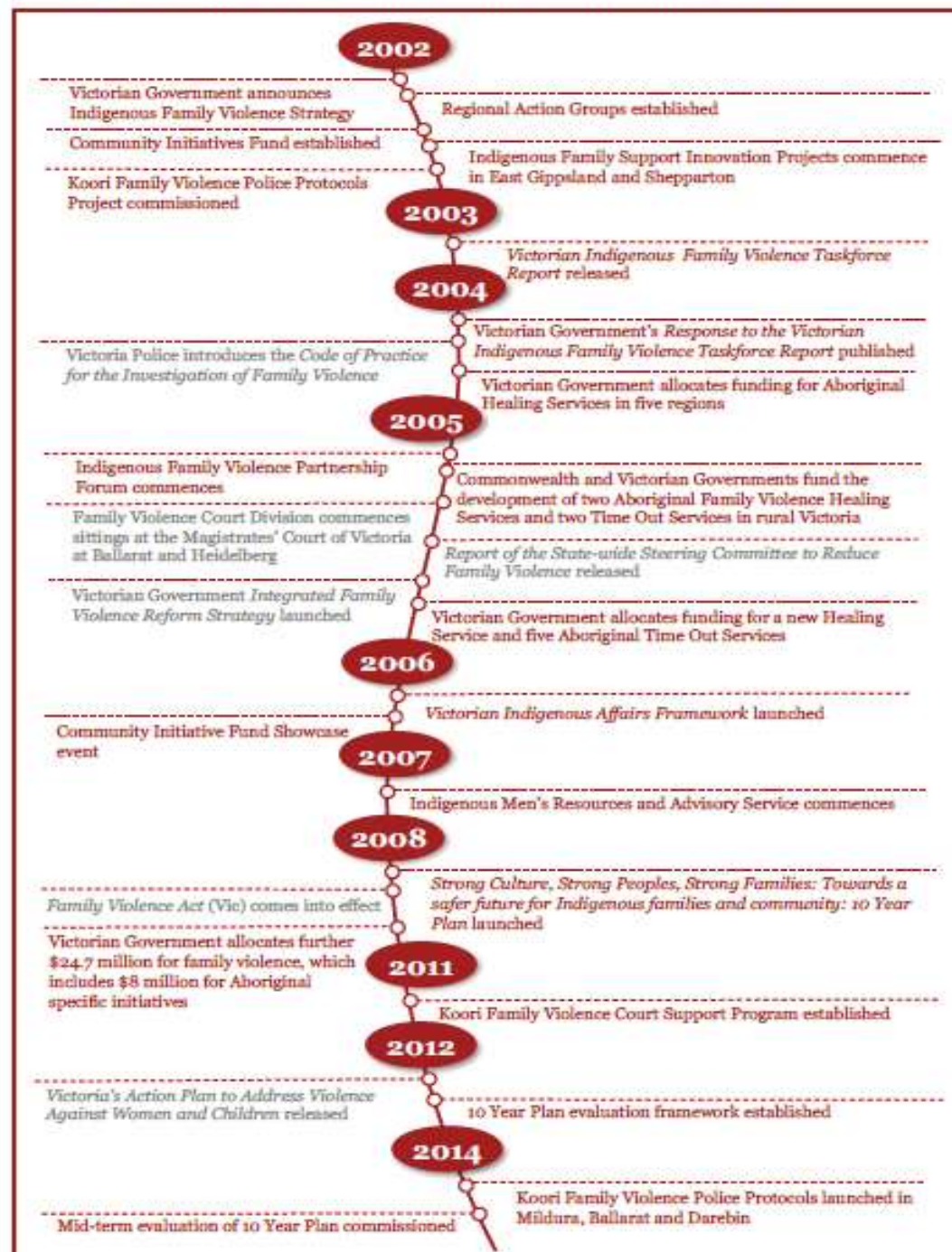
10 year plan – mid term evaluation

Figure 7 Affected family members



Source: Crime Statistics Agency, *Affected Family Members in FDV incidents by Indigenous status by year*, Australian Bureau of Statistics, Cat. 3238.0 *Estimates and Projections Aboriginal and Torres Strait Islander Australians* and Cat. 3101.1 *Australian Demographic Statistics*.

Figure 1 Timeline of key family violence reforms since 2002



Victorian Courts' specialist Indigenous response

- Koori Courts – Magistrates', Children's and County Courts
- Koori Family Violence and Victims Support Program (KFVVSP) – defunded July 2016
- Koori VOCAT list
- Children's Court Koori Family Hearing Day – Child protection matters - pilot from 1/7/16

RCFV – Courts - Koori specific Recs 149-150

- Magistrates' Court resume the KFVVSP
- Extend Koori Courts jurisdiction to include contravention of intervention orders.

Key foundations for FV Courts

- Dignity, respect and consistency for families delivered:
 - by **specialised** people who share knowledge and information particularly in relation to risk and trauma
 - In a **safe** physical and cultural environment
 - In a **timely** manner
 - Using **processes** and **powers** which enhance and simplify the court user's experience
 - **Integrated** with wider government and community responses
- Serving **victims** needs, including children's needs, based upon their individual circumstances
- Holding **perpetrators** to account whilst providing realistic and relevant opportunities to address the risks they present to their families.

Key issues - demand

Demand - pressure points:

- Population
- Police eg. police numbers, codes of practice
(police IVO applications ~ 70% total)
- Child protection workers
- Sentencing legislation, practice and culture
- Publicity
- Improved response builds confidence
- Policies related to social disadvantage - eg. alcohol, drugs, housing.

Family Violence Demand

- Vicpol 78,012 family violence incidents (2015/2016)
 - 77% increase since 2011/2012 (43,856)
- 58,934 finalised FVIO applications (2015/2016)
 - 218% increase since 2004/2005
- 21,274 contraventions of FVIOs (2015/2016)
 - 444% increase since 2008/2009
 - 22% increase 2014/16 to 2015/2016
- FV related criminal matters – estimate 24% caseload
- Bail (not just FV) 2010/2011 to 2015/2016
 - 100% increase in applications for bail
 - 200% increase in applications for revocation of bail
- 5484 FV related VOCAT applications (2014/2015)

Victim Safety and Support

- FV Applicant support practitioners
 - Risk assessment, safety planning and referral
- FV Specialist registrars
- Community FV services eg. DV services at court
- Information sharing
- 'Smart' court approaches
 - Technological solutions eg. alternative arrangements for giving evidence
 - Safe waiting areas, security at court
- VOCAT

Perpetrator Accountability

- Judicial Monitoring of perpetrators
 - Mandated counselling orders
 - Criminal – Bail and Deferral after finding of guilt with programs
 - Post sentence – Community corrections order
- Programs addressing
 - Offending behaviour programs inc - Mens Behaviour Change, sexual offending
 - Substance abuse, Mental health, Homelessness, financial stress
 - Programs tailored to special cohorts
 - Intimate partner incl LGBTI, children, youth, women, culturally diverse communities, disability
- CISP (Court Integrated Services Program)

Perpetrator Accountability

- CISP – therapeutic responses to address
 - violence including MBCP
 - Drug and alcohol abuse
 - cognitive impairments
 - intellectual disability including FASD
 - ABI
 - Age related – eg. Dementia
 - Mental health
 - Diversity issues – indigenous, CALD, refugees
 - Homelessness/housing
 - financial stress
 - Child/youth issues
- Staff case management and brokered community services

Perpetrator Accountability

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

Report prepared by RMIT Centre for Innovative Justice, for the Commonwealth AG

- Lists a range of recommendations highlighting ways the justice system can interrupt the cycle of family violence to make perpetrators more visible and accountable with swift and sure consequences.

Fast Tracking of FV related Criminal Matters

- Dandenong implemented a pilot Fast Tracking FV related criminal matters in December 2014
- Objective is to have matters in Court and finalised within 16 weeks to increase perpetrator accountability and victim safety.
- FV related matters are listed at the Court within designated time frames.
- Now implemented at all except 4 headquarter court venues with the remaining venues schedule for 2017

Information technology

- New IT response essential for effective
 - Case management
 - information sharing
 - 'Alternative' Court access and including remote access
- Specialist family violence e-court including e-registry, video conferencing, online forms, video recorded information in multiple languages, real time information exchange
- Victorian family violence website launched 25/11/2015

Professional Development

- Essential for judicial officers, court staff, and service providers have a shared understanding of family violence and an understanding of best practice in relation to assessing risk and managing risk in a court setting
- CRAF – Common Risk Assessment Framework – *basic* assessment tool which is currently under review RCFV (rec 1)
- Similar to NT Family Safety Framework – Domestic and Family Violence Risk Assessment

Family Law

- Part of SFVC model
- BUT no funding provided to Victorian State courts to exercise the jurisdiction.
- Limited exercise of jurisdiction primarily in regional courts and unlikely to expand unless C'wealth funding provided.

Family Law Council

- Families with 'Complex needs' reference
- 'complex' includes emotional, sexual & physical abuse, family violence, substance abuse, neglect and mental health issues
- **Final report: June 2016** – released October
- significant recommendations affecting summary courts including increased role in exercising *Family Law Act* powers:

Family Law Council

- more family law cases (rec 15(3))
- increased monetary limit for property cases (rec 15(2))
- explore circuiting/outposting of Federal Judges/staff to state courts; especially to specialist FV courts (rec 10)
- increased circuiting to regional state courts (rec 9(2))
- AND increased C'wealth funding to State courts to support recommendations (recs 15(3)& 9(2))
- National court orders data base – for cross jurisdictional info sharing (rec 10)

Family Law Council

- Developing a consistent risk assessment framework (p129)
- Enhanced integrated service delivery models for the FL jurisdiction eg. Victorian Neighbourhood Justice Centre (pgs 5 & 82)
- expanded TJ and problem solving approaches in the FL context eg. CISP and MBCPs (pgs 83 & 131)
- joint State, Territory & Federal judicial professional development on FL, FV and trauma (recs 12 & 15 (1))

Additional FVCD considerations

- Adaptation of the problems solving model for High Volume Courts
 - Since 2005 significant increase in FV matters before the court – all jurisdictions
 - Efficiencies in one judge one family – avoids multiple hearings in jurisdictional silos and addresses the ‘churn’
 - Jurisdiction case management or ‘triaging’ and timing
- Links to 17 Family Violence Support and Safety hubs (rec 37)
- Sexual assault reforms – implications for FV practice

Cultural Change

- Specialisation – what does that mean?
- Procedural fairness and effective case management – court processes which help reduce risks to safety
 - listing practices and addressing any delay
- Promotion of a culture of safe and robust information sharing
- Court practices informed by the expertise of other parts of the family violence service system
- Improved safety for families – how to measure
- challenging definitions of court ‘efficiency’

Discussion