



The Hon Daniel Andrews MP  
Premier of Victoria

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Judge Ian Gray  
State Coroner  
Coroners Court of Victoria  
65 Kavanagh Street  
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D15/176468

Dear Judge Gray

I refer to the letter from your office dated 28 September 2015 regarding the inquest into the death of Luke Geoffrey Batty (Coroners Court of Victoria reference COR 2014 0855).

I wish to acknowledge the death of Luke Batty. The death of a child is a tragic event, which was deepened in this case by the horrifying fact that Luke's death was at the hands of his father.

I wish to express my sincere thanks for your thorough investigation of the circumstances surrounding Luke's death. I note your finding that Luke's death was caused by his father Gregory Anderson, and that Luke's death was preceded by years of family violence perpetrated by Mr Anderson against Luke and his mother. I also note your finding that Luke's death was not foreseeable, but that there are a number of system gaps and flaws in our State's response to family violence.

As Premier of Victoria, I am committed to improving Victoria's response to family violence. My Government will implement all of the recommendations you have made. In accordance with sections 72(3) and (4) of the *Coroners Act 2008 (Vic)*, I enclose a detailed response to your recommendations.

Should you require any further information regarding the Victorian Government's response to your recommendations, please contact Ms Anna Faithfull, Executive Director of the Department of Premier and Cabinet at [anna.faithfull@dpc.vic.gov.au](mailto:anna.faithfull@dpc.vic.gov.au).

Yours sincerely

The Hon Daniel Andrews MP  
Premier

## **Victorian Government Response to the Coroner's Findings into the Death of Luke Geoffrey Batty (Coroners Court of Victoria reference COR 2014 0855).**

The Victorian Government Response incorporates the responses of the Department of Premier and Cabinet (DPC), Department of Health and Human Services (DHHS), Department of Education and Training (DET), Department of Justice and Regulation (DJR), and attaches the response of Victoria Police. The Coroner will receive a separate response from the Magistrates' Court of Victoria regarding the recommendations directed to it.

The Victorian Government will implement all of the Coroner's recommendations directed to it. This Response provides further information as to how each recommendation will be implemented.

The Government has already commenced work on three activities that directly relate to his Honour's recommendations. These are:

1. Review the risk assessment and management framework (the "CRAF") (relates to recommendations 1, 2, 7, 9, 16, 18, 19, 25-28);
2. Review legislative and/or policy impediments to the sharing of relevant information (relates to recommendations 3 and 4); and
3. Evaluate the Family Violence Court Division currently operating in selected Magistrates' Courts (relates to recommendation 6).

The Government is aware that its implementation of many of the recommendations may intersect with recommendations of the Royal Commission into Family Violence (**Royal Commission**). For this reason, the Government has referred the Coroner's recommendations to the Royal Commission for consideration in preparing its final report. The Government will align systemic reforms recommended by the Coroner with those of the Royal Commission. The implementation process will involve extensive consultation and co-design with stakeholders and the community.

### **Recommendations addressed to the State of Victoria through the agency of the Secretary of the Department of Premier and Cabinet**

**Recommendation 1.** I recommend that the State of Victoria undertake empirical validation of the Common Risk Assessment Framework (the CRAF), including consideration of other family violence risk assessment measures in other jurisdictions (for example, South Australian family safety framework), and the risk assessment tools based upon it, such as the L17, to determine the extent to which they accurately identify a:

- (a) person's (including a child's) risk of being the victim of family violence;
- (b) perpetrator's risk of repeat and/or escalating family violence.

As part of this validation process, consideration should be given to whether:

- (a) greater weight ought be given to the victim's own level of fear in assessing the risk posed to her and any children;
- (b) there should be a rating and/or weighting of risk factors to assist the person undertaking the risk assessment to identify the risk of family violence to women and/or

**children as low, medium or high. Any tool or system which rates or weights risk factors should be standardised across agencies dealing with family violence, taking into account the unique mandate of each agency.**

The Government has commenced implementation of this recommendation. The State recognises that there are a number of opportunities for improvement of the CRAF and family violence risk assessment and management more broadly in Victoria. In the eight years since the CRAF was introduced, there has been a growth in knowledge of and research into family violence professional practice nationally and internationally.

DHHS is commencing a comprehensive review of CRAF (**CRAF Evaluation**). The CRAF Evaluation is planned to commence shortly.

The CRAF evaluation is proposed to occur in two phases. The first phase will look at:

- a. how CRAF is used and by whom;
- b. the extent to which it is embedded into organisational/occupational practice; and
- c. the perceived effectiveness of the tool:
  - i. by different occupational groups, and
  - ii. as it applies to unique cohorts, including for children and young people, for diverse communities and for other forms of family violence.

The second phase, to be undertaken following the completion of the Royal Commission's recommendations, will focus on the development of a strengthened framework (based on best practice) and an associated implementation strategy. This phase will consider the opportunities to strengthen a lens on 'dangerousness' (in relation to perpetrators) and focus on the level of risk for children and young people. It will be informed by the outcomes of the Royal Commission and the Coroner's findings in this inquest.

**Recommendation 2: Noting that some agencies use the CRAF, but that others do not, I recommend, the State of Victoria ensure *all* agencies, including the Magistrates' Court of Victoria, operating within the integrated family violence system:**

**(a) use the CRAF (once validated), including risk assessments aligned to the CRAF. This includes ensuring that those agencies that use external service providers (e.g. the DHHS) incorporate in service agreements with service providers, a requirement that the CRAF be used when dealing with family violence related matters;**

**(b) undertake risk assessments that are reduced to writing, shared with, and accessible to all elements within the integrated family violence system dealing with a particular family, for the purposes of:**

- i. ensuring risk assessments are dynamic, collaborative, comprehensive and up-to-date. That is, once commenced, a risk assessment considers all the information available to all relevant agencies, is updated and maintained for a family where family violence has been indicated or reported;
- ii. ensuring risk assessments are accessible by police officers when:

- making an application for a family violence intervention order;
- bringing charges against a perpetrator for family violence related offences;
- responding to a bail application for a person charged with family violence related offences;
- informing presiding magistrates of the outcome of relevant risk assessments.

iii. coordinating the response directed at perpetrators;

iv. coordinating the support given and safety planning provided to victims of family violence;

v. identifying common risk management strategies.

The Government has commenced implementation of this recommendation. The Government supports a consistent approach to the identification and assessment of risk across the range of settings where a woman may present as this is critical to keeping women and children safe.

This in turn relies on a dynamic, comprehensive, validated risk assessment tool which can be effectively adapted for use in different workplace settings. This will ensure a consistent approach to risk assessment across organisations and workforces and effective sharing of information in relation to victims and perpetrators across these different settings so that critical information does not fall through the gaps.

Work is progressing in each of these areas.

As detailed above, the Government will shortly commence the CRAF Evaluation, which will strengthen risk assessment. The new approach will incorporate a stronger focus on children and 'dangerousness'. This work will incorporate strategies to ensure that the use of such a tool is well-embedded in organisational practice including building it into service agreements as a requirement of funding.

In addition, the Government is undertaking preliminary work ahead of the recommendations of the Royal Commission around opportunities to strengthen the sharing of information across organisations. The Government will also invest in additional CRAF training, which will equip more front-line workers to identify and respond to women and children.

**Recommendation 3: I recommend the State of Victoria, and where appropriate, in conjunction with the Office of the Victorian Privacy Commissioner, ensure *all* agencies operating within the integrated family violence system:**

**(a) have clear rules and education about their respective capacity and obligation to lawfully share information between agencies and/ or to members of the public;**

**(b) implement clear policies with respect to the *Privacy and Data Protection Act 2014* to inform respective staff members of the circumstances within which they may provide information to members of the public and other government agencies. Such policies must include circumstances where a police officer may inform a parent of any criminal charges**

laid against another parent (biological or other) or FVIOs, of the same child which indicate a risk to that child; and

(c) adequate training with respect to these policies.

As part of this process consideration should be given to whether the criteria and/or thresholds for sharing personal and/or health information are appropriately calibrated to allow for dynamic, up to date risk assessment in a family violence context.

The Government has commenced implementation of this recommendation. There is ongoing work underway to clarify information sharing rules and responsibilities, and to develop clear policies for information sharing. For example, DHHS is currently working with the Commissioner for Privacy and Data Protection to establish a clear authorising environment for information sharing in the context of Risk Assessment and Risk Management Panels (**RAMPs**).

The Government is considering the best way to implement the recommendation in light of the evidence heard by the Royal Commission about practical barriers to information sharing, and the likelihood that the Royal Commission's final report will make recommendations that affect the implementation of the recommendation. This will include consideration of the reviews of legislative and policy impediments to information sharing, and of information sharing needs across the justice system, set out in response to Recommendation 4 below.

**Recommendation 4: I recommend the State of Victoria identify legislative, or policy impediments to the sharing of relevant information, and remove such impediments, so that all agencies, including the Magistrates' Court of Victoria, operating within the integrated family violence system, are able to share relevant information in relation to a person at risk of family violence.**

The Government has commenced implementation of this recommendation. DPC has commenced a review of legislative and policy impediments to information sharing more broadly across social services.

In addition, DJR has begun implementation of a review of information sharing needs and barriers across the justice system. The focus of this information sharing project is to improve information flow and exchange between Victoria Police, the Magistrates Court of Victoria and Corrections Victoria. It is anticipated that the project will be completed by December 2016.

**Recommendation 5: I recommend the State of Victoria ensure *all* agencies operating within the integrated family violence system are:**

(a) clearly identified and their respective roles and responsibilities for responding to family violence are contained in legislation and/or documented in publically available policies;

(b) provided operational advice and assistance to develop clear policies, procedures and risk assessment tools aligned to the CRAF, to identify and manage a person's:

i. risk of being the victim of family violence; and

**ii. risk of perpetrating family violence.**

The Government has commenced implementation of this recommendation. Agencies operating within the family violence system, and their roles and responsibilities, are currently documented in the following publications:

- a. *Code of Practice for Specialist Family Violence Services for Women and Children*, Domestic Violence Victoria (2006);
- b. *Code of Practice for the Investigation of Family Violence (3rd Edition)*, Victoria Police (2014);
- c. *Protecting Victoria's Children - Child Protection Practice Manual*, Department of Human Services (updated online at <http://www.dhs.vic.gov.au/cpmanual>); and
- d. *Working with Families where an Adult is Violent*, Department of Human Services (2014).

The Government is determining the best way to document roles, responsibilities, policies, procedures and risk assessment tools aligned with the CRAF in a central and publicly available location. A final decision about the best location for this information will be made following completion of the Royal Commission's final report and incorporating its findings.

**Recommendation 6: I recommend the State of Victoria expand access to the Family Violence Court Division (FVCD) of the Magistrates' Court of Victoria across the State. I note the operation of the Family Violence Court Division at Ballarat and Heidelberg Magistrates' Courts. I recommend also that the Court Integrated Services Program (CISP) be made available at those court locations at which the FVCD is applied. This would provide equitable, coordinated and integrated responses to families affected by family violence when dealing with the multiple jurisdictions with which they are engaged including family violence, crime, family law, child protection and VOCAT. Most importantly criminal and family violence cases involving the same parties can be dealt with at the same time. I accept that there will always be need a tailor or modifying a program availability at certain court locations, depending on the case volume and case mix at that court. However, the point is that Magistrates' Courts deal with a extremely high volume of family violence cases. Many of thousands of intervention orders are made annually. They are made to protect applicants. They are far more likely to be ultimately successful if magistrates are in a position to make orders which combine protective elements, and the engage applicants and respondents with services (including the compulsory attendance by perpetrators men's behaviour change program) and, and, if necessary, with mental health treatment providers. The elements in the system should therefore include:**

- (a) specialist family violence case management for all matters, involving families at high risk of family violence;**
- (b) a Senior Specialist Family Violence Registrar to coordinate the listing of all matters for the one family and manage the family violence team of registrars;**
- (c) registrars interviewing and initiating/processing in person applications have core competencies in family violence including risk assessment;**
- (d) family violence Applicant and Respondent support workers and family violence trained CISP case managers at all courts;**
- (e) the capacity to mandate perpetrators' timely access to and participation in Men's**

**Behaviour Change Programs;**

**(f) dedicated police prosecutors and civil advocates, family violence outreach workers and access to legal representation (for both applicants and respondents);**

**(g) resourcing of the system to meet the requirement for legal representation (free legal aid) depending on demand at court locations.**

The Government will implement this recommendation. DJR is preparing to undertake an evaluation of the Family Violence Court Division in collaboration with the Magistrates' Court of Victoria. The evaluation will include a review of the current and any alternative models.

In implementing the Coroner's recommendation, the Government will seek to incorporate the Royal Commission's recommendations as relevant. The State will finalise its implementation of the recommendation following completion of the Royal Commission's final report and incorporating its findings.

**Recommendation 7: I recommend that the State of Victoria, ensure *all* agencies operating within the integrated family violence system are sufficiently supported to provide their respective staff training and professional development to undertake CRAF based family violence risk assessments. Such training and professional development should include, but not be limited to, recognising, understanding; and responding to family violence. Each agency's staff, at all levels, should be educated in the dynamics of family violence, with specialist training provided to those employees whose primary role is to have contact with victims and perpetrators of family violence.**

The Government has commenced implementation of this recommendation by incorporating issues raised in the recommendation in the CRAF Evaluation, including a review of implementation initiatives to ensure that these reflect best practice. Following the CRAF Evaluation and the completion of the Royal Commission's final report, the Government anticipates that professional development and training, including training materials and delivery, will be revised.

CRAF training is being delivered across a range of professional groups including to Child Protection and other community services. Training will be expanded, where possible, to address demand and increase the reach of training among various sectors.

**Recommendation 8: I recommend that the State of Victoria, implement Risk Assessment and Management Panels (RAMPs) in all police regions as soon as possible.**

The Government has commenced implementation of this recommendation, and is currently working towards the state-wide implementation of Risk Assessment and Management Panels as a priority.

DHHS has appointed RAMP Coordinators in all 17 DHHS Areas and a training package for RAMP members is being refined for roll-out in early 2016. This training is currently being piloted in the Southern Melbourne Area.

To optimise the operation of RAMPs and ensure information can be shared, DHHS is applying for an Information Usage Arrangement (IUA) that permits departures from the privacy framework, where this is important for the safety of a woman and her children.

RAMPs will be implemented state-wide following finalisation of the IUA.

**Recommendation 9: I recommend that the State of Victoria, ensure there is a process that triggers a compulsory referral to a Risk Assessment and Management Panel when a family violence agency and/or the Magistrates' Court of Victoria, assesses a person's risk for family violence as 'high'. Such a process should include, but not be limited to:**

**(a) an initial case management conference during which the panel members use the CRAF to undertake a multi agency case review and risk assessment of the affected person (and where relevant their children) using all information and all past risk assessments undertaken by the individual agencies;**

**(b) immediate safety action plans;**

**(c) longer term case management, including risk management strategies, for the affected persons, and establishment of ongoing case management of the care of the affected persons;**

**(d) providing the referring family violence agency and/or the Magistrates' Court of Victoria with details of the outcome in writing.**

The Government has commenced implementation of this recommendation. This will include:

- a. developing a consistent, shared understanding of the meaning of "high risk" and the appropriate threshold for compulsory referral to a RAMP;
- b. determining the most effective way to assess high risk cases of family violence across agencies (informed by the CRAF Evaluation);
- c. learning from the outcomes of an evaluation of the RAMP program, which will commence in 2016 following State-wide implementation. The evaluation will consider the effectiveness of the program for women and children at highest risk, demand on the program and the benefits of making the program available to a broader group of women. Each RAMP is currently funded to consider a minimum of four cases per month (equivalent to around 48 per year);
- d. implementing any recommendations from the Family Violence Royal Commission in relation to women and children at high risk from family violence; and
- e. establishing information-sharing arrangements for high risk cases, particularly those which are assessed as high risk but which may not meet the threshold currently applied in RAMPs of the affected family member facing "serious and imminent threat to ... life, health, safety or welfare".



The Government will finalise its implementation of the recommendation following completion of the Royal Commission's final report and incorporating its findings.

**Recommendation 10: I recommend that the State of Victoria give consideration to the creation and resourcing of a Family Violence Advocate service to provide advocacy services for women and families modelled on the UK Domestic Advocate position.**

The Government will implement this recommendation. The Government agrees that stronger advocacy for victims to support them to navigate relevant services is a key component of an effective response for victims of family violence.

The Government currently funds an alternative form of advocacy services for women and families as part of its outreach and case management services. These services, which incorporate an advocacy function, were given a funding boost through the 2015-16 State Budget amounting to \$2.6 million, and a further allocation of \$1.4 million for case management is proposed to be allocated from the demand fund.

The Government understands that the creation of new Family Violence Advocate roles has also been recommended in submissions to the Royal Commission. The Government will determine how best to implement the recommendation following completion of the Royal Commission's final report and in consultation with existing advocacy services, stakeholders and the community.

### **Recommendation addressed to the Attorney General of Victoria**

**Recommendation 11: I recommend that the Attorney General review the Bail Act 1977 and give consideration to the following legislative amendments:**

- (a) re-enact the former section 4(2)(c) of the Bail Act (as it appeared prior to the 2004 amendments to the Bail Act) to require bail to be refused where an accused person is in custody for failing to answer bail unless the accused person satisfies the court that the failure was due to causes beyond his or her control;**
- (b) require bail to be refused where an accused person is in custody for failing to answer bail in relation to family violence related offences unless the accused person satisfies the Court that the failure was due to causes beyond his or her control;**
- (c) ensure that bail conditions continue to operate until a warrant for arrest is executed. The new legislation should close the loop hole which presently results in persons who fail to attend Court to answer charges and a warrant is issued is subject to no bail conditions after their bail has been cancelled by virtue of the issuing of the warrant.**

The Government has commenced implementation of this recommendation. That work will be informed by any relevant recommendations arising from the final report of the Royal Commission.

## **Recommendations addressed to the Chief Commissioner of Police**

Victoria Police has prepared a response to Recommendations 13 to 16, which is **Attachment A** to the Victorian Government Response.

## **Recommendations addressed to the Department of Health and Human Services**

**Recommendation 16: I recommend that the DHHS incorporate in its Intake Phase practice where family violence services report family violence, that Child Protection requests a completed CRAF as part of its risk assessment and analysis.**

The Government will implement this recommendation. The Government supports more effective sharing of risk assessment information and is committed to improving this. DHHS is taking steps to implement a requirement that Child Protection request a completed CRAF assessment from family violence services where they report concerns about a child to Child Protection. DHHS is preparing practice advice to guide the workforce about this new requirement including how best to make such requests and where to record CRAF assessments on the client file.

DHHS is aware that the Royal Commission has heard evidence about sharing and storage of risk assessment information. The Government will finalise its implementation of the recommendation following completion of the Royal Commission's final report and the CRAF Evaluation.

**Recommendation 17: I recommend that the DHHS introduce a requirement that CRIS notes include the full text of all CRAF risk assessments undertaken in relation to children for whom files are opened.**

The Government will implement this recommendation. The Government recognises the need for more effective sharing of risk assessment information and is committed to improving this. DHHS will ensure all completed CRAF risk assessments are attached to the client file in a consistent manner. DHHS is preparing practice advice for the Child Protection workforce regarding the correct recording of a CRAF assessment on a Child Protection file.

DHHS is aware that the Royal Commission has heard evidence about sharing and storage of risk assessment information. The Government is investigating how to improve information sharing and will finalise its implementation of the recommendation following completion of the Royal Commission's final report and incorporating its findings.

**Recommendation 18: I recommend that the DHHS introduce a requirement that prior to, or when, undertaking a CRAF risk assessment, the DHHS obtain from Victoria Police all L17s relating to the child and their parents and any CRAF risk assessment undertaken by a specialist family violence service.**

The Government will implement this recommendation. The Government supports more effective sharing of risk assessment information and is committed to improving this. Currently, all L17s concerning risk to children must be provided to Child Protection by Victoria Police in accordance with the *Protecting Children Protocol between the Department of Human Services – Child Protection, and Victoria Police*. These L17 reports are routinely attached to the Child Protection file. Practice advice will reinforce the need for Child Protection to review and consider all L17 reports in formulating and reviewing risk assessments.

DHHS has commenced a project to enable to electronic transmission of L17 reports from Victoria Police. This will support the safe transmission and recording of L17 reports on the client file.

DHHS is aware that the Royal Commission has heard evidence about sharing and storage of risk assessment information. The Government will finalise its implementation of the recommendation following completion of the Royal Commission's final report and the CRAF Evaluation.

**Recommendation 19: I recommend that the DHHS introduce process whereby all CRAF risk assessments which indicate high risk of family violence to a child be provided to Victoria Police for consideration of bringing an application for a FVIO.**

The Government will implement this recommendation. The Government supports more effective sharing of risk assessment information and is committed to improving this. Currently, Child Protection makes requests of Victoria Police to initiate many applications for Family Violence Intervention Orders (FVIOs) when there are concerns about family violence impacting the safety of children. In these circumstances, Child Protection provides all relevant information and documents to support Victoria Police's application. Child Protection also has the capacity to initiate, and increasingly does initiate, FVIOs on behalf of children subject to proceedings in the Children's Court of Victoria. This is reflected in the Specialist Resource Guide *Working with families where an adult is violent*.

The Government is investigating how to improve information sharing and will finalise implementation of the recommendation following completion of the Royal Commission's final report and the CRAF Evaluation.

**Recommendation 20: I recommend that the DHHS discontinue the practice of asking women at risk of family violence to enter into undertakings, which require them to supervise or manage the behaviour of the perpetrator of the family violence.**

The Government has commenced implementation of this recommendation by scoping the circumstances in which practitioners currently use undertakings to inform the required police development. To implement the recommendation, DHHS will communicate to all child protection practitioners the circumstances in which it is appropriate or not appropriate to request parents

make undertakings to the department, clearly stating that it is not appropriate to require protective parents to supervise or manage the behaviour of the perpetrator of family violence. DHHS will amend *Protecting Victoria's Children - Child Protection Practice Manual* accordingly. DHHS expects that this recommendation will be implemented by 31 January 2015.

**Recommendation 21: I recommend that the DHHS include in its standard practice of working with reports of family violence, such as where one parent is believed to be non-protective, a professional case conference be convened before closing a file. Such a requirement must exhaust (all best) efforts to:**

- (a) interview the alleged perpetrator of family violence to determine whether harm in relation to a child has been substantiated;**
- (b) engage all agencies involved with the family to remediate the issue of services working in isolation and risk assessments being made with insufficient information;**
- (c) develop a comprehensive and robust safety plan with clear roles and responsibilities as required.**

The Government has commenced implementation of this recommendation. New legislation to be introduced from 1 March 2016 will require the development of a case plan for all substantiated cases. The activities outlined in (a) to (c) above would be features of the case planning process for all substantiated cases. DHHS will implement these changes from 1 March 2016.

DHHS will work to ensure that the recommended activity of convening a case conference before closing a file will occur for files where the report has been substantiated by Child Protection.

DHHS considers that the recommendation relates to substantiated reports of child abuse, and notes that there is a very large number of unsubstantiated allegations of child abuse and neglect made to Child Protection each year. Direct contact with parents occurs at investigation, and it is from the point of substantiation onwards that the new requirements will have effect.

**Recommendation 22: I recommend that where the DHHS assess one parent to be 'protective' but the other is not, that the DHHS provide support to the protective parent, including in court proceedings, to manage the risk posed by the non-protective parent including, (where relevant and appropriate) by recommending that the other non-protective parent have no contact with the child.**

The Government has commenced implementation of this recommendation and will incorporate the recommendations of the final report of the Royal Commission into this ongoing work. DHHS supports the recommendation to offer as much support as practicable to a protective parent including during court proceedings. Where relevant, it is anticipated that this may include recommending to a court the offending parent have no contact with the child.

DHHS has already commenced work considering the intersections between the Children’s Court of Victoria and the Family Court of Australia, and is of the view that the Children’s Court should be empowered to make parenting orders where a protection application has been issued. This issue is also under consideration by the Family Law Council. The Family Law Council review, which will be concluded in June 2016, will consider how families with complex needs, including abuse, family violence and mental health issues, intersect with and experience multiple court jurisdictions, and whether parenting disputes may be better addressed with the assistance of relationship support services and court processes that can cut across the child protection and Family Law systems.

DHHS notes that intervention in the lives of families by Child Protection is limited to that necessary for the protection of the child under the *Children, Youth and Families Act 2005*, sections 10 (3a) and 162.

**Recommendation 23: I recommend that the DHHS provide greater guidance to family violence agencies the circumstances in which a report to Child Protection should be made.**

The Government will implement this recommendation. The Government agrees that education to family violence agencies on circumstances in which a report to Child Protection should be made is critical. Currently, DHHS actively works to educate all professionals regarding reporting obligations, and is supportive of partnering with family violence services to ensure this occurs. In addition, family violence practitioners and adult focused services practice is supported by *Assessing children and young people experiencing family violence 2013 – a practice guide*.

DHHS’s implementation of this recommendation will include reviewing guidance provided to family violence agencies about when to make a report and issuing further advice. The Government will consider further action following completion of the Royal Commission’s final report and incorporating its findings.

**Recommendation 24: I recommend that the DHHS ensure its staff comply with its specialist practice resource '*Working with families where an adult is violent*' (2014) to ensure:**

- (a) when assessing the protective capacity of the non-offending parent, by analysing the protective factors and ensuring they have been weighted against the history;**
- (b) assessing pattern and severity of harm perpetrated against them;**
- (c) undertaking a comprehensive risk assessment of the perpetrator and their behaviour and that the department can demonstrate a robust approach to locating perpetrators that are evading service involvement or have no fixed address.**

The Government has commenced implementation of this recommendation. Currently, DHHS provides ongoing training to Child Protection and the broader sector regarding best practice concerning family violence, including implementation of *Working with families where an adult is violent*.

DHHS's implementation of this recommendation will include a review of how to strengthen training approaches to mandate child protection participation in family violence training, based on the resource guide. The Government will incorporate the Royal Commission's recommendations into this ongoing work.



## VICTORIA POLICE

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### ***Victoria Police response to recommendations arising from the Inquest into the death of Luke Geoffrey Batty***

This document provides the Victoria Police response to the State Coroner's recommendations directed at the Chief Commissioner of Police (recommendations 13-15), arising from the Inquest into the death of Luke Geoffrey Batty, at Tyabb on 12 February 2014.

These recommendations come at a time of significant change in the way that family violence is responded to in Victoria, including within Victoria Police. These recommendations, together with the upcoming findings of Royal Commission into Family Violence, will further inform future policy development and assist all agencies, including Victoria Police, to do everything possible to prevent tragedies like the death of Luke Batty from occurring again.

#### **RECOMMENDATION 13**

*I recommend that the Chief Commissioner of Police amend the Victoria Police Manual and other relevant operating instructions and if appropriate, the Code of Practice for the Investigation of Family Violence to require police officers:*

- a) to provide all completed L17s relevant to an affected person to all relevant agencies operating in the family violence system;*
- b) completing an L17 to review previous L17s relating to the same offender and where possible to contact the authors of previous L17s to ensure information regarding risk is shared and considered;*
- c) to check LEAP prior to completion of an L17 to ensure relevant criminal history, or other matters capable of affecting the risk assessment (including but not limited to other acts of violence with which the perpetrator has been charged, intervention orders obtained by other persons to which the perpetrator is the Respondent) are considered.*

#### **(13a) REFERRAL OF L17s**

The Coroner's recommendation is under consideration and Victoria Police is investigating the feasibility of including all L17s relevant to an affected person within a referral to relevant agencies.

Section 6 of the *Code of Practice for the Investigation of Family Violence* (Code of Practice) currently establishes when police should make a referral, and provides guidance regarding which agencies are to be notified. Processes for making a referral and the information that should be shared as part of the referral is detailed in the *Family Violence Referral Protocol between the Department of Human*

*Services and Victoria Police 2015 and the Protecting Children – The Protocol between Department of Human Services - Child Protection and Victoria Police.*

*The Family Violence Referral Protocol will be reviewed following the findings of the Royal Commission into Family Violence to capture any additional amendments arising from those recommendations.*

#### ***(13b,c) REVIEW OF PREVIOUS L17s AND LEAP CHECKS***

The Coroner's recommendations that police officers review previous L17s and check LEAP is under consideration.

Section 3.1.1 of the Code of Practice requires members to consider the history of family violence when assessing risk of future family violence.

While this implies an assessment of all previous L17s in order to consider the relevant history, this section of the Code of Practice may be amended to make explicit that police should review previous L17s and other factors that may affect risk.

Victoria Police considers the recommendation to require police completing an L17 to contact all previous authors as unfeasible, adversely impacting response time and capacity. Additionally, previous authors may have limited or inaccurate recollection of incidents, given the volume of family violence incidents many police officers respond to.

As an alternative to requiring police officers to contact previous authors of L17s, Victoria Police will investigate whether improvements can be made to the quality and depth of information recorded in L17s.

#### **RECOMMENDATION 14**

*I recommend that the Chief Commissioner of Police cease to use the current definition of 'recidivist' family violence offender and develop criteria for identifying 'high risk' family violence perpetrators that require intensive management. The definition of 'high risk' should be uniformly applied and responded to in all police regions to bring about:*

- a) a warning flag in LEAP;*
- b) more intensive monitoring of the offender, including bail conditions;*
- c) execution of all warrants with respect to the offender to be treated as a priority.*

#### ***(14) IDENTIFYING HIGH RISK***

Victoria Police supports the Coroner's recommendation and is currently reviewing risk assessment practices for family violence matters, to support police in the identification and management of high risk perpetrators and victims.

The definition of 'high risk' in family violence cases would ideally be a shared definition that is understood the same way across the family violence system. A shared understanding of high-risk would support joint agency risk assessment and action planning.



However, uniform application of a definition of 'high risk' requires a shared definition across all agencies within the family violence system, underpinned by the Common Risk Assessment Framework (CRAF) to support joint agency risk assessment and safety planning.

The Department of Health and Human Services (DHHS) is currently reviewing the CRAF and Victoria Police will continue to work with DHHS to develop and apply a uniform definition of high risk. At the conclusion of this work, Victoria Police will implement relevant changes to policy and practice.

In October 2015, Victoria Police distributed a 'ready reckoner' to support police using the L17 to identify high risk. The hard copy resource can be used by police in the field, providing the risk assessment guidance contained on the L17, and highlights risk factors that contribute to a 'high risk' assessment.

Victoria Police is also working with Swinburne University to implement a triage system that effectively identifies cases that require a specialist family violence response to ensure victim safety; and a structured approach to risk assessment within family violence teams to ensure that higher risk cases receive greater resources and to guide risk management strategies. Two pilot sites have been selected for the trial.

In addition, Victoria Police has implemented an updated Priority Person of Interest (POI) process to identify family violence perpetrators as 'high risk' and in need of more intensive management.

The criteria to result in such identification can include recidivism, but may also include assessment of weighted risk factors identified through the L17, and the use of a redesigned Recidivist Offender Prioritisation Tool, used by intelligence practitioners to extract and compile a summary of offending, including all L17s relevant to a particular person of interest. This tool can also be applied to non-recidivists persons of interest.

The Victoria Police Intelligence Doctrine (VPID) has been updated to confirm that priority 'high risk' perpetrators may be selected for more intensive management, including a high risk warning flag.

#### ***(14a) HIGH RISK WARNING FLAG***

Victoria Police has implemented this recommendation with updates to the VPID and implementation of a "POI-Priority Target Management Plan" warning commencing in July 2015.

Previously, there were numerous warning flags including a recidivist family violence flag.

The new flag replaces the multiple warning flags, and is applied to high risk perpetrators identified for ongoing management. Information attached to the flag includes specific and individualised advice detailing what police encountering that person must do to support the coordinated management plan in place. The flag remains active while there is a Priority Target Management Plan in place.

In addition to the updated flag for perpetrators, Victoria Police has implemented Victim Management Plans and a corresponding LEAP warning flag to enable police to provide appropriate support for identified high risk victims.

### **(14b,c) BAIL MONITORING AND WARRANTS**

Victoria Police supports the Coroner's recommendations regarding bail monitoring and warrants and improvements to these practices will be supported by the implementation of shared assessment criteria to identify high risk perpetrators following the DHHS review of the CRAF, and further recommendations from the Royal Commission into Family Violence.

To implement immediate improvements, police officers were advised to submit a whereabouts flag for outstanding Complaint and Warrants for a Family Violence Intervention Order within 24 hours while a longer term IT solution was determined was distributed shortly after the death of Luke Batty to seek immediate improvements.

On 1 April 2014, process changes for handling of warrants were implemented, in accordance with 'Chief Commissioner's Instruction 4/14 Warrants to Arrest – Recording, Filing and Execution'. The process outlines how warrants to arrest issued by a court are recorded on the Electronic Warrants on-line Knowledge Bank (EWOK) soon after issue and rectifies issues with the timely recording of warrants that existed at the time of Luke Batty's death.

### **RECOMMENDATION 15**

*I recommend that the Chief Commissioner of Police amend Victoria Police Manual and other relevant operating instructions and if appropriate, the Code of Practice for the Investigation of Family Violence to require:*

- a) *a police prosecutor appearing in a remand/bail application to have available all previous L17s in relation to the offender to assist them in deciding whether to oppose bail and /or submissions with respect to bail conditions if bail is granted;*
- b) *where practicable the informant in all family violence matters should be in court, or have communicated to the police prosecutor his or her views as to the future risk of family violence by the perpetrator, prior to any remand/bail application relating to the perpetrator;*
- c) *all FVIOs be served on the Respondent with priority and where service cannot be effected substituted service from the Court be obtained within 24 hours;*
- d) *all warrants issued in relation to family violence related incidents be executed with high priority and entered onto LEAP within 24 hours of issue;*
- e) *a benchmark period for the:*
  - i. *Commencement of a prosecution of family violence offences;*
  - ii. *Authorisation of charges for the breach of an intervention order or family violence safety notice.*
- f) *police prosecutors, or other designated police officers to ensure affected family members are kept informed in relation to the progress and outcome of all FVIO proceedings, warrants, bail applications and criminal proceedings which relate to them and any other protected family members.*

*That whenever possible the same police prosecutor be assigned to both the criminal (including bail), and the family violence (civil) matters listed for Magistrates' Courts when the parties are the same in both that is the applicant/victim and the perpetrator/accused.*

***(15a,b) INFORMATION FOR PROSECUTORS AND INFORMANT ATTENDANCE***

Victoria Police is currently considering the implementation of the Coroner's recommendations relating to information provided to support police prosecutors, and the requirements for police informants to attend court.

All police prosecutors and police lawyers currently have access to LEAP, however viewing L17s directly from LEAP can be labour intensive and is not always practicable in efficiently informing a position on bail.

The role of the Family Violence Court Liaison Officer (FVCLLO) was created so that members were not expected to attend court, as this will often not be practicable; rather the informant is assisted by the FVCLLO member acting on their behalf at court in all police initiated applications.

The role of the FVCLLO assists both the Prosecutions and the court by enabling efficient negotiations and providing detailed instructions to the police lawyer on behalf of the police informant. The FVCLLO provides a pivotal role in the preparation of family violence matters and facilitating the ongoing risk assessments and assists in the case management requirements. Further, the FVCLLO monitors the progress of civil and criminal proceedings relating to family violence matters only and offers support to victims at court by ensuring ongoing police presence during court proceedings.

Victoria Police will consider opportunities for the role of the FVCLLO to be available at all court locations and consider opportunities to improve communication and the provision of information to support police prosecutors and police lawyers.

As part of a review of the provision of information between informants and prosecutors and police lawyers at court, Victoria Police will explore potential improvements that do not rely on informants attending court as it will often not be practicable to remove police from front line operations for this purpose.

***(15c) SERVICE OF FVIOs AS A PRIORITY***

Victoria Police is currently considering the Coroner's recommendation to expedite the service of FVIOs.

A review of guidance in the Code of Practice which requires service of intervention orders to be executed within a 'reasonable time' is currently underway, and Victoria Police is also exploring options for interim measures to ensure service of FVIOs are prioritised.

The 24-hour time frame is not considered feasible, as in many cases personal service can require more than one service attempt by police and an inability to serve an order within 24 hours is not necessarily indicative of a perpetrator proactively avoiding service.

If unserved intervention orders were to be returned to court within 24 hours of issue, this is likely to significantly increase the number of intervention order subject to a substituted service order and potentially increase the likelihood of contraventions due to respondents not being aware of orders or the conditions of orders.

Victoria Police will consider improvements to these processes in line with the Victoria Police submission to the Royal Commission into Family Violence, suggesting that wider reforms to the service of intervention orders are required to reduce the need for personal service.

**(15d) WARRANTS TO ARREST**

Victoria Police considers the execution of all warrants to be high priority and has implemented process changes to rectify issues with the timely recording of warrants that existed at the time of Luke Batty's death (see response to recommendation 14c.) Warrants are now available to all police officers within 24 – 48 hours.

**(15e) BENCHMARK PERIODS FOR PROSECUTION**

**Family Violence Accelerated Justice Outcomes Project**

Victoria Police has initiated an accelerated justice project in partnership with the Magistrates' Court of Victoria, for all criminal matters involving family violence whereby court matters are heard within specified timeframes. Pilot sites include Dandenong, Shepparton and Broadmeadows. Further rollout has commenced at Ballarat and Ringwood. These pilots include consideration of authorisation timelines, and feedback will enable further consideration for implementation of this recommendation.

**(15f) PROVISION OF INFORMATION TO AFMs**

The Victims Charter and the Code of Practice set out the obligations of police officers to notify victims of the progress and outcomes of their case before court.

In August 2015, Victoria police launched the organisation-wide *Future Directions for Victim-Centric Policing* supported by the *Victim-Centric Service Delivery Strategic Approach 2015 – 2018* to support compliance with the Victims Charter, and to enhance services to victims and those in need of assistance.

Police lawyers and legal support officers are required to ensure informants are notified of court outcomes in relation to matters which are adjourned to Directions Hearings, Contested Hearings and County Court matters. Police lawyers will also contact affected family members to ensure they are informed of the FVIO application outcome and progress, and the requirements of the court process (i.e. attendance at hearings and provision of evidence if required). However, this is becoming increasingly challenging given the increasing lists and capacity to case manage these matters using limited resources.

Victoria Police will consider whether further guidance in the Code of Practice and VPM needs to be implemented to give effect to this recommendation and the Victims Charter obligations.

**(15 continued) ASSIGNMENT OF PROSECUTORS**

Victoria Police is currently considering implementation of the Coroner's recommendation for the same police prosecutor be assigned to both the criminal (including bail), and the family violence (civil) matters.

A significant increase in family violence reporting has led to the appointment of more police lawyers to manage the increasing court caseloads relating to FVIO applications and County Court Appeal IVO matters.

Currently, in the metropolitan region, police lawyer's case-manage and appear in all FVIO applications on behalf of the police informant. Where there are criminal charges attached, a police prosecutor will prosecute those matters. Victoria Police is considering opportunities to expand the number of police lawyers to deal with family violence incidents.

In considering this recommendation Victoria Police will work with the Magistrate's Court of Victoria to ensure there are no inadvertent delays to justice caused by scheduling issues when attempting to align criminal and civil matters, and manage issues for police prosecutors managing increased caseloads.