

Final Report to

Victoria Police

FVSN Evaluation Steering Committee

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Abbreviations

A&W	Application and Warrant
AFM	Affected (Aggrieved) Family Member
C&W	Complaint and Warrant
A&S	Application and Summons
CALD	Culturally And Linguistically Diverse
CLC	Community Legal Centre
CRAF	Common Risk Assessment Framework
DHS	Department of Human Services
DoJ	Department of Justice
DPCD	Department of Planning and Community Development
FIR	Family Incident Report
FVCD	Family Violence Court Division
FVIO	Family Violence Intervention Order
FVPA	Family Violence Protection Act (2008)
FVSN	Family Violence Safety Notice
FVU	Family Violence Unit
LEAP	Law Enforcement Assistance Program (Police data base)
NCARS	Northern Crisis Advocacy Response Service
SOCACO	Sexual Offences and Child Abuse Coordination Office
VicPol	Victoria Police
VLRC	Victorian Law Reform Commission
WDVCS	Women's Domestic Violence Crisis Service

Project management

The evaluation of the Family Violence Safety Notices (FVSNs) project was commissioned by Victoria Police, and funded by the Department of Justice. The Department of Justice Family Violence Steering Committee had oversight of the evaluation. A FVSN Working Group was established to progress work related to the evaluation, and to provide feedback to the Steering Committee.

The project Working Group comprised representatives of Victoria Police, Department of Justice, the Magistrates' Court of Victoria, Department of Human Services and the Department of Planning and Community Development.

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Contents		page no.
Executive summary		i
1	Introduction	1
2	Background	
2.1	Introduction	3
2.2	Structures to support an integrated response	3
2.3	Examples of reforms in Victoria Police	3
2.4	Legislative reform	4
2.5	Court reforms	4
2.6	Enhanced risk assessment and management	5
2.7	Prevention and early intervention	5
2.8	Stay at home initiatives	5
2.9	Enhanced services for perpetrators	5
2.10	Summary	6
3	Family Violence Safety Notices	
3.1	Background	7
3.2	Key features of the FVPA 2008	7
3.3	Family violence policing model	7
3.4	Laws governing the use of FVSNs	10
3.5	Anticipated benefits of FVSNs	12
4	Inputs to the establishment of the FVSN pilot	
4.1	Introduction	16
4.2	Legislative basis for FVSNs	16
4.3	Implementation strategy – Victoria Police	17
4.4	Implementation strategy – the courts	23
4.5	Initiatives within the community sector to support the implementation of FVSNs	27
4.6	Collaborative structures and arrangements between stakeholders	28
4.7	Summary comments on inputs to support the introduction of FVSNs	30
5	Short term service outcomes associated with the use of FVSNs in Victoria	
5.1	Introduction	33
5.2	Extent to which police are utilising the FVSN option	33
5.3	Extent to which police feel empowered to respond to family violence	47
5.4	Appropriate use of FVSNs	48
5.5	Processes	55
5.6	Summary	63
6	Client outcomes associated with the use of FVSNs in Victoria	
6.1	Introduction	67
6.2	Client outcomes – Police responses	67
6.3	Client outcomes at court	77
6.4	AFM and perpetrator knowledge of status and rights, in relation to FVSNs	80
6.5	Equity and appropriateness of FVSNs, in relation to Indigenous people	80
6.6	Equity and appropriateness of FVSNs, for people from CALD backgrounds	82
6.7	Equity and appropriateness of FVSNs in relation to women with disabilities	85
6.8	Summary	86
6.9	Concluding comment	88
Appendix 1: Methodology		
Appendix 2: AFM interviews		
Appendix 3: Summary of views of key stakeholders		
Appendix 4: Additional data tables – regional variations		
Appendix 5: References		

Executive summary

This report of the evaluation of Family Violence Safety Notices has been prepared for Victoria Police and Department of Justice (DoJ), and will be considered by the DoJ Family Violence Steering Committee.

Family Violence Safety Notices (FVSNs) were introduced as part of the Victorian *Family Violence Protection Act 2008* (FVPA) on 8th December 2008.

FVSNs were introduced primarily to enhance the safety of Affected Family Members (AFMs) through police actions by:

- providing immediate safety for victims and their children for a 72 hour period from the time of issue
- acting as an application to the Magistrates' Court of Victoria for a Family Violence Intervention Order
- acting as a summons for a respondent to attend Court on the first mention date.

FVSNs were introduced as a pilot for a 2 year period, and subject to an evaluation. The stated objectives of the FVSN pilot are:

- To improve the after hours response to family violence incidents
- To improve the safety of victims after hours
- To hold perpetrators accountable for their behaviour.

The aims of the evaluation are to examine the effectiveness of the FVSN pilot; establish the extent to which the objectives of the pilot are being achieved; and identify further actions required to achieve the objectives of the pilot.

The evaluation involved a planned approach to collecting statistics and information from a wide range of sources including Government Departments, Victoria Police, the Magistrates' Court, community sector agencies and people directly affected by family violence.

The Report which follows is based on information from the commencement of the FVPA to the end of May 2010. This report provides an update of the Interim report which was based on data up to the end of January 2010.

The summary below indicates that the FVSN pilot is meeting its objectives to a reasonable extent, and that a number of further actions are required.

Improved after hours response to family violence incidents (objective 1)

Overall, the evaluation found that FVSNs have contributed to an improved after hours response to family violence, by Victoria Police. Police are using FVSNs as an option in the after hours response to family violence. Indications are that police feel more empowered to respond to family violence after hours as a result of having FVSNs as an additional option.

The introduction of FVSNs is associated with an increase in the level of civil action when police respond to family violence incidents. In the six month period July to December 2008, A&Ws were issued in 21% of all family violence incidents attended by police. In the following six month period January to June 2009, FVSNs and A&Ws were issued in 26% of all incidents, and in the subsequent six month period FVSNs and A&Ws were issued in

27% of all incidents. It may be inferred from this that FVSNs are contributing to an enhanced after hours response by police to family violence.

The introduction of FVSNs means that Victoria Police now have four civil options at their disposal. With FVSNs, police acknowledge the benefit of having the capacity to take immediate action. FVSNs appear to complement the other 3 options.

The number of FVSNs issued since the introduction of the FVPA is significant given the limitations on their use. Limitations include the restricted availability of some courts within the 72 hour timeframe; the requirement that the respondent is present for police to issue a FVSN; that there are no pre-existing family violence orders (there are family violence orders in place in 24% of all Family Incident Reports); and that the respondent is over 18 and not cognitively impaired. The 72 hour time frame means that FVSNs cannot be used in about 20% of FIRs, due to courts not being available (mainly in rural areas).

Factors which limit the consistent use of FVSNs include police culture and practices, and the adequacy and coverage of training. In some regions, outcomes and practices of the local Magistrates' Court have discouraged the use of FVSNs, resulting in relatively lower use of FVSNs.

Police members report that one of the major benefits of using FVSNs is the time saved, compared to an A&W. On average it takes police 165 minutes to issue a FVSN, which is about 30 minutes less than the time it takes to issue an A&W.

The majority of FVSNs are being issued in person at the police station (rather than at the scene of the incident). Police identify several advantages in removing the respondent, and returning to the station to issue a FVSN. The low number of FVSNs issued remotely, is also attributed to police finding the required processes onerous. Holding powers have been used in 24% of FVSNs issued (Direction 14%, Detention 10%). Given that the majority of respondents are accompanying police to the police station, this suggests that police are exercising appropriate discretion in the use of holding powers.

A reduction in the time taken by police to complete a civil action by using a FVSN, was expected to reduce the time police spend attending family violence incidents overall, thus (potentially) freeing up resources for other policing activities. While this has been achieved to a minor extent, the benefits of removing the respondent to the police station also need to be acknowledged.

At a broader level, the introduction of FVSNs as part of the FVPA, has been supported by significant organisational development initiatives within Victoria Police including a family violence training program, new positions to enhance the police response to family violence, and the establishment of specialist family violence units within some police stations.

In conclusion, the introduction of the FVPA, together with the supporting initiatives, has contributed to an improved after hours response to family violence incidents. FVSNs appear to have been an important part of these improvements, and have been a catalyst in the whole of government reform agenda.

Key further actions which are indicated include:

- Considering the desirability and feasibility of extending the 72 hour limitation to increase the potential use of FVSNs in rural areas
- On going police training to ensure that all members can provide an efficient and effective response to FIRs. Priority areas include more consistent application of skilled risk assessments by all members at every Family Incident Report; improved quality of FVSN documentation and application processes; increased compliance by all members with processes and the Code of Practice; and the ongoing development of culturally competent practice.
- Investigating ways to facilitate increased use of remote applications of FVSNs.

Improved safety of victims after hours (objective 2)

The evaluation found that the introduction of FVSNs has contributed to some extent to improved safety of AFMs after hours, however a number of improvements are required to ensure safety for a greater number of AFMs.

Police actions and processes

The increase in civil actions from 21% (A&W) to 27% (A&W and FVSNs) as noted above implies that safety of AFMs in Victoria has increased to some degree.

FVSNs which have been issued have, in the main, been upheld by courts, with two thirds (67%) of applications resulting in an FVIO. This compares favourably with A&Ws (71% of applications result in an FVIO). Courts have thus affirmed police judgements to issue FVSNs to ensure the safety of the AFM. The rate at which FVSNs are converted to FVIOs would probably be higher if magistrates had been enabled to adjourn cases rather than strike them out for lack of oral and sworn evidence.

Several types of data suggest that some police are issuing FVSNs in instances which are 'less serious', compared to A&Ws. For example some form of 'Assault' was recorded as the incident code for 74% of A&Ws, compared to 62% for FVSNs. Charges were laid in 48% of incidents when A&Ws were issued, compared to 28% of incidents when FVSNs were issued. FVSNs have contributed to the police taking the initiative in applying for an FVIO, reducing potential blame and retribution on AFMs by perpetrators, and thus enhancing safety for AFMs.

A small number of AFMs interviewed for the evaluation reported that they felt immediately safer as a result of the FVSN, and the removal of the respondent. AFMs noted that police took control and made decisions independently, and were relieved that they did not have to support police action, or initiate charges themselves in order to have the respondent removed. FVSNs potentially increase AFM's (and the broader community's) confidence in the ability of police to address family violence.

Police report that their actions in relation to FVSNs send a significant message to perpetrators that family violence is unacceptable behaviour. This is supported by the high rate of removing the perpetrator to the police station and subsequent exclusion (in 84% of FVSNs issued). FVSNs are also seen

to contribute to improved AFM safety at least until the court hearing which occurs within 72 hours.

The FVPA introduced the same penalties for contravention of FVSNs as those which apply to the contravention of an intervention order to provide a strong deterrent to respondents and ensure greater protection for AFMs. Recorded contraventions of FVSNs are very low. In the first 12 months 127 charges were laid for breach of FVSNs, and there had been 72 proven contraventions of FVSNs up to end February 2010. The low rate of recorded contraventions within the 72 hours may suggest successful protection for AFMs, but it may also indicate that contraventions are not being dealt with adequately. Several AFMs interviewed said that the respondent had contravened the FVSN, without consequences by the police.

FVSNs may impact on AFM safety in subtle, yet still significant ways. It might be argued that the short time to court associated with FVSNs (eg. 30% of FVSNs are finalised within 24 hours) reduces the AFMs exposure to risk of the respondent re-offending. There also appear to be fewer FVSN applications withdrawn compared to A&W (9% FVSNs compared to 12% A&Ws).

Conversely, the short time frame and the limited availability of after hours support services for AFMs and respondents can mean that parties do not access information and support from specialist family violence services prior to the court hearing. This may impact attendance rates at court, whether AFMs support the application, and/or their approach to the conditions of the final order. These may, in turn affect the AFMs safety.

During the evaluation there were concerns expressed about several areas of police practice which were inadequate, and which do not contribute to enhanced safety for AFMs (although these are not necessarily characteristic of FVSNs alone, and prevalence of these inadequacies is largely unknown). Concerns related to:

- adequacy and consistency of police practices in undertaking risk assessments at every FIR to ensure the AFMs safety. This includes concerns about police not taking civil action even when the AFM is fearful, or the risk of future violence is 'likely'
- police members not assisting women to relocate (eg. to a refuge), when this may be a safer option (including where respondents are excluded). Very few women are assisted to relocate to a refuge when a FVSN is issued. This also needs to be considered in the context of 16% of respondents who are not excluded.
- police members not providing AFMs with paperwork, or sufficient information/ explanation (as required by the FVPA 2008)
- police members not making appropriate referrals of AFMs to family violence services (46% formal, and 34% informal referrals are made when FVSNs are issued). This is particularly important when a FVSN is issued, and there is limited time for an AFM to obtain support before the court hearing
- police members not making appropriate referrals of respondents to men's services

- police members not responding adequately to AFMs who are from CALD backgrounds, including not using interpreters where the AFM has poor proficiency in speaking English (or using children, family or community members who may be allied with the perpetrator)
- police members not responding adequately to women who have disabilities
- police members not responding adequately to women who are Indigenous, where there are particular safety issues.

While these inadequacies are not unique to FVSNs, some are more important in the context of FVSNs and the 72 hour limitation, and the impact of removal and exclusion of the perpetrator. Many of the inadequacies could be addressed by training, procedures/ protocols, and improvements in FVSN documentation.

Key further actions which are indicated include:

- Improving the adequacy and consistency of police risk assessment and management strategies (for FVSNs and other options)
- Improving police data entry practices, to ensure FVSN information is entered onto LEAP as soon as possible, particularly having regard to actions which the respondent might take prior to the court hearing which is necessarily within 72 hours
- Enhancing referral practices (for FVSNs and other options)
- Strengthening after hours support services to provide AFMs with information and assistance to remain safely in their home if they wish, and to prepare for court
- Developing enhanced responses to AFMs from CALD backgrounds, and Indigenous AFMs (for FVSNs and other options)
- Developing enhanced responses to AFMs with disabilities, and considering whether FVSNs are appropriate in these circumstances.

Magistrates' Courts actions and processes

The Magistrates' Court has granted final FVIOs in 67% of FVSN applications. FVIOs are issued to protect AFMs, and include a number of restrictions which prevent violent behaviour, according to the level and type of risk as assessed by the magistrate.

Approximately 22% of FVSN applications were struck out by Magistrates, and 9% were withdrawn before being heard. While there is no information about why applications are struck out, it is known that some are struck out for lack of evidence. When the application is struck out the FVSN expires and there is no formal protective mechanism in place.

While the legislation is not clear, it has been generally considered that FVSNs cannot be adjourned, as the FVPA states that a FVSN ends when the court refuses to make an FVIO on the first mention date, or when the court makes a FVIO on the first mention date.¹ The court cannot make an interim order (thus providing protection for the AFM) unless an application is supported by oral

¹ FVPA 2008, s30 (1b).

evidence or an affidavit. As it is common practice that FVSNs are certified, rather than an affidavit, many courts strike out FVSN applications in the absence of the respondent, the AFM and the informant. Anecdotally this shortcoming was exploited by some respondents exerting pressure on AFMs to not attend court.

In some circumstances, magistrates who have struck out FVSN applications have suggested to police that an A&W be issued. Despite the 'no adjournment' view, a number of magistrates have chosen to adjourn (without making an interim intervention order) rather than strike out an FVSN application. Where this has occurred there has been no protection for the AFM until the subsequent hearing.

Because of these difficulties, some magistrates prefer A&Ws to be used in preference to FVSNs, noting that the court can adjourn an A&W hearing and extend bail, and/or issue a warrant if the respondent does not attend the hearing.

Recent changes to legislation however, now provide for a magistrate to make an interim order on the basis of a certified FVSN, as well as oral evidence or an affidavit. This will likely result in less FVSN applications being struck out.

In the broader context of an increase in family violence lists, FVSNs have had a major impact on Magistrates' Courts. The 72 hour limitation has meant that a proportion of cases (27%) are listed for first mention on non preferred listing days; court lists need to be arranged to ensure that FVSNs are given priority to be heard on the listing day; and some days (eg. Mondays) have a particularly high volume of FVSNs listed, due to the number of FVSNs issued on the weekend. These issues are problematic in courts which lack adequate support services, and/or the physical facilities to provide adequate separation and safety for AFMs (eg. Dandenong). As a result AFMs may not receive sufficient assistance and support, resulting in situations and outcomes which are less safe. Further actions which are indicated include:

- Legislative amendment to achieve clarity and increased consistency in court practices, particularly whether or not a case can be adjourned, and how protection can best be provided to AFMs in all circumstances.
- Sufficient support services and appropriate facilities in all high volume family violence courts.

Holding perpetrators accountable for their behaviour (objective 3)

FVSNs were intended to strengthen the accountability of perpetrators of family violence. The premise was that increased accountability would be facilitated by immediate police action which includes an option for exclusion, and with subsequent accountability to the Magistrates' Courts; and by referral to men's services which can assist men to address and change behaviours.

The accountability of perpetrators has increased overall with an increase in civil actions taken against perpetrators (see above), and decisions by the courts, where final orders resulting from FVSN applications include a number of restrictions preventing violent and controlling behaviour.

The immediate issuing of an FVSN close to the time of the incident provides a clear and strong message, delivered by the police, that family violence is unacceptable and against the law. Several police members and Sergeants

noted that removal of perpetrators to the police station, followed by exclusion from the home, has a significant impact on the perpetrator.

Accountability of perpetrators may be increased by referral to men's services, for voluntary uptake of behaviour change programs. Referrals by police to men's services associated with FVSNs, are relatively low to date (formal referrals are 22% of FVSNs, which is similar to A&Ws). This requires priority attention. Courts have limited powers to require that men attend behaviour change programs (unless they are Family Violence Court Division courts) and the literature is equivocal on the success of mandated programs.

FVSNs incorporate a number of conditions to protect the AFM. Respondents are excluded in 84% of FVSN applications, indicating that a minority (16%) of respondents may be held 'less accountable' by the FVSN conditions, as they are allowed to remain in their home.

FVSNs operate in effect as a summons to appear in court within 72 hours, where the respondent is required to account for his actions. There is however, less accountability associated with a summons, compared to a warrant. As indicated, if AFMs and respondents do not attend court, there is a likelihood that the application will be struck out. Where this occurs, respondents are not being held accountable.

Criminal charges and penalties associated with contravention of a FVSN provide a stronger accountability framework compared to A&Ws. Very few contraventions of FVSNs have been recorded and relatively few respondents have incurred penalties (72 proven contraventions, with 6 respondents gaoled, 6 suspended sentences, 27 fined, 9 given community based orders, and 24 adjourned with undertakings). This may be a reflection of the success of a stronger accountability framework. It may also be due in part to the limited time period in which a respondent has the opportunity to contravene a FVSN. Nevertheless a number of respondents and AFMs attend Court together having 'reconciled' and thus having contravened the FVSN.

In summary, there is a stronger evidence base to suggest that the FVSN pilot has made more significant advances in achieving an improved after hours response to family violence (Objective 1) and improved safety of victims after hours (Objective 2), than it has in holding perpetrators accountable for their behaviour (Objective 3). Further investigation is required on the extent to which FVSNs contribute to perpetrators being held accountable for their behaviour.

Based on the data provided to the evaluation, there is sufficient evidence to suggest that FVSNs are being applied with appropriate discretion overall, and being upheld by the courts in 67% of cases. The shortcomings which have been identified however, need to be addressed and remedied in the near future. Actions which are indicated include:

- Consideration of whether contraventions of FVSNs are being adequately addressed and dealt with by the police
- Improved communication by police to respondents and AFMs regarding the consequences of breaching FVSNs
- Significantly increased referral by police to men's referral services.

1 INTRODUCTION

Family Violence Safety Notices (FVSNs) were introduced as part of the Victorian *Family Violence Protection Act 2008* (FVPA), on 8th December 2008. The FVPA requires that reports should be produced covering the first 12 months operation of the FVSN pilot, with the requirement that both the Chief Commissioner of Police and Chief Magistrate provide reports to the Attorney General, within 3 months of the end of the first 12 months (ie. by 8th March 2010).²

An evaluation of FVSNs was commissioned and overseen by Victoria Police, in close cooperation with the Department of Justice, and commenced in August 2009.

An Interim report of the evaluation of Family Violence Safety Notices was prepared in January 2010 in order to meet the reporting deadlines. The Interim Report was well received.³

This final report updates the data in the interim report and comprises 15 months of data (compared to 9 months of data for the interim report), as well as additional information based on research undertaken after the interim report was submitted.

The aims of the evaluation are to examine the effectiveness of the FVSN pilot; establish the extent to which the objectives of the pilot are being achieved; and identify further actions required to achieve the objectives of the pilot.

The stated objectives of the FVSN pilot are:⁴

- To improve the after hours response to family violence incidents
- To improve the safety of victims after hours
- To hold perpetrators accountable for their behaviour.

The evaluation framework comprises 5 key research areas.

- Establishment of the FVSN pilot (including training, guidelines, changes to policies and procedures)
- Utilisation of FVSNs by police
- Court processes in relation to FVSNs
- Outcomes of the FVSN pilot
- Potential for improvement

The framework for the evaluation framework was based on the program logic key outcome areas developed for the introduction and use of FVSNs in Victoria. The methodology was developed, consistent with the agreed evaluation framework and research questions. The methodology included:

- Consultations with a wide range of key informants
- Literature review

² FVPA 2008, s40.

³ The Interim Report was considered by the FVSN Evaluation Working Group.

⁴ These Objectives are not specifically stated in the FVPA 2008, but are contained in the FVSN Evaluation Framework (2009:3), SOCACO, which is based on the FVPA 2008.

- Detailed data collection strategy, based on three sources: Courtlink; Victoria Police's Law Enforcement Assistance Program (LEAP); and the Magistrates' Court After Hours Service data base
- Surveys of police, magistrates, registrars and other court officers, community legal centres, family violence outreach services, men's behaviour change programs
- Interviews with AFMs and respondents.

A detailed description of the evaluation framework and methodology is at Appendix 1.

This report is set out as follows:

Section 2 presents a summary of the background and context relevant to the introduction of FVSNs in Victoria.

Section 3 describes salient aspects of FVSNs, and related areas, including the FVPA 2008, the policing and the Victoria Police Code of Practice for the Investigation of Family Violence options model, and the rationale for the introduction of FVSNs.

Section 4 presents an evaluative discussion of the inputs to the establishment of FVSNs. Discussion covers legislation, the implementation and training strategies within Victoria Police and the Magistrates' Court, initiatives within the community sector, and collaborative structures and arrangements between stakeholders.

Section 5 presents evaluation findings in relation to service outcomes associated with the use of FVSNs.

Section 6 summarises themes in terms of impacts of FVSNs on affected parties.

Selected appendices are provided as supporting material.

2 BACKGROUND

2.1 Introduction

In the early 2000s the Victorian government committed to a major policy platform to reduce, and more effectively address the incidence of family violence in the community. The Women's Safety Strategy 2002-2007 was launched in 2002, outlining Victoria's policy framework for a whole of government approach to address family violence.⁵ This was consistent with national commitments, policies and initiatives.⁶

The whole of government approach in Victoria involves a wide range of government departments and program areas, peak bodies, funded service providers and other stakeholders. Key government organisations include:

- Victoria Police (VicPol)
- Department of Justice (DoJ)
- Department of Human Services (DHS)
- Department of Planning and Community Development (DPCD)
- Department of Education and Early Childhood Development (DEECD).

Statewide and other cross departmental/ sector committees were established to oversee reforms. In 2005 the Statewide Steering Committee to reduce Family Violence released its report *Reforming the Family Violence System in Victoria*, and the Government funded a major family violence reform package, strengthening police, court and support services.⁷

Select aspects of initiatives relevant to the introduction of FVSNs in Victoria are noted below. This overview is not comprehensive, but serves to broadly place the introduction and evaluation of FVSNs in context.

2.2 Structures to support an integrated response

Several statewide and regional advisory structures were established to facilitate the implementation of the Government's integrated reform agenda. The Family Violence Interdepartmental Committee comprises the above 5 Departments (chaired by DPCD). In addition, a Family Violence Statewide Advisory Committee, and other supporting committees were established.

At regional and sub regional levels, Integrated Family Violence Committees were established, with membership comprising a wide range of community based family violence services, as well as police, child protection, courts, health services and schools.

⁵ Victorian Department of Premier and Cabinet (2002) *Women's Safety Strategy: A Policy Framework*, Melbourne. See also KPMG (2008) *Women's Safety Strategy 2002-07, Evaluation Report*, Office of Women's Policy.

⁶ Partnerships Against Domestic Violence (2002) *Partnerships Against Domestic Violence Annual Report 2000/01: A substantial and growing commitment*, Office of the Status of Women, Canberra.

⁷ Statewide Steering Committee to Reduce Family Violence (2005) *Reforming the Family Violence System in Victoria*. Office of Women's Policy. Melbourne.

2.3 Examples of reforms in Victoria Police

Reform has occurred in several areas, consistent with the overarching policy reform aims. Central to the strategy is an integrated and collaborative approach involving various Government departments and program areas.

Examples of major reforms within Victoria Police include the Code of Practice for the Investigation of Family Violence, introduced in 2004; enhanced approaches to risk assessment and management including the use of the Family Violence Risk Assessment and Management report (commonly referred to as the L17); and organisational development initiatives designed to strengthen and provide a specialist response by Victoria Police. This included the creation of Family Violence Managers, Family Violence Advisers, and Family Violence Liaison Officers within Victoria Police (further information about these is contained in section 4.3).

2.4 Legislative reform

Of particular relevance to this evaluation was the design and implementation of new legislation. This began in 2002 when the Victorian Law Reform Commission (VLRC) commenced its review of family violence laws.⁸ The review culminated in *The Family Violence Protection Act 2008*, which replaced the *Crimes (Family Violence) Act 1987* on 8th December 2008. The new legislation led to a number of changes to policies and programs in Government departments.

Considerable resources have been invested in implementing the new legislation, and associated programs, including training and professional development, and updating various policies, procedures, guidelines and other documentation. This has occurred within Victoria Police, and the Magistrates' and Children's Courts and also within Government and the community sector.

2.5 Court reforms

Major court reforms have included the establishment of the Family Violence Court Division (FVCD) in 2005 (Heidelberg and Ballarat Courts). This was followed by the establishment of the Specialist Family Violence Service in 2006 in Melbourne, Sunshine/Werribee and Frankston Magistrates' Courts. A number of new positions were established in these specialist courts. The FVCD courts have specialist family violence registrars, applicant support workers, respondent workers, specially funded duty lawyer services, private security officers and outreach services. The SFVS courts are funded for specialist family violence registrars and applicant support workers. The SFVS and some other courts have duty lawyer services for applicants and respondents and local arrangements have resulted in the presence of outreach services and respondent workers on some days. Some courts also have police/court liaison officers.

Additional resources were provided for the Magistrates' Court After Hours Service, which was relocated from the Coroner's Court to the Melbourne Magistrates' Court and reformed to increase its capacity to process family violence applications.

⁸ Victorian Law Reform Commission (2004) Review of Family Violence Laws: Consultation Paper, Melbourne; Victorian Law Reform Commission (2006) Review of Family Violence Laws: Report Summary, Melbourne.

2.6 Enhanced risk assessment and management

An important Statewide initiative, managed by DPCD, was the development of a Common Risk Assessment Framework (CRAF), introduced in 2007. The Framework provides community based agencies with a consistent framework for assessing risk.⁹ Victoria Police and the Magistrates' Court have established risk assessment and management frameworks which are broadly consistent with the CRAF. Victoria Police commenced using risk assessment in 2004 and has since modified risk assessment processes to complement the CRAF. The Magistrates' Court began using CRAF in December 2008.

2.7 Prevention and early intervention

A key element of the reform strategy is prevention and early intervention, to reduce the incidence of family violence. A number of media campaigns and awareness raising initiatives (eg. ENOUGH campaign) have been conducted.¹⁰ In November 2010 the Victorian Government launched *A Right to Respect: Victoria's Plan to Prevent Violence Against Women 2010-2020* which addresses the underlying causes of violence against women and reflects the Victorian Governments commitment that all women have a right to live free from violence. It is a long term and whole-of-community framework for action to change the culture in which violence occurs.¹¹

2.8 Stay at home initiatives

An important development in the reform agenda was the increased investment by government and the community sector to enable women and children to stay safely at home, if they wish, with the perpetrator removed. Tenancy changes made under the FVPA have supported victims of family violence to become the legal tenant in rented premises (if they are not already). Programs in community based family violence services have been funded to provide assistance with private rental, strengthened after hours outreach services for AFMs, and other 'stay at home' initiatives.¹²

2.9 Enhanced services for perpetrators

A range of services for men who use violence have been introduced, or strengthened. Examples include emergency accommodation and case management support for perpetrators, after-hours telephone response, enhanced intake services for men's behaviour change programs, counselling and referral services, and behaviour change programs. The expansion of services for men who use violence has been accompanied by the development of a service model and practice guide for enhancing access to

⁹ Department for Victorian Communities (2007) *Family Violence Risk Assessment and Risk Management, Supporting an integrated family violence service system*, Melbourne.

¹⁰ See www.familyviolence.vic.gov.au/EnoughCampaign

¹¹ Department of Planning and Community Development (2009) *A Right to Respect Victoria's Plan to Prevent Violence Against Women 2010-2020*

¹² One example is the Northern Crisis and Advocacy Response Service (NCARS). See Frere et al. (2008)

men's behaviour change programs¹³ and a framework for comprehensive risk assessment.¹⁴

2.10 Summary

The Family Violence Protection Act 2008 introduced an enhanced system of family violence intervention orders with an increased focus and emphasis on the safety of family violence victims and their children. In particular the Act supports enhanced after-hours protection for AFMs through the additional option of police-issued FVSNs.

While most stakeholders supported the principles of the new legislation, there were some concerns about police being able to issue FVSNs, and exclude perpetrators, without immediate reference to the courts.

Acknowledging these concerns, FVSNs were limited to 72 hours, and were subject to a sunset clause with an end date of 8th December 2010 so that the effectiveness of the FVSN pilot could be reviewed in this time. In addition to evaluating the impact of FVSNs in terms of the safety of AFMs, and enhanced accountability of perpetrators, the evaluation sought to assess whether the concerns about increased police powers were warranted.

¹³ No To Violence (2005) *Men's Behaviour Change Group work: minimum standards and quality practice, summary document*. Melbourne.

¹⁴ Department of Human Services (2009) *A framework for comprehensive assessment in men's behaviour change programs*, Melbourne.

3 FAMILY VIOLENCE SAFETY NOTICES

3.1 Background

The Family Violence Protection Act (FVPA) 2008 came into effect in Victoria on 8th December 2008, replacing the Crimes (Family Violence) Act 1987. The FVPA emphasises the safety of family violence victims and their children in the short, medium and long term. The stated purpose of the Act is to:

- (a) maximise safety for children and adults who have experienced family violence; and
- (b) prevent and reduce family violence to the greatest extent possible; and
- (c) promote the accountability of perpetrators of family violence for their actions.¹⁵

The Act aims to achieve its purpose by:

- providing an effective and accessible system of family violence intervention orders and family violence safety notices; and
- creating offences for contraventions of family violence intervention orders and family violence safety notices.

3.2 Key features of the FVPA 2008

In summary the provisions of the FVPA include:

- Broadening the definition of family violence so that it includes economic and emotional abuse, as well as other types of threatening and controlling behaviours
- Expanding the definition of 'family' to cover a range of family and family-like relationships
- Giving police more powers to respond more quickly and effectively to family violence
- Making it easier for victims of family violence to remain in their homes including by changing tenancy arrangements.
- Better protection for children involved in contact arrangements.
- Improving the court process to provide better support for victims, including restricting respondents to family violence intervention orders who are self-represented from personally cross-examining their victims in court
- Better protection for child respondents.

A key feature of the FVPA is the introduction of Family Violence Safety Notices.

3.3 Family violence policing model

3.3.1 Introduction

In the early 2000s Victoria Police commenced the development of a new family violence policing model. Consistent with other government initiatives at this time, Victoria Police joined other Government Departments and the

¹⁵ FVPA (2008) s1, p3.

community sector in a whole of government approach to address violence against women. In 2001 Victoria Police conducted a review of all matters related to violence against women, and released the Violence Against Women Strategy in 2002.¹⁶ One of the 25 recommendations was to develop a Police Code of Practice in relation to dealing with family violence incidents.

3.3.2 Police Code of Practice

The Victoria Police Code of Practice for the Investigation of Family Violence was introduced in 2004. The Code describes how police should respond to reports or incidents of family violence. The Code covers the police Options Model (see section 3.3.4 below), and provides guidelines for police on civil options, criminal options and referral.

3.3.3 Risk assessment context

FVSNs were introduced in Victoria in the context of an enhanced risk assessment process, designed to help police decide an appropriate course of action (ie. whether or not an incident is family violence, and whether the risks to the AFM are likely to continue or escalate). The risk assessment conducted by Victoria Police is intended to take into account a number of factors including the victim's own assessment of safety and risk levels; previous incidents; evidence based risk indicators; and other relevant information.

Police use a Family Violence Risk Assessment and Management Report (VP Form L17) which facilitates identification of risk indicators. The risk assessment is consistent with the whole of government common risk assessment framework.

3.3.4 Code of Practice Options Model

The police Code of Practice Options Model, describes three options available to Victoria Police in response to a family violence incident (FIR) – civil options, criminal options and referral. These options are not mutually exclusive, and police are meant to always make a referral.

Civil options

The civil options available to police after hours are:

FVSNs – respondents are issued with a FVSN immediately by police without reference to a Court. The FVSN has the status of a summons to appear in court (within 72 hours), and a notice with conditions imposed on the respondent (see Section 3.4 below).

Application & Warrant (previously called Complaint & Warrant) – police make application to the after hours service, and a Registrar issues a warrant for the respondent's arrest. The respondent is arrested, usually taken to a police station, and remanded in custody or bailed to attend court, usually within a week.

Application & Summons – (previously called Complaint & Summons). Respondents are issued with a summons to attend court (with or without an interim intervention order).

¹⁶ Victoria Police (2002) *The Way Forward: Violence Against Women Strategy*, Melbourne.

Interim Intervention Order – An application for an Interim Intervention Order by police is referred to the duty magistrate for after hours cases, or heard by a magistrate in open court during normal court hours. Warrants cannot be used for protection from the violence of children. Interim Intervention Orders must be used against child respondents.

These options contain conditions imposed on the respondent, which are designed to protect the AFM from future harm. Breaching or contravening these conditions has implications, which may include arrest, detention, and/ or criminal charges being laid.

There is no criminal offence for breaching bail. If a respondent disobeys bail conditions, bail may be revoked, and the respondent is brought before the court within 24 hours. The respondent may be re-bailed or kept in custody. By contrast, contravention of a FVSN or an Interim Intervention Order can result in criminal penalties.

Criminal options

Where a criminal offence is identified by police at a family violence incident, the respondent may be charged and remanded in custody or bailed. Bail conditions are set to ensure that the respondent attends court and does not re-offend pending the court hearing. In some cases, the respondent is not arrested, but receives a summons to attend court at a later date.

If criminal charges are laid, police may also use a civil option to help ensure the safety of the AFM. While criminal charges (and associated bail conditions) may provide temporary protection for the AFM, there may be no protection for the AFM once the criminal proceedings have concluded if there has been no civil process, and no intervention order is in place.¹⁷

Referrals

Police make a formal referral to a local/ regional DHS funded community based agency for follow up assistance in relation to family violence, whenever a criminal or civil action is pursued. This involves faxing information, as soon as possible following the incident, to:

- a community based family violence support service, for the AFM
- a men's referral or intake service, for the perpetrator.

In cases where police identify there is an immediate risk of safety for a female AFM, with or without children, a formal referral should be made directly to the Statewide Women's Domestic Violence Crisis Service, or to the designated regional family violence outreach service, where these arrangements exist.

In all other cases when police attend a family violence incident, police are required to provide the parties involved with contact details of appropriate community based organisations (ie. an informal referral). Thus, when police attend a family violence incident, they must always make a referral (formal or informal), and may pursue criminal or civil options, or both.

¹⁷ The Code of Practice does not currently require that police take civil action if they are charging the perpetrator.

Summary

The Police Code of Practice Options Model provides a clear guideline for Police in responding to family violence incidents. Victorian Police have a range of options which can be used after hours, and can use their discretion about when and whether or not to apply civil and/or criminal options. The policy states that a referral will always be made whenever police attend a family violence incident, and that a formal referral will be made whenever a civil option is used.

3.4 Laws governing the use of FVSNs

A FVSN may be used by police between 5 pm and 9 am Monday to Friday, and on weekends and public holidays, when immediate action is required to provide protection for victims of family violence and their children. There are three integral aspects of a FVSN. A FVSN:

- provides immediate safety for victims and their children for up to 72 hour period from the time of issue
- acts as an application to the Magistrates' Court of Victoria for a Family Violence Intervention Order
- acts as a summons for a respondent to attend Court on the first mention date.

The FVPA legislation outlines the circumstances in which a FVSN may be issued, as shown in Exhibit 3.1 below.

Exhibit 3.1: Decision about family violence safety notice (s 26, FVPA 2008)

- (1) A police officer of the rank of Sergeant or a higher rank who receives an application for a family violence safety notice may issue a family violence safety notice if—
 - (a) the police officer believes on reasonable grounds there is no family violence intervention order in place between the affected family member and respondent; and
 - (b) the police officer believes on reasonable grounds that issuing the notice is necessary -
 - (i) to ensure the safety of the affected family member; or
 - (ii) to preserve any property of the affected family member; or
 - (iii) to protect a child who has been subjected to family violence committed by the respondent.
- (2) Before making a decision under subsection (1), the police officer making the decision -
 - (a) must hear the police officer responding to the incident; and
 - (b) must be satisfied that the grounds on which the police officer responding to the incident formed an opinion about the matters referred to in section 24(a), (b), (c) and (d) are reasonable; and
 - (c) may, if practicable, hear the respondent or the affected family member.

A FVSN must be listed for a first mention hearing within 72 hours after service on the respondent. If this is not possible because of a public holiday, then it must be listed on the first court sitting day thereafter.

FVSNs were designed specifically for use in the following situations:

- after hours (between 5.00 pm and 9.00 am weekdays and 24 hour coverage on the weekends) and public holidays.
- where police consider that violence is likely in the immediate future, and where it is necessary to provide immediate protection to an AFM, protect a child, and/or protect property of an AFM
- where the respondent is present.

Limitations

Limitations to the use of FVSNs, include that police officers responding to incidents of family violence must suspect or believe that:

- the respondent is an adult (18 years of age and over)
- the respondent does not have a cognitive impairment
- there is no Family Law Act order or child protection order in force that would contradict the FVSN
- there is no current FVIO in place.

If the responding police officer suspects or believes any of these conditions exist, a FVSN cannot be issued.

Process for issuing a FVSN

A police officer attending a family violence incident can apply to another police member of the rank of Sergeant or above to issue a FVSN. The FVSN may be issued by the Sergeant (or above) in person, or remotely, by telephone or fax. The issuing of a FVSN in person may be by oath, affidavit, or by certifying the notice. Applications for FVSNs which are issued remotely are certified, and cannot be made by affidavit. It has been common practice for FVSNs to be certified, particularly as the FVSN Form facilitates certification.

Recent changes to legislation mean that courts may make an interim order based on an affidavit or a certified FVSN.

FVSN Forms

FVSNs forms are designed for police members to record a range of information (as required by the legislation). Information required on FVSN forms includes the names of the respondent and the protected person; the time and date the Notice is issued; the time date and location of the court hearing; a statement of reasons for issuing the notice; the conditions of the notice; the name, rank and station of the officers applying for and issuing the notice; and other relevant information.

FVSN forms are designed so they can be issued 'on the spot', and handwritten on pressure sensitised pads by the officer making the application.

Conditions

Family Violence Safety Notices may include a range of conditions which restrict and/or prohibit the respondent from interacting with the AFM. These

conditions are described in Section 29 of the FVPA 2008 (Exhibit 3.2 on the following page).

Where respondents are to be excluded from their home, police are required to consider the accommodation needs of the respondent (Section 36, FVPA). The same applies if the AFM needs to leave the family home. Community based family violence services have been funded to assist police members to fulfil these requirements. Contravention of the conditions of a FVSN is a criminal offence, and police may arrest and charge the respondent for breaches of conditions stipulated in a FVSN.

Exhibit 3.2: Conditions of family violence safety notice (s 29, FVPA)

- (1) A family violence safety notice may include any condition the court may include under section 81(2)(a) to (f) in a family violence intervention order.
- (2) Before including in a family violence safety notice a condition prohibiting the respondent from being anywhere within a specified distance from a particular place, the police officer issuing the notice must make reasonable enquiries to ensure this will be practical in the particular circumstances.

Section 81(2) (a) to (f):

A family violence intervention order may include conditions-

- (a) prohibiting the respondent from committing family violence against the protected person; and
- (b) excluding the respondent from the protected person's residence
- (c) relating to the use of personal property
- (d) prohibiting the respondent from approaching, telephoning or otherwise contacting the protected person, unless in the company of a police officer
- (e) prohibiting the respondent from being anywhere within a specified distance of the protected person or a specified place, including the place where the protected person lives
- (f) prohibiting the respondent from causing another person to engage in conduct prohibited by the order

3.5 Anticipated benefits of FVSNs

3.5.1 Improved after hours response to family violence

An expected benefit of FVSNs was to provide an improved response to family violence after hours. One aspect of this was to achieve improvements in police operating efficiency and effectiveness in responding to family violence. Expected efficiencies related to police being empowered to attend a family violence incident after hours and finalise a FVSN (effectively an interim order) on the spot, without having to return to the station, wait for the after hours service to issue an Application and Warrant, and subsequently locate and serve the respondent with the order.

A reduction in the time taken by police to complete a civil action, by using a FVSN, was expected to reduce the time police spend attending family

violence incidents overall, thus (potentially) freeing up resources for other policing activities.¹⁸

Another key benefit anticipated from the FVPA, and FVSNs in particular, was to be the engagement and empowerment of police in responding more effectively to family violence. As noted, under the FVPA, police have four civil options at their disposal after hours, including FVSNs, which give them the power to take immediate action. It was anticipated that this might increase the commitment by police to respond consistently and appropriately to family violence incidents after hours, and at the same time enhance police responses overall.

3.5.2 Enhanced safety for AFMs after hours

The legislation was framed to give police a new power to act immediately after hours when responding to a family violence incident, without reference to the Magistrates' Court After Hours Service. This was based on the view that the use of FVSNs would provide immediate protection for the AFM.

Historically, there had been delays in serving C&Ws (now A&Ws) after hours. For example:

- police had to return to the station to complete the application for a C&W, and fax it through to the Magistrates' Court After Hours Service
- the turn around time at the Magistrates' Court After Hours Service was not immediate (at the time when the service was located at the Coroner's Court).

During the period between preparing and serving the warrant, the AFM was often unprotected (unless she/he accompanied police back to the station, or left her home to stay with friends/family, or in a refuge). In addition, delays in serving the A&W allowed respondents to remove or destroy property, and/or abscond.¹⁹

As noted, the FVPA 2008 enables police to provide immediate protection to AFMs by issuing FVSNs, including conditions to exclude the respondent and allow the AFM to stay at home, where appropriate.

In strengthening the response to family violence it was considered that a reliance on bail conditions (rather than interim intervention orders) to protect AFMs was insufficient, as a breach of bail conditions was, and is not, a criminal offence. It was also noted that AFMs were not necessarily informed of bail conditions and were therefore not aware of the protection being afforded.²⁰ Contraventions of FVSNs were thus established as a criminal offence in order to provide greater protection.

The duration of FVSNs was limited to 72 hours, based on concerns about police having powers to issue a notice similar to a court issued interim intervention order, with respondents potentially being unreasonably

¹⁸ It should be noted that since the legislation was drawn up, the turnaround time of the Magistrates' Court After Hours Service (in relation to A&W and other orders after hours) has reduced significantly. This has resulted from an expansion of the service, and relocation from the Coroner's Court to the Melbourne Magistrates' Court.

¹⁹ For a description of the challenges faced by police in providing adequate protection for AFMs see VLRC (2006) *Family Violence Police Holding Powers: Interim Report*, Melbourne.

²⁰ Section 52(2) of the FVPA 2008 now contains the requirement for either police or the Court to notify the AFM of bail conditions.

inconvenienced (eg. excluded from their home) without reference to the courts.

The FVPA also has an emphasis on police action to protect AFMs (including pursuing civil and/or criminal options), notwithstanding the views of the AFM, consistent with the Code of Practice. Police decision making is to be based on available evidence and perceived risk to the safety of the AFM. Thus the responsibility for applying for an order is clearly with the police, and may reduce the likelihood of the respondent blaming and taking retributive action against the AFM.

3.5.3 Perpetrator accountability

The third expected benefit of FVSNs was the increased accountability of perpetrators for their actions. Increased accountability was anticipated to result from:

- the immediate issuing of an FVSN close to the time of the incident, with a clear and strong message delivered by the police that family violence is unacceptable and against the law
- the immediate application of conditions on the perpetrator to protect the AFM (including removal and exclusion of the perpetrator from the home)
- a potential increase in the overall level of civil actions taken against perpetrators
- issuing the perpetrator with a summons to appear in court within 72 hours
- increased referral to men's services to assist men who use violence to change behaviours
- criminal charges being laid in the event the perpetrator contravened the FVSN.

3.5.4 FVSNs within a wider context

Family Violence Safety Notices as introduced into Victoria are unique. No other jurisdictions have such a set of instruments available to police after hours. In most jurisdictions police can make a third party application to a court for an interim intervention order, which is subsequently dealt with by the court.

In a number of jurisdictions police have powers to exclude perpetrators from their home, or from contacting the AFM for a period of time, but the exclusion order does not incorporate a summons, and the matter is not returned to the court unless the AFM makes an application within the exclusion period.

In Australia, only the Tasmanian police have more powers. Police may issue a Police Family Violence Order (PFVO), without reference to a court. The Order can exclude respondents for up to 12 months, and the matter is not returned to the court unless the parties apply to the court for a variation.

3.5.5 Summary

The introduction of FVSNs was one component of a whole of government commitment to reduce, and more effectively respond to family violence in the Victorian community. The use of FVSNs after hours was intended to be supported by an integrated response comprising enhanced after hours community based services for AFMs, and respondents. The establishment of FVSNs within the broader context is considered in section 4.

Importantly the focus of this evaluation is largely on whether the anticipated benefits of FVSNs have been met, although measurement of impacts of and outcomes from the use of FVSNs is not straightforward.

4 INPUTS TO THE ESTABLISHMENT OF THE FVSN PILOT

4.1 Introduction

This section reviews the establishment of the FVSN pilot, in the context of the FVPA 2008, and specific initiatives developed by the police, the courts and community services. The effectiveness of FVSNs is influenced by the quality of the legislation which provides for FVSNs, as well as the investment in people and infrastructure to help ensure that FVSNs were implemented effectively, and achieve the stated objectives of the FVSN pilot.

Section 4.2 briefly reviews issues arising from the legislation, pertaining to FVSNs. This discussion is followed by a review of the training, professional development and resourcing of police members (section 4.3), the courts (section 4.4), and the community sector (section 4.5). Section 4.6 reviews collaborative structures, and section 4.7 presents concluding comments.

It is important to note that most of the inputs relate to family violence reform in general, of which FVSNs are a key new component.

4.2 Legislative basis for FVSNs

There are specific provisions in the Family Violence Protection Act 2008 for Family Violence Safety Notices (Division 2). The provisions are in the main clear, and consistent with the broader intent to reduce, and more effectively respond to family violence in the Victorian community.

The introduction of FVSNs highlighted however, some aspects of the legislation which were not sufficiently clear. These have been subject to contested interpretations, and variation in the treatment of FVSN applications by the magistracy.

Principal among these has been whether an FVPA application could be adjourned in cases where there is a lack of evidence at the first mention hearing.

Section 30(1b) of the FVPA states that a FVSN ends on the first mention date if the court refuses to make an intervention order or if the court makes an intervention order and the order is served on the respondent. There is no explicit provision for adjournment either in the FVPA or in the Magistrates' Court (*Family Violence Protection*) Rules 2008.

Section 55(1a) of the FVPA, states that the court must not make an interim order unless an application is supported by oral evidence or an affidavit.

Thus, where FVSNs were certified (common police practice,²¹ and the only possible practice for remote applications) rather than submitted as an affidavit, and where the respondent, the AFM and the informant did not attend court, an interim order could not be made (and adjournment was not possible).

The majority view of the Magistrates' Court Family Violence and Family Law Portfolio Group was that a certified FVSN was not sufficient to satisfy the requirements of Section 55(1). In these circumstances the application should

²¹ Printed FVSN forms only provide for certification, consistent with the idea of making the process more efficient and convenient for police, by avoiding the need to find another police officer before whom the form is sworn or affirmed.

be struck out or refused, because there was no admissible evidence to support the application.

For this reason, some magistrates preferred A&Ws to FVSNs, where the court could adjourn the hearing and extend bail, and/or issue a warrant if the respondent did not attend the hearing.

Despite this legislative conundrum, a number of magistrates adjourned FVSN applications on first mention without making an Interim Intervention Order. Where this occurred there was no protection for the AFM until the subsequent hearing, although technically the matter remained before the court (see section 5.4.4), and an Application & Summons ensued.

The Chief Magistrate and Chief Commissioner of Police raised these issues with the Attorney General, and an amendment was made to the Justice Legislation Amendment (Victims of Crime Assistance and Other Matters) Bill 2010. This effectively provides for the court to make an interim order based on oral evidence, an affidavit, or a certified Family Violence Safety Notice. This should result in less FVSN applications being struck out, as a result of parties not attending.

It was noted that where FVSNs are struck out (for whatever reason), there does not appear to be a formal or consistent follow up process by police to ensure the AFM's safety. In some circumstances, magistrates have suggested police proceed with an Application & Warrant.²²

4.3 Implementation strategy – Victoria Police

4.3.1 Introduction

The FVPA 2008 necessitated a number of programs, policy and procedural changes to facilitate the use of FVSNs. Victoria Police developed a detailed implementation strategy and action plan to support the implementation of FVSNs, covering initial planning and consultation; training programs and policies, operations (including new forms, guidelines, manuals, Code of Practice, data); communication and evaluation.

Much of the work was undertaken by the Victoria Police Family Violence Unit. Corporate Policy, Education, Media and other departments within Victoria Police were also involved.

Prior to the FVPA 2008, Victoria Police had established the Code of Practice, and implemented an organisational structure to support a new approach to family violence. This included the establishment of the Family Violence Unit, and the new positions – Family Violence Managers, full time Family Violence Advisors (FVAs) and Family Violence Liaison Officers (FVLOs). Importantly, police became a key driver and collaborator in the Statewide Integrated Family Violence partnerships.

Victoria Police has provided information about the FVPA and FVSNs through a wide range of collaborative strategies including media releases, community brochures, an article in *Police Life* and speaking at statewide road shows on the new laws as part of the ENOUGH campaign.

²²

In some regions police report this as regular practice, to the extent that some now issue an Application & Warrant in the first instance.

4.3.2 Violence Against Women and Children Strategy Group (formally SOCA Coordination Office)

The family violence implementation strategy and action plan were managed by the Violence Against Women and Children Strategy Group (VAWSG) formally Sexual Offences and Child Abuse Coordination Office, (SOCACO) which is part of the Crime Department within VicPol.

The Police Family Violence Unit is part of VAWCSG, and is the focal point for capturing practice wisdom, and enhancing the police response to family violence in Victoria. The VAWCSG is represented on statewide committees aimed at enhanced integration and a strengthened whole of government response to family violence.

As indicated, the VAWCSG developed training material, established training plans, and provided oversight of police training in family violence. The unit also helps coordinate the activities of the FVAs and FVLOs.

By all accounts the VAWCSG produced high quality training material, and implemented a suitable training plan, but as a central unit within Victoria Police has not been in a position to enforce the take up of training within regions and divisions. The VAWCSG nevertheless faces the challenge of monitoring the effectiveness of training, practice quality and contributing to improved police practice in response to family violence.

Noting that the VAWCSG does not have line responsibility or managerial control of operational members (including FVAs and FVLOs) at regional level, the Auditor General's Report 2009 identified the need for an enhanced mechanism to monitor police responses to family violence, and for a more formal approach to enable the capture of practice wisdom, including establishing a continuous improvement framework, which communicates regional examples of best practice and procedures.²³

4.3.3 Family Violence Advisors

The role of FVAs includes coordinating, developing and/or conducting training workshops for operational police in consultation with the VAWCSG and Regional Training Officers. FVAs collect data on family violence incidents, and use of FVSNs in regions, and act as a resource to operational members, and to other parties (including community based agencies), in relation to family violence.

The types of activities undertaken by individual FVAs vary, particularly their level of involvement in training, but overall it appears FVAs have made a valued contribution to the implementation of the FVPA 2008. It will be important for FVAs to develop a more consistent approach, and consider the ongoing training needs of police members in relation to family violence, particularly in the use of FVSNs, to ensure that all members have adequate knowledge and skills.²⁴

²³ Victorian Auditor General's Report (2009) *Implementing Victoria Police's Code of Practice for the Investigation of Family Violence*, Melbourne. The report recommended that the VicPol FVU "should determine whether the Code is effective and is creating better outcomes for the victims and perpetrators of family violence" (Recommendation 6.1). This is consistent with the VLRC recommendation for the Code of Practice to be (independently) evaluated.

²⁴ The Auditor General recommends that FVAs have a greater role in training police and promoting good practice (Recommendation 6.3).

FVAs acquire practice wisdom through their regional activities, including ongoing liaison with FVLOs and other key stakeholders, and subsequently provide feedback to the FVU, mainly via monthly Statewide FVA meetings.

4.3.4 Family Violence Liaison Officers

FVLOs are located at every 24 hour police station throughout Victoria. This is a portfolio position, which appointed police members hold in addition to their range of other duties. The FVLO role is to ensure stations provide a consistent and coordinated response to family violence; monitor and report on family violence; provide a station contact point for local referral agencies; establish relationships between police and other agencies; and coordinate further responses to victims of family violence where issues of repeat attendance exist.

Feedback indicates that the role, commitment and capacity of FVLOs to improve the response of VicPol to family violence varies considerably, and is influenced by local staffing levels and other duties, regional/ divisional cultures, and the extent to which the role is valued, or supported by members in the region. The Auditor General notes that the appointment of FVLOs is not subject to a competitive appointment process; there is no mandatory training for the role; and that some FVLOs may lack the necessary expertise and skill.²⁵ FVLOs potentially have a key role to support the appropriate use of FVSNs, however there is no evidence to date to show that this is occurring in a systematic way.

4.3.5 Training strategy

A customised training strategy was developed by VicPol covering the Family Violence Protection Act 2008, including a separate FVSN component. The training package was developed centrally by the Family Violence Unit and reviewed by the Department of Justice. The material appears to be of a high standard, and provides a comprehensive coverage of the legislation, and FVSNs.

The curriculum included an understanding the broader context of family violence; new definitions and criteria for Family Violence Intervention Orders; managing family violence - risk assessment and risk management; Family Violence Safety Notices; general provisions – firearms, rules of evidence, tenancy changes, etc. The material also covered the Code of Practice, and appropriate references to the Victoria Police Manual.

Training was provided by police Regional Training Officers (RTOs), who worked closely with Family Violence Advisors.²⁶ Training sessions lasted a full day, and participants were subject to an assessment at the end of the day. Sergeants and higher ranked members received the same training as other members, however they undertook a different assessment.

The initial training strategy, based on consistent and comprehensive material delivered by individual Regional Training Officers (RTOs) appears to have been effective.

The training was rated highly by a sample of 388 participants, with 96% of respondents indicating that they 'agreed' or 'strongly agreed' that RTOs were

²⁵ Victorian Auditor General, 2008, p 50.

²⁶ Police Regional Training Officers are all qualified trainers (Certificate IV in Training and Assessment).

credible and effective as presenters. The training material was considered to be high quality, and the sample feedback results do not indicate any major inadequacies in the training.²⁷

4.3.6 Number of police attending training

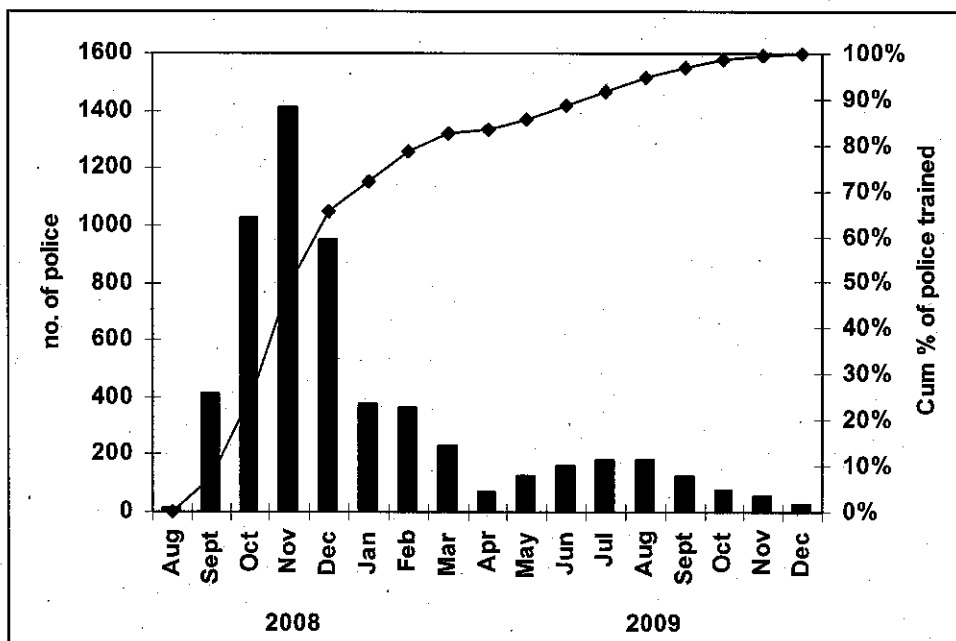
In 2008/09 there were slightly more than 11,000 police employed by VicPol, with 8,250 operational members who were eligible to receive training. Approximately 5,800 police (approximately 70% of all operational police) attended specific training in the Family Violence Protection Act 2008.

Initial training sessions were compulsory (VicPol policy) and commenced in September 2008 and continued into the early part of 2009. RTOs continued to offer training throughout 2009.

The number of police trained each month is shown on Chart 4.1 below (bar chart). The blue line shows the cumulative proportion of police who had received training up to the end of December 2009.

Thus, of the 5,800 police who attended training, 70% had received training by the end of December 2008, and 90% had received training by the end of May 2009 (nearly 6 months after the introduction of FVSNs).

Chart 4.1: Number of police trained per month



Those police who did not receive training were reportedly absent from active duty at the time training was offered (on annual leave, sick leave, other),²⁸ or were unable to attend training due to police duties. Feedback from police members and other stakeholders supports the data, with estimates of up to 30% of police not having received training in FVSNs.

Since October 2008, an additional 700 new members have received family violence training as they progressed through the Police Academy.

²⁷ See also section 4.3.7.

²⁸ At any one time approximately 25% of the Police workforce is not available to attend training due to leave etc.

Table 4.1 summarises the number of police who received training, by rank.

Table 4.1: Police attending Family Violence training, by rank

Rank	Number receiving FVPA training
Constables	944
Senior Constable	1,716
Leading Senior Constable	1,828
Sergeant	1,066
Senior Sergeant	218
Inspectors	26
Other	8
Total	5,806

Source: Victoria Police. Victoria Police Annual Report 2008/09.

Given the importance of updating police knowledge and skill in relation to new legislation, and the VicPol policy that FVSNs should not be issued by police who have not received training, it is concerning that up to 30% of operational members have not received FVPA training. One approach would be for each region to be required to meet training targets of 95% of all operational members, by a designated date.

4.3.7 Training outcomes

Police members who participated in training were asked to complete an evaluation form. A sample of 388 forms indicates that members generally found training sessions to be clear and understandable. This finding was supported by anecdotal input to the evaluation. The 388 police members recorded the following assessment:

- 80% reported that 'the training was relevant to my operational duties'
- 82% stated that they had an increased level of understanding of the broader aspects of family violence, as a result of the training
- 87% said that they had an increased level of understanding of the FVPA 2008
- 81% said that they have a good understanding of the risk assessment process
- 89% of the sample said that they had an increased level of understanding of FVSNs, following the training.

It is important to note that the knowledge of all members was assessed following the training session, and members who did not pass were required to address knowledge deficient areas, and undertake a further assessment.

It is not known whether the sample of 388 (or 7% of total) is representative of all members who participated in the training.

Other feedback to the evaluation indicates that training is necessary, but not sufficient for optimum application of FVSNs. Stakeholders report that members also require practice in developing required knowledge and skill to implement the new legislation.

For some police members the training reportedly necessitated significant changes in understanding practices and approaches to family violence.

These skills cannot necessarily be developed through a didactic process alone, but must be practised, and based on changes in attitudes and culture.

Feedback from a number of stakeholders outside VicPol, particularly magistrates, registrars and some community service representatives, indicated concerns with the adequacy and coverage of police training. This view is based on their experience that some police are not responding appropriately to family violence, or completing the FVSN process accurately or with sufficient care. The views of some police lend support to these concerns.

Feedback from some police members (surveys) revealed resistance to FVSNs and poor attitudes. The views expressed by a small minority of police included that the FVSN *"requires police to act like social workers"*, and *"this is not core police work"*; *"some members are sloppy in completing forms, they forget or don't care that a FVSN is a formal document"*.

A small proportion of police who received training have not been in a position to practice what they learnt and report that they lack confidence to issue a FVSN.

4.3.8 Post training skill development

A range of additional supports and information have been developed by Victoria Police to complement police training. These include:

- Chief Commissioners Instruction (14/08 Family Violence Protection Act 2008)
- Updates to the Victoria Police Manual (VPM 109-4; VPM 109-9)
- Hotline and information service (with contact numbers) provided by the SOCACO FVU
- Additional brochures and information sheets (eg. FAQ brochures, flow charts, ready reckoners for patrol folders, intranet articles)

FVAs and FVLOs have provided on-going information, advice and assistance to members (see sections 4.3.3 and 4.3.4).

The Magistrates' Court After Hours Service has played an important quality improvement role in helping ensure police submit FVSNs correctly. This includes identifying any defects in the completion of FVSNs, and providing police with assistance and advice when this has been sought.

Within VicPol there are several specialist family violence response units (eg. located at Ballarat, Darebin, Werribee, Frankston, Casey and up until recently Brimbank). These units operate in areas where there are higher rates of family violence, and may comprise two full time specialist police who focus primarily on responding to family violence incidents, particularly those requiring repeated and more complex responses. In some stations members are 'rotated through' the family violence response unit in order to develop their skills. This has reportedly proven to be an excellent training strategy.

A major influence on the acquisition of knowledge and skills by police in relation to the FVPA 2008, and FVSNs in particular, is the variation in the use of FVSNs between police Regions and Divisions. In many Divisions, FVSNs have been used extensively, giving police the opportunity to enhance their skills through on the job experience.

In some police Divisions, police have continued to use A&Ws after hours in preference to FVSNs, or because FVSNs are not a realistic option. This has occurred in rural areas where there are relatively few days when a court is available (ie. within the 72 hours), or where a high proportion of FVSNs have been struck out by the court. In these instances the benefits of training may have been dissipated due to little or no practice in issuing FVSNs.

4.4 Implementation strategy – the courts

4.4.1 Introduction

The Family Violence Court Division and Specialist Family Violence Services were established prior to the FVPA 2008. These courts have a range of services available (eg. dedicated family violence registrars and applicant support workers in each court, and respondent workers, duty lawyers and outreach services for AFMs in the FVCD), and provide physical facilities which are more amenable to dealing with family violence lists. Stakeholders report that these resources enhance the experiences of AFMs (including safety) and respondents, and also improve the efficiency of the court.

While many other courts have not been funded to provide services for AFMs or respondents, they often list family violence cases on particular days and have arrangements with local agencies such as community legal centres and family violence support agencies to provide support for AFMs and respondents on what are termed “preferred listing days”.

The availability of resources at court are particularly pertinent to FVSNs, due to the 72 hour limitation and the relatively limited time that AFMs and respondents have available to be fully informed of options, and to prepare for the hearing. Feedback to the evaluation indicates that additional applicant and respondent support positions (in other courts dealing with a high volume of family violence matters) would provide a greatly valued enhancement to support the implementation of FVSNs, and would contribute to improvements in court services in the context of increasing numbers of family violence cases.²⁹

There have been a number of changes to court procedures to accommodate FVSNs, such as giving priority to FVSNs on hearing days, to provide enough time to hear FVSNs before the 72 hour limit expires.

When FVSNs were introduced, listing procedures were established requiring police to fax FVSNs to the Magistrates’ Court After Hours Service. The involvement of the After Hours Service has contributed to improved practice by police in completing FVSNs; through the feedback and advice which has been provided to police and other registrars; and through timely scheduling of matters.

4.4.2 Magistrates’ Court

Within the Magistrates’ Court system, leadership in the implementation of the legislation was mainly provided by the Supervising Magistrate for the Family Violence and Family Law jurisdiction, the Family Violence and Family Law Portfolio Group and the Family Violence Programs and Initiatives Unit.

²⁹

Dandenong Magistrates’ Court family violence lists are a case in point.

The Supervising Magistrate assists in addressing the professional development needs of all magistrates, and provides information about the family violence jurisdiction to new magistrates including provision of written materials, a workshop for new magistrates and observation (ie. new magistrates sitting with experienced magistrates in the family violence mention list).

The Supervising Magistrate and the Manager of Family Violence Programs and Initiatives represent the court on a variety of committees including the Family Violence Statewide Advisory Committee, the Family Violence Stakeholders Reference Group, the Family Violence Evaluation Steering Committee, the Family Violence Projects Monitoring Committee and the Victoria Police/ Magistrates Court Committee.

Portfolio Group

The Supervising Magistrate chairs the Family Violence and Family Law Portfolio Group. This Committee monitors the operation of the family violence and family law jurisdiction throughout the State, provides input and comment on proposed reform to family violence legislation, and responds to issues which impact the portfolio as they arise.

The Portfolio Committee has considered the operation of FVSNs at some of its meetings in order to clarify particular issues, for example, certification of FVSNs, and the (lack of) legislative provisions in relation to adjourning FVSNs. The Group has disseminated information regarding FVSNs to magistrates for consideration.

Professional development

There have been a number of professional development opportunities, and other information resources available for magistrates, relevant to the FVPA and FVSNs in particular.

A full day of professional development (October 2008) was run by the Judicial College of Victoria in conjunction with the Court's Professional Development Committee and Family Violence and Family Law Portfolio Group.

Magistrates have the opportunity to participate in three professional development days organized by the Court's Professional Development Committee per annum and other opportunities to attend seminars organised by the Judicial College of Victoria. This may include sessions on family violence, or related topics such as sexual assault; dealing with unrepresented or querulous litigants; victims of crime, etc. The Supervising Magistrate Family Violence and Family Law, is a member of the Magistrates' Professional Development Committee which helps ensure that family violence, family law and stalking are included in that committee's professional development program.

Magistrates who sit in the Family Violence Court Division (FVCD) must be gazetted, that is, specially appointed to sit in the Division by the Chief Magistrate. Although not required by legislation, there is also an expectation that magistrates sitting in the Specialist Family Violence Services (SFVS) courts will be gazetted magistrates. The Chief Magistrate will not usually appoint magistrates to the FVCD unless they have had special education in family violence issues, and special professional development sessions are held to enable the gazettal of magistrates. One session was held in 2009,

and another is scheduled for November 2010, when it is expected that 15 - 20 magistrates will attend.

Magistrates sitting in the FVCD or SFVS courts are invited to participate in ongoing workforce development programs for all staff involved in those courts.

One of the issues for the Magistrates' Court is providing for the professional development needs of magistrates who deal with a variety of jurisdictions, including criminal, civil, family violence, family law, Children's Court and VOCAT. It is important that magistrates develop specialist knowledge and skills in family violence, to help inform the wider practice among the magistracy. It is not clear however, whether there have been sufficient opportunities for professional development in family violence (including FVSNs) for all magistrates.

Information resources

In response to the FVPA 2008, the Judicial College established a family violence practice page with access to the legislation, explanatory memorandum and the second reading parliamentary speech. The practice page also includes checklists and papers designed to familiarise magistrates, court staff and others with the new Act. The practice page is available on the website of the Judicial College.³⁰

The Judicial College has been funded to produce a new Benchbook for magistrates. The Benchbook is being developed in conjunction with an Editorial Committee comprising the President of the Children's Court, a Judge of the County Court, the Supervising Magistrate for the Family Violence and Family Law jurisdiction and three other magistrates, together with the editor from the Judicial College. The practice pages have been published and the College is working to complete a social context section.

Summary comment

In summary, magistrates who did not attend initial professional development had the opportunity to obtain the necessary knowledge of FVSNs by accessing procedures information provided by the Supervising Magistrate, the Magistrates' Family Violence and Family Law Portfolio Group and the Judicial College. It is not known how many magistrates availed themselves of these opportunities.³¹

In assessing the implementation of the FVPA within the magistracy it is important to acknowledge the independence of magistrates, and that magistrates may interpret aspects of the FVPA differently. It should also be acknowledged that some magistrates specialise in family violence law, and some specialise in other areas of law and may not often hear family violence cases. Magistrates have different professional development requirements, and different techniques for acquiring relevant knowledge, however there is scope to achieve improvements in the understanding, and broadly consistent application of the FVPA (and FVSNs in particular) by all magistrates in Victoria.

³⁰ See www.judicialcollege.vic.edu.au

³¹ Most magistrates did not respond to a brief survey prepared for the evaluation, and distributed to all magistrates.

4.4.3 Court registrars and other court staff

Court registrars and other court officers have been provided with training, guidelines, and information resources in relation to the FVPA 2008, and FVSNs. The Women's Legal Service Victoria was contracted by the Department of Justice to develop and provide the following training:

- Six (6) training sessions, each 3 hours duration for court registrars, attended by approximately 350 registrars.
- A full day training session on the FVPA (including FVSNs) provided to registrars and other staff employed in the Family Violence Court Division (Heidelberg and Ballarat Courts), and in the Specialist Family Violence Service Courts (Melbourne, Sunshine, Werribee and Frankston Courts). In addition to registrars, attendees included applicant and respondent support workers, police prosecutors, and representatives of legal aid and community legal centres.
- Professional development half day training session for the Family Violence Court Division and Specialist Family Violence Service, attended by approximately 50 representatives including 2 magistrates.

The Women's Legal Service also produced several information sheets associated with the FVPA, including a comparison table (new versus old Act), and other summary information targeted towards legal practitioners, which were made publicly available on the Department of Justice website.

Court registrars also received training in a Common Risk Assessment and Risk Management Framework (CRAF), which they are required to complete when AFMs and/or respondents attend court, in order to assess for risk in the court setting, on the day of the hearing. This training provided additional information and skills in understanding family violence.

Revisions were made to formal training programs including the Magistrates' Court Trainee Induction Program, Certificate IV in Government (Court Services) to incorporate family violence specific (up to date) information, including FVSNs.

A new set of Guidelines (family violence) was developed for registrars, and the after-hours manual used by the Magistrates' After-Hours Service has been updated.

Feedback from registrars (consultations and survey responses) indicate that the training provided was clear, comprehensive and very useful.

Registrars not attending initial training acquired the necessary knowledge to implement FVSNs through peer support, consulting the guidelines relating to the FVPA. If they are trainees FVSNs are a component of their training for Certificate IV. Family Violence Resource Registrars attend additional training sessions, some of which have referred to FVSNs. Registrars working during business hours have also obtained advice and support from the After Hours Service.

On the whole, the multi-faceted approach to training appears to have provided family violence registrars with the required knowledge and skills to support the implementation of FVSNs.

4.5 Initiatives within the community sector to support the implementation of FVSNs

4.5.1 Committees supporting integration

The introduction of the FVPA (including FVSNs) was supported by a number of government departments, and non government organisations through representation on high level committees. These include:

- Family Violence Roundtable (bi-annually)
- Family Violence Statewide Advisory Committee (quarterly)
- Family Violence Interdepartmental Committee (monthly)
- Regional Integrated Family Violence Committees.

These Committees provide forums for exchange of information, and ongoing strategies to develop integrated responses to reduce family violence.

In addition to training and professional development opportunities for police, magistrates, and registrars, training and information sessions were provided to legal practitioners, and the community based family violence sector, as described below. A specific whole of government Legislation Implementation Committee was also convened by the Department of Justice to support implementation of the FVPA.

4.5.2 Legal practitioners

The following training and development strategies supported the introduction of the FVPA within the legal profession:³²

- A training needs survey was conducted, and family violence specific training was incorporated into Victorian Legal Aid's ongoing Professional Legal Education Program.
- Women's Legal Service delivered 4 days of training to CLCs
- Family Law Conference (25th July 2008, 130 family lawyers and 40 CLCs attended)
- VLA Law Conference with Family Violence stream (17th October 2008, 140 attendees, 30 from CLCs)
- DoJ training for VLA lawyers at Family Violence Court Division and Specialist Family Violence Services (14th November 2008)
- FVPA – Practice essentials seminar (10th December 2008, approx. 100 attendees).

4.5.3 Family violence (community based) services

There have been several initiatives to enhance the after hours response to family violence generally within community based services. These include a major commitment by DHS and funded family violence services to provide enhanced after hours and 'stay at home' responses for AFMs (including consolidation of existing resources, and new funding by DHS).

In addition to strengthened regional initiatives, in 2006 DHS funded the Women's Domestic Violence Crisis Service (WDVCS) for a specific police

³²

This section pertains primarily to legal aid lawyers, although some information was provided to private practitioners.

telephone contact line. In June 2009 DHS provided funding for an additional position (1 EFT) to enhance the WDVCS 24 hour response, in anticipation of increased referrals resulting from FVSNs.

There are some particular collaborative models of good practice after hours service provision, which are supporting the use of both FVSNs and A&Ws, such as through the Northern Crisis Advocacy Response Service (NCARS) initiative.³³

For men who use violence there is an emergency accommodation program, and a case management program. In addition, a commitment to expand the after hours Men's Referral Service was made in December 2009 (fully implemented June 2010), and enhanced intake services for men's behaviour change programs and partner support services have been rolled out in 2010.

The emergency accommodation program for men is particularly relevant for FVSNs, as men are often excluded, and the legislation specifically requires that police should provide men with information about accommodation, if required. The uptake of this emergency accommodation for men has been lower than expected.

The following training and development strategies supported the introduction of the FVPA within family violence (community based) services:

- DHS (and DVRC) forum (24th November 2008, approx 850 attendees) for family violence services for women and women with children
- DVRC training sessions (conducted throughout 2009) (as above)
- DHS sponsored forum for family violence outreach services to provide enhanced stay at home and extended hours responses to women and children (October 2009)
- Regional Integrated Family Violence Forums (regular meetings at regional level)
- DV Vic – facilitated statewide discussion and exchange of information, between community sector and regional family violence liaison staff
- 'No To Violence' (NTV) provided professional development and training (eg. to facilitators of men's counselling and behaviour change programs), which includes information covering the FVPA and FVSNs.

4.5.4 Wider community

A cross government campaign to introduce the FVPA (including FVSNs) was undertaken across Victoria. The DHS and DoJ ENOUGH roadshow sector forums (half day) were held in 6 locations, and attended by approximately 420 support workers and members of the community.

4.6 Collaborative structures and arrangements between stakeholders

The Victoria Police, Magistrates' Court of Victoria, DoJ, DPCD and DHS are central to a collaborative process to support FVSNs.

³³

For a description and evaluation of the NCARS program please refer to :
http://research.cwav.asn.au/AFRP/FamilyViolence/SAFER/SAFER%20Publications/CARS_evaluation_October_20081.pdf

Collaboration between police and the courts

On a day to day basis, implementation of FVSNs has relied on effective coordination between police and courts at a local level.

Collaboration between police and courts is impacted by the necessary separation between the judiciary and the executive, resulting in the majority of transactions being formal and arms length in nature. This preserves the separation of powers and ensures independent decision making by the courts based on law.

There was a statewide collaborative approach to the implementation of the FVPA, involving the police and courts, covering a range of practical issues. This included informal agreement in relation to accommodating the 72 hour limitation on FVSNs. There has not however, been a formal framework to guide consistent practice between courts and police.

At an organisational level Victoria Police and the Magistrates' Court of Victoria work together to monitor and review the rates at which police-initiated applications for FVSNs and other orders made after hours, are being granted by the courts. The two organisations operate separate data bases however, and this makes it difficult to evaluate the overall effectiveness of particular approaches.³⁴

The Magistrates' Court After Hours Service is a key interface facilitating collaboration between Police and the courts, by helping to ensure that FVSNs are completed and listed correctly. In addition, the role of the Victoria Police Court Liaison Officer as an agent of collaboration between courts and police, is highly regarded as a model. There are however, only two such positions gazetted.

Arrangements between police and the courts have evolved differently in different regions. This has been a function of court resources and sitting dates, the practices of individual magistrates, and police, as well as the availability of family violence resources, infrastructure and support services.

At a local level, arrangements have relied on police and magistrates agreeing (by default if necessary) on how FVSNs should be processed. 'Agreement' has covered matters such as police (informants) attendance at court, listing matters on preferred listing days, required level of content and quality of FVSNs, quality of applications overall (including prosecution), and whether a FVSN needed to be completed as an affidavit or a certificate.

In some instances police may choose to list cases with a particular court which is not necessarily consistent with the proper venue provisions in the FVPA. This may be because of the perceived benefits to the AFM (eg. AFM may have requested a particular venue for safety or support reasons).³⁵

Collaboration between police and the community sector

Another major area of collaboration is between Victoria Police and the community sector, operationalised regionally through integrated family

³⁴ This matter was addressed by the Auditor General's Report (2009) *Implementing Victoria Police's Code of Practice for the Investigation of Family Violence*

³⁵ Feedback to the evaluation also indicated that police may list a FVSN at a particular court (even if this does not comply with proper venue provisions), based on the belief that a magistrate at that court will be more likely to adjourn rather than strike out the application (in the event there is insufficient evidence on the day).

violence networks. This involves police attending family violence network meetings; community organisations attending police (FVLO) meetings; and police working directly with community organisations through faxback, referral and other arrangements. The level of collaboration between police and community based family violence services is reportedly quite high in regions where family violence is given particular priority, for example through local police family violence units.

VicPol and DHS have a Protocol which is designed to ensure appropriate referral pathways (for AFMs and respondents) between police and community based services including family violence outreach services, and men's counselling and behaviour change programs. A faxback referral system between police and family violence outreach services was introduced with the Code of Practice. This is well progressed and is used in relation to FVSNs. A similar system with men's services is in the process of being implemented.

4.7 Summary comments on inputs to support the introduction of FVSNs

The following points summarise the key issues of this section:

- a) The specific provisions for Family Violence Safety Notices (Division 2) in the Family Violence Protection Act 2008 are in the main, clear and consistent with the broader intent to reduce, and more effectively respond to family violence in the Victorian community. Some aspects of the legislation have not been sufficiently clear, and have been subject to different interpretations by the magistracy. Principal among these was whether an FVSN application could be adjourned in cases where there is a lack of evidence at the first mention hearing. This has been partly resolved now that an interim intervention order can be made based on oral evidence, an affidavit or a certified FVSN. There is no explicit provision however, for adjournment in the FVPA 2008. Despite legislative restrictions, a number of magistrates adjourned FVSN applications on first mention without making an Interim Intervention Order. Where this occurred there was no protection for the AFM until the subsequent hearing. Where FVSNs are struck out, there does not appear to be a formal or consistent follow up process by police to ensure the AFM's safety.
- b) Significant resources were committed to the implementation and ongoing oversight of FVSNs, and other strategies developed aimed at enhanced after hours responses to family violence, by all stakeholders. Overall these resources and strategies have been collaborative, complementary, and relatively effective. Within Victoria Police a range of programs, policies and practices were introduced prior to and following the FVPA 2008. Victoria Police developed a detailed implementation strategy and action plan to support the implementation of FVSNs. Within the Magistrates' Court additional resources were developed (eg. guidelines), training and professional development undertaken, and new processes implemented. There were a range of initiatives within the community sector to support the implementation of FVSNs. The introduction of the FVPA (including FVSNs) was supported by a number of government departments, and non government organisations through representation on high level committees.

- c) The SOCACO FVU produced high quality training material, and implemented a suitable training plan for police members. The initial training strategy appears to have been effective, however the total number of members who received the specific training in FVPA and FVSNs represents approximately 70% of all operational police. There are concerns with the adequacy and coverage of police training and the impact this has on the quality and appropriateness of FVSNs. It is also recognised that for some police members training alone is not sufficient, and that skills but must be practised, and based on changes in attitudes and culture.

SOCACO FVU has not been in a position to enforce the take up of training within regions and divisions, but nevertheless faces the challenge of monitoring the effectiveness of training, practice quality and contributing to improved police practice in response to family violence.

- d) The implementation of the FVPA and FVSNs has been supported by FVAs and FVLOs, as well as the establishment of specialist family violence response units in some Divisions. There is a need to develop a more consistent approach by both FVAs and FVLOs across Divisions and police stations to further develop the knowledge and skills of members. The 'rotation' of police through family violence response units has proven an effective training strategy, demonstrating the importance of practice in the consolidation of knowledge.
- e) There have been a number of professional development opportunities, and other information resources provided for magistrates, relevant to the FVPA and FVSNs in particular. The extent to which magistrates have availed themselves of these opportunities is not clear, however there is a reported need for greater understanding of FVSNs by magistrates. Court registrars and other court officers have been provided with training, guidelines, and information resources, and feedback indicates that the training was comprehensive and very useful.
- f) The Magistrates' Court After Hours Service is a key interface facilitating collaboration between Police and the courts, by helping to ensure that FVSNs are completed and listed correctly. The After hours service has contributed to improved practice by police in completing FVSNs, through the feedback and advice which has been provided to police and other registrars; and through timely scheduling of matters.
- g) Within the family violence community sector there has been a major commitment by DHS and funded family violence services to provide enhanced after hours and 'stay at home' responses for AFMs (including consolidation of existing resources, and new funding by DHS). Services for men who use violence have been strengthened and expanded.
- h) On a day to day basis, implementation of FVSNs has relied on effective coordination between police and courts at a local level. There was a statewide collaborative approach to the implementation of the FVPA, involving the police and courts, covering a range of practical issues. There has not however, been a formal framework to guide consistent practice between courts and police.

- i) Arrangements between police and the courts have evolved differently in different regions. This has been a function of court resources and sitting dates, the practices of individual magistrates, and police, as well as the availability of family violence resources, infrastructure and support services. Another major area of collaboration is between Victoria Police and the community sector, operationalised regionally through integrated family violence networks, and arrangements with dedicated services.

For the future, areas requiring further investigation and capacity building include:

- i) Clarifying/ amending the legislation to provide optimum safety for AFMs (see section 5.6) and consistent approaches by magistrates
- ii) Implementing minimum performance measures for operational police participating in training in family violence and FVSNs in particular, eg. each region to be required to meet training targets of 95% of all operational members, by a designated date; and developing a post training skill development strategy
- iii) Providing additional resources for court staff (AFM and respondent support workers, and Police Court Liaison Officers) and other facilities, to ensure that all courts with high volume family violence lists can operate efficiently, and aim to provide safety for AFMs during court processes
- iv) Developing a strengthened role for SOCACO FVU to oversee quality improvement in police practice in family violence
- v) On going quality monitoring and feedback provided by the After Hours Service
- vii) Establishing a more formal and consistent role definition and performance outcomes for FVAs and FVLOs
- viii) Strengthening collaborative structures and processes, primarily between VicPol and the courts, and also between VicPol and community based support services.
- ix) Considering the development of a formal framework to guide consistent practice between courts and police.

5 SHORT TERM SERVICE OUTCOMES ASSOCIATED WITH THE USE OF FVSNs IN VICTORIA

5.1 Introduction

This section presents evaluation findings in relation to the short term service outcomes associated with the introduction and use of FVSNs in Victoria. The section is structured on the program logic key outcome areas, against which the evaluation framework and key research questions were developed (Appendix 1).

The data sources include:

- Victoria Police Law Enforcement Assistance Program (LEAP), covering the 15 month period from 8th December 2008 to 8th March 2010.
- Department of Justice Courtlink data base, covering the 15 month period from 1st December 2008 to 28th February 2010.
- Magistrates' Court After Hours Service covering the period from December 2008 up to the end of April 2010.

The section is structured as follows:

Section 5.2 addresses the extent to which police are utilising the FVSN option, and discusses key issues relevant to this indicator.

Section 5.3 reports on the extent to which police feel empowered to respond to family violence after hours through the FVSN option.

Section 5.4 discusses the extent to which FVSNs are being applied appropriately.

Section 5.5 presents findings in relation to the processes within Victoria Police and the Magistrates' Court of Victoria, and the extent to which processes are streamlined to support after hours responses to family violence.

Section 5.6 concludes with a summary of key findings and issues for further consideration.

5.2 Extent to which police are utilising the FVSN option

5.2.1 Introduction

There are 4 civil options available to police in relation to family violence – FVSNs, Applications and Warrants (A&W), Applications and Summons (A&S), and Interim Intervention Orders. These are referred to collectively below, as 'civil actions'. Note that with the introduction of the FVPA 2008, 'Complaints' became 'Applications'.

In the 15 months 8th December 2008 to 8th March 2009, there were 44,074 Family Incident Reports (FIRs) in Victoria, where police attended a family violence incident. Of these, 34,154 occurred after hours, which is defined as after 5 pm and before 9 am weekdays, and all day and all night Saturdays and Sundays and on public holidays. Thus the majority (77%) of Family Incident Reports occurred after hours.³⁶

³⁶ The higher rate of incidents 'after hours' is attributed to several factors including a higher number of hours (128 hours versus 40 hours per week); the higher rate of separation of parties during the day due to work and other commitments; and higher rates of alcohol use after hours.

Table 5.1 below shows that police took civil action (ie. issued a FVSN, A&W, or A&S) in approximately one third (34%) of Family Violence Incident Reports after hours.

Table 5.1: Civil actions by police, after hours (8th Dec 2008 to 8th March 2010)

	No	% FIRs	% civil actions
Family Violence Safety Notice	3,909	11%	33%
Application & Warrant	5,193	15%	44%
Application & Summons	1,666	5%	14%
Interim Intervention Order	961	3%	8%
Total civil actions	11,729	34%	100%
Total no. of FIRs (after hours)	34,154	100%	

Source: LEAP

During the period 8th December 2008 to 8th March 2010, Victoria Police issued 3,909 FVSNs.³⁷ This represented 11% of all after hours FIRs in that period, and one third (33%) of all civil actions. A total of 5,193 A&Ws were issued after hours during the same period, representing 15% of all after hours FIRs.

5.2.2 Civil actions by day of week

The majority of after hours FIRs (44%) occur on weekends with Saturdays accounting for 21% of total FIRs and Sundays accounting for 23%. Each of the 5 week days account for approximately 11% of FIRs (Table 5.2).

Table 5.2: Civil actions after hours, % issued each day of week (8th Dec 2008 to 8th March 2010)

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Total
FVSNs	13%	11%	10%	10%	12%	20%	23%	100%
A&Ws	14%	13%	12%	14%	14%	16%	17%	100%
A&S	13%	15%	14%	13%	14%	16%	15%	100%
Int Int Order	14%	14%	12%	13%	14%	14%	18%	100%
No civil action	11%	10%	10%	10%	10%	23%	26%	100%
Total FIRs	12%	11%	11%	11%	11%	21%	23%	100%

Source: LEAP

Civil action by police appears to be less frequent on weekends, accounting for 28-29% of FIRs, whereas on weekdays (after hours) civil action is taken in 38-41% FIRs (Table 5.3). FVSNs represent 10-13% of FIRs regardless of the day of the week. A&Ws are used relatively less on the weekend compared to weekdays.

³⁷

Note that the number of FVSNs reported by the Courtlink data base is somewhat higher, suggesting that the number of FVSNs recorded in the LEAP data base may be understated.

Table 5.3: Civil actions after hours, % of FIRs issued each day of week (8th Dec 2008 to 8th March 2010)

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Total
FVSNs	12%	12%	11%	11%	12%	11%	11%	11%
A&Ws	18%	17%	17%	19%	19%	12%	11%	15%
A&S	5%	7%	6%	6%	6%	4%	3%	5%
Int Int Order	3%	4%	3%	3%	3%	2%	2%	3%
Total civil action	39%	40%	38%	39%	41%	29%	28%	34%
No civil action	61%	60%	62%	61%	59%	71%	72%	66%
Total FIRs	100%	100%	100%	100%	100%	100%	100%	100%

Source: LEAP

5.2.3 Rate of FVSNs issued

As indicated, data for the 15 months 8th December 2008 to 8th March 2010 shows the state average use of civil options after hours was 34% (Table 5.1). The level (and type) of civil action however, varies between police regions. Table 5.4 shows that Regions 2, 3 and 5 record civil action at slightly higher rates (37-38%) than the State average of 34%, and in Regions 1 and 4 police take civil action at lower rates (29% and 25% respectively).

Table 5.4 also shows FIRs (after hours) where charges are laid. Regions 1 and 4 have the lowest rate of charges laid (18% of FIRs), and Region 5 has the highest (26%).

Table 5.4: Civil actions by region after hours, no. of actions (8th Dec 2008 to 8th March 2010)

Region	1	2	3	4	5	Victoria
FIRs (all hours)	4,581	9,726	10,464	8,113	11,189	44,073
FIRs (after hours)	3,683	7,445	8,072	6,398	8,555	34,153
FVSNs	417	296	1,295	657	1,244	3,909
A&Ws	433	1840	1,062	644	1,213	5,192
A&Ss	114	437	457	161	497	1,666
Int Int Orders	114	182	276	163	226	961
FVSN (% of FIRs ah)	11%	4%	16%	10%	15%	11%
A&W (% of FIRs ah)	12%	25%	13%	10%	14%	15%
Civil action (% of FIRs ah)	29%	37%	38%	25%	37%	34%
Ratio of A&W to FVSN	1.0	6.2	0.8	1.0	1.0	1.3
Charges laid	680	1,797	1,762	1,154	2,253	7,646
Charges (% of FIRs (ah))	18%	24%	22%	18%	26%	22%

Source: LEAP

Table 5.4 also shows that the rate at which FVSNs are issued varies between police Regions, ranging from 4% of FIRs (after hours) in Region 2, to 16% in Region 3. The ratio of A&Ws to FVSNs is nearly 6:1 in Region 2, compared to

about 1:1 in other Regions. Region 2 had the highest number of A&Ws issued after hours (25% compared to the state average of 15%).

5.2.4 Historical trends

Table 5.5 shows the number of family violence Incident reports and civil actions for five consecutive 6 monthly periods to December 2009. The proportion of Family Violence Incident Reports resulting in civil action increased from an average of 28-30% for the first three 6 monthly periods, to 34% in the January to June 2009, and July to December 2009 periods. This increase is likely associated with the impact of the introduction of the FVPA 2008, including FVSNs.

Table 5.5: Civil actions in relation to family violence (after hours) 6 monthly totals, July 2007 to December 2009

	July 07 – Dec. 07	Jan. 08 – June 08	July 08 – Dec. 08	Jan. 09 – June 09	July 09 – Dec 09
FIRs (all hours)	15,241	16,424	17,065	16,835	17,861
FIR (after hours)	11,991	12,864	13,379	13,092	13,789
FVSNs	0	0	93	1,443	1,663
A&Ws	2,641	2,726	2,848	1,921	2,009
A&Ss	801	747	740	659	662
Int Int Orders	205	170	227	363	381
Charges laid	2,606	2,675	2,878	2,814	3,136
FVSNs (% of FIR)	0.0%	0.0%	0.7%	11.0%	12.1%
A&Ws (% of FIR)	22.0%	21.2%	21.3%	14.7%	14.6%
A&Ss (% of FIR)	6.7%	5.8%	5.5%	5.0%	4.8%
Int Int Orders (% of FIR)	1.7%	1.3%	1.7%	2.8%	2.8%
Civil actions (% of FIR)	30.4%	28.3%	29.2%	33.5%	34.2%
Charges (% of FIRs ah)	21.7%	20.8%	21.5%	21.5%	22.7%

Source: LEAP

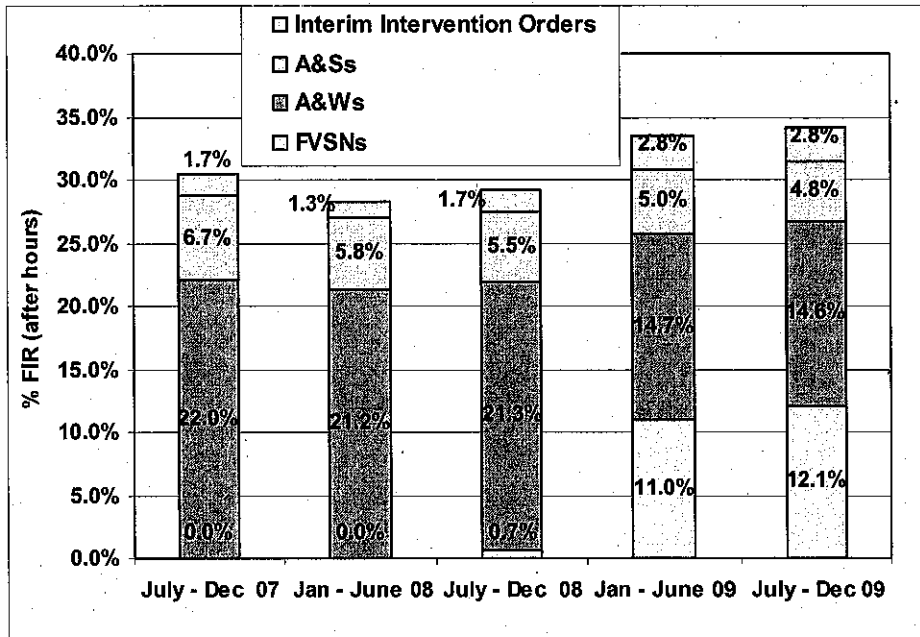
FVSNs appear to have made a contribution to the increase in civil action by police. Chart 5.1 shows that FVSNs have in part replaced A&Ws, with A&Ws reducing from 21% of FIRs in the July to December 2008 period, to 14.6% in the July to December 2009 period.

In the six month period July to December 2008, A&Ws and FVSNs together were issued in 22% of all family violence incidents attended by police.³⁸ In the following six month period January to June 2009, FVSNs and A&Ws were issued in 26% of all incidents, and subsequently 27% in the July to December 6 month period. It may be inferred that FVSNs are contributing to an enhanced after hours response by police to family violence, through an overall increase in police actions.

Table 5.4 also shows that criminal charges laid have not reduced as a result of increases in civil action, in fact the rate at which criminal charges were laid remained constant (21.5%) in the first 6 months (January to June 2009), and then increased to 22.7% in the 6 months July to December 2009.

³⁸ FVSNs were first introduced 8th December 2008.

Chart 5.1: Civil actions (after hours) 6 monthly proportions



5.2.5 Factors influencing the use of FVSNs

The evaluation has found that several factors influence the use of FVSNs, and the variation in use by Regions and Divisions.

72 hour time frame

A key factor influencing the use of FVSNs across the state, relates to the 72 hour time frame. FVSNs must be returned to a court for first mention within 72 hours, and the listing should be at a court in accordance with proper venue conditions. Proper venue conditions are designed to take into account the safety of the parties; the need to prevent disclosure of a party's whereabouts; the ability of the parties to attend a particular venue of the court, taking into account their places of work, residence, or any childcare requirements; the availability of family violence support services at particular venues of the court; the need to manage case flow; and any other considerations the court thinks relevant.³⁹

Police cannot issue a FVSN if there is no court sitting within the 72 hour time frame within their designated area. In most metropolitan areas there is a court available, regardless of the day and time at which a FVSN is issued.

Appendix 4, shows the number of FIRs by Police Service Area, together with the proportion of days in a fortnight in which a FVSN can be issued. In non metropolitan areas, the availability of courts within 72 hours is significantly lower. Police overall are less likely to issue a FVSN where there is limited court availability.

Some Divisions however, have a relatively high use of FVSNs despite limited listing days. For example Region 5 Division 3 (West Gippsland) and Division 4 (East Gippsland) use FVSNs in approximately 18% of FIRs, which is higher than the state average of 11%, despite limited listing days. The higher rate of

³⁹

See FVPA, 2008, s251.

FVSNs in these Divisions may be explained by police listing in the nearest available court within the 72 hour period, even if this does not comply with proper venue provisions.⁴⁰

FVSNs may also be listed at adjacent courts at the request of the AFM or respondent, either of whom may have relocated to another area (and are hence closer to another court).

Court preferences and practices

Police use of FVSNs may be influenced by magistrates' treatment of FVSNs, for example, whether individual magistrates tend to strike out or adjourn in the face of limited evidence. For example, 3 Divisions in Region 2 (which includes one court of the FVCD, and a specialist family violence court) show significantly lower use of FVSNs, even though courts are sitting, and there is a good proportion of listing days. In these Divisions the number of FVSNs are lower, and A&Ws are proportionally higher, as a result of courts striking out FVSNs for lack of evidence.

Police culture and practices

A key influence on the use of FVSNs relates to the extent to which individual stations and Divisions have a culture which supports the use of FVSNs as a valid option. A small but significant minority of survey responses by police members and sergeants oppose the introduction and use of FVSNs. Arguments include the views that A&Ws serve the same purpose; FVSNs involve more paperwork and data entry (than A&Ws); and it can be difficult to arrange to meet with a Sergeant to authorise a FVSN.

Criminal charges

Another factor influencing the use of FVSNs appears to relate to whether police are laying criminal charges, as well as civil action, in response to family violence. Feedback and data suggests that if police members lay criminal charges they will be more likely to issue an A&W, and complete all forms and associated processes electronically.

Effort involved in remote applications

The reported additional effort associated with issuing FVSNs remotely, including the need to reconcile two separate forms (in accordance with the legislation) is cited by police members as a significant issue. Another reason cited related to the reluctance of some Sergeants to issue a FVSN without face to face involvement with the parties.

Training coverage and skill levels

It is police policy that members should not issue a FVSN if they have not received training, however not all operational members have received training (see section 4.3.6). Furthermore some police members report that although they have received training, they have not had an opportunity to practise skills in issuing FVSNs through on the job experience, and consequently lack confidence in issuing FVSNs.

⁴⁰

This practice was reported by police and court registrars in rural areas, including Gippsland. This may inconvenience the AFM and perpetrator and result in lower attendance at court.

Good response times by the After Hours Service

A further influencing factor on the use of FVSNs has been the streamlining of after hours applications for A&Ws through the Magistrates' Court After Hours Service. This has simplified and expedited the processes for police to issue A&Ws after hours, compared to when the service was based at the Coroner's Court, prior to April 2007. Nevertheless some police members report that not having to apply to the After Hours Service is still a good reason for using FVSNs rather than A&Ws.

Time saved using FVSNs

In the 6 months Jan. to June 2009, on average it took police 20 minutes less time to issue a FVSN compared to an A&W (Table 5.6). For the next 6 months (July to Dec. 2009) FVSNs apparently took 36 minutes less time to issue, compared to an A&W.

The estimated time (of attendance) when police take no civil action may be calculated as 63 minutes for Jan. to June 2009, and 73 minutes for July to December 2009.⁴¹

Table 5.6: Average length of time spent by police dealing with FIRs after hours (minutes)

	Jan. – June 2009	July – December 2009
FIR (total)	103	117
FIR (ah)	102	114
FVSN issued	166	171
A&W issued (ah)	186	207
A&S (ah)	157	175
I I Os issued (ah)	209	235
No civil action (inferred)	63	73
Charges laid	191	213

Source: LEAP (L17)

Limitations under the FVPA 2008

Underpinning the range of variables influencing the use of FVSNs, a police officer may apply for an FVSN if he/she has reasonable grounds for suspecting that the respondent is an adult; has no reasonable grounds for suspecting the respondent has a cognitive impairment; has no reasonable grounds for suspecting there is a family law order that may be inconsistent with the FVSN; and believes on reasonable grounds there is no family violence intervention order in place. There is limited data on the prevalence of these factors in FIRs attended by police, however in approximately 24% of FIRs there is an active intervention order in place.⁴²

⁴¹

These data are consistent with the Auditor General's report 2008, p 23.

⁴²

Department of Justice (2009) *Victorian Family Violence Database Volume 4: Nine Year Trend Analysis (1999-2008)*.

5.2.6 FVSNs compared to other civil actions (select dimensions and characteristics)

AFM characteristics

More than three quarters of AFMs are female (77% of FIRs after hours, see Table 5.7). The proportion of female AFMs was higher in instances when police took civil action. Where an A&W was issued, 85% of the AFMs were female, and where a FVSN was issued 83% of the AFMs were female. The AFM gender mix for FVSNs and A&Ws is similar.

Table 5.7: Gender of AFM (victim) % of FIRs, civil actions and charges laid after hours (8th Dec 2008 to 8th March 2010)

	FIRs ah	FVSN	A&W	A&S	IIO	Charges
Female	77%	83%	85%	80%	85%	84%
Male	23%	17%	15%	20%	15%	16%

Source: LEAP (L17)

There are no notable differences between the age range of AFMs where an FVSN was issued, compared with the age range of AFMs for all FIRs, and other civil actions (Table 5.8).

Table 5.8: Age of AFM (victim), % of FIRs, civil actions and charges laid after hours (8th Dec 2008 to 8th March 2010)

	FIRs ah	FVSNs	A&Ws	A&Ss	IIO	Charges
< 18	7%	3%	5%	10%	7%	8%
18 - 25	19%	20%	22%	19%	20%	21%
26 - 35	26%	27%	28%	26%	23%	26%
36 - 45	27%	27%	26%	26%	30%	26%
46 - 55	13%	14%	11%	13%	13%	11%
55 +	7%	8%	7%	7%	7%	7%

Source: LEAP (L17)

In Victoria, Aboriginal people represent approximately 0.5% of the population. In approximately 5% of FIRs AFMs are identified as Aboriginal (Table 5.9). This indicates a much higher rate of family violence within Aboriginal families compared to the general population. FVSNs are used more frequently where the AFM is Aboriginal, compared to other civil options (eg. 7% of FVSNs are issued where the AFM is Aboriginal compared with 5% in other civil options).

Table 5.9: Aboriginality of AFM (victim), number and % of FIRs, civil actions and charges laid after hours (8th Dec 2008 to 8th March 2010)

	FIRs ah	FVSN	A&W	A&S	IIO	Charges
Indigenous (no.)	1,142	173	179	58	34	315
(%)	5%	7%	5%	5%	5%	6%
Non indigenous	95%	93%	95%	95%	95%	94%

Source: LEAP (L17)

Table 5.10 shows that FVSNs are used more frequently when parties are married or in a de facto relationship (56% of FVSNs) compared to 44% for all FIRs, and less frequently where the violence occurs between a child and parent, or where couples are separated.⁴³

Table 5.10: Relationship between AFM and perpetrator (8th Dec 2008 to 8th March 2010)

	FIR (ah)	FVSNs	C&W	C&S	IIO	Charges
Married	17%	23%	17%	12%	14%	13%
De facto	27%	33%	28%	21%	22%	25%
Child/ parent	20%	15%	15%	26%	28%	17%
Separated/ divorced	14%	10%	14%	15%	13%	22%
Other family member	10%	9%	12%	15%	12%	11%
Boyfriend/ girlfriend	11%	10%	12%	10%	10%	11%

Source: LEAP (L17)

Perpetrator characteristics

Police attending FIRs identified 80% of the perpetrators as males. Where FVSNs and A&Ws were issued, 88% and 90% of the perpetrators were male, respectively (Table 5.11).

Table 5.11: Gender of perpetrator % of FIRs, civil actions and charges laid after hours (8th Dec 2008 to 8th March 2010)

	FIRs ah	FVSN	A&W	A&S	IIO	Charges
Female	20%	12%	10%	20%	14%	12%
Male	80%	88%	90%	80%	86%	88%

Source: LEAP (L17)

The majority (89%) of perpetrators where police attended an incident were 18-45 years of age. Where a FVSN or an A&W was issued, 85% of perpetrators were aged 18 to 45. A higher proportion of A&Ss and Interim Intervention Orders were used where the perpetrator was less than 18 years of age. There were virtually no FVSNs issued where perpetrators less than 18 years.⁴⁴

Table 5.12: Age of perpetrator, % of FIRs, civil actions and charges laid after hours (8th Dec 2008 to 8th March 2010)

	FIRs ah	FVSNs	A&Ws	A&Ss	IIO	Charges
< 18	7%	0%	2%	16%	25%	5%
18 – 25	20%	22%	23%	17%	17%	21%
26 – 35	30%	32%	33%	29%	25%	31%
36 – 45	27%	30%	29%	23%	20%	29%
46 – 55	12%	11%	10%	10%	10%	11%
55 +	4%	4%	3%	5%	3%	3%

Source: LEAP (L17)

⁴³ This is consistent with the limitations on the use of FVSNs, that is, the respondent should not be less than 18 years old; and the possibility that the respondent is less likely to be present where the parties have separated or divorced.

⁴⁴ FVSNs cannot be used if the perpetrator is less than 18. There were 12 FVSNs issued where the perpetrator was less than 18 in the 15 month period.

Broadly consistent with AFM data, 6% of perpetrators were identified as Aboriginal, and 7% of FVSNs were issued where the perpetrator was Aboriginal.

Victim's level of fear

One of the considerations for police when attending family violence incidents is the victim's level of fear.⁴⁵ Police assessed victims as 'Not fearful' in 60% of FIRs, 30% as 'Fearful', and 10% as 'Very fearful'⁴⁶ (Table 5.13). Given that the AFM or a concerned other person had requested police attendance, the finding that 60% of victims were assessed as 'Not fearful' appears to be surprisingly high.⁴⁷ Further examination of possible reasons to account for this figure is warranted. For example, it may be that police assess fear of future violence, rather than the fear expressed prior to police attendance at the incident.

Where victims were assessed as 'Not fearful', civil action nevertheless ensued in 11% of cases. Where victims were assessed as 'Fearful' civil action ensued in 63% of incidents. Where victims were assessed as 'Very fearful', civil action ensued in 90% of incidents.

The proportion of FIRs where police lay charges also increases with assessed level of fear. Charges were laid in 9% of cases where victims were assessed as 'Not Fearful', 37% of cases where victims were assessed as 'Fearful', and 60% of cases where victims were assessed as 'Very Fearful'.⁴⁸

Table 5.13: Assessed victim's level of fear, number of incidents, and % of after hours FIRs (8th Dec 2008 to 8th March 2010)

	Not fearful		Fearful		Very fearful	
	No.	% FIRs	No.	% FIRs	No.	% FIRs
Civil action	2,188	11%	6,046	63%	3,074	90%
No civil action	17,236	89%	3,494	37%	338	10%
Total FIR	19,424	100%	9,540	100%	3,412	100%
% of FIRs	60%		30%		10%	
Charges laid	1,785	9%	3,533	37%	2,052	60%

Source: LEAP, L17

Table 5.14 and Chart 5.2 on the following page provide more detail about types of civil actions taken in relation to the assessed level of victim's fear. Where police assessed victims as 'Fearful' FVSNs were used in 22% of FIRs, and A&W were used in 27% of FIRs. In 37% of incidents where the victim was assessed as 'Fearful' police took no civil action.

⁴⁵ Trujillo, M. 2008 discusses the importance of police perceptions of fear, using the L17.

⁴⁶ The L17 provides for 3 categories – 'Not fearful', 'Fearful', and 'Very Fearful'.

⁴⁷ AFMs contact police in approximately 75% of FIRs.

⁴⁸ Note that 37% of civil actions also involve criminal charges, and 76% of criminal charges involve civil action.

Table 5.14: Assessed victim's level of fear, proportion of civil action taken by level of fear (8th Dec 2008 to 8th March 2010)

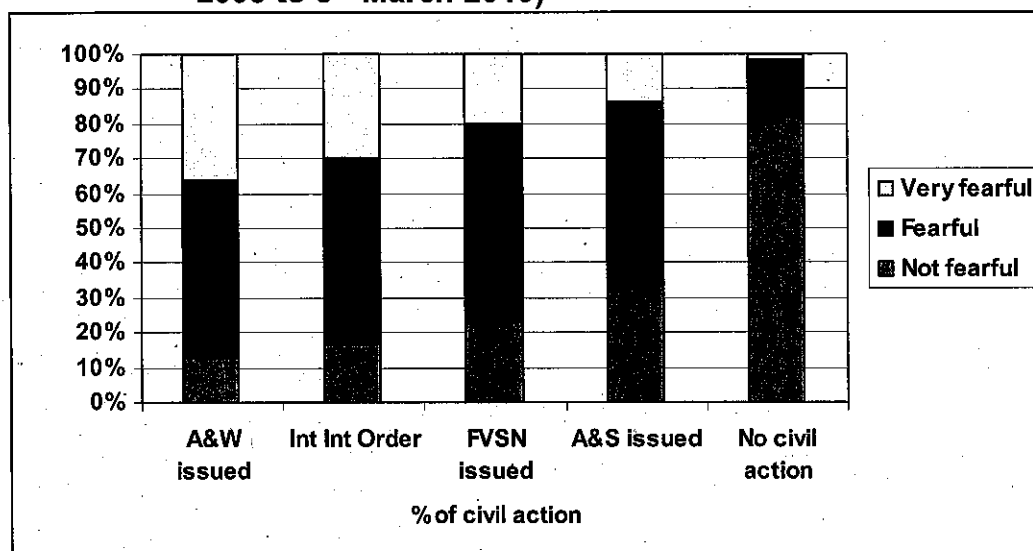
	Not fearful	Fearful	Very fearful	Total (valid)
FVSN issued	4%	22%	22%	12%
A&W issued	3%	27%	53%	15%
A&S issued	3%	9%	6%	5%
Int Int Order	1%	5%	8%	3%
Total civil action	11%	63%	90%	35%
No civil action	89%	37%	10%	65%
FIRs	100%	100%	100%	100%

Source: LEAP (L17)

Where police assessed victims as 'Very fearful', A&Ws were used more frequently (53% of FIRs), and FVSNs were used in 22% of FIRs. In 10% of incidents where AFMs were assessed as 'Very fearful' police took no civil action. It is not clear why police do not take civil action, if assessed level of fear is 'Fearful', or 'Very fearful'.⁴⁹

It may be inferred from Chart 5.2 that police issue A&Ws where there are higher levels of assessed fear, followed by Interim Intervention Orders, and FVSNs. A&Ss were issued when police assessed relatively lower levels of AFM fear.

Chart 5.2: Assessed level of fear as a proportion of civil action (8th Dec 2008 to 8th March 2010)



Risk of future violence

The L17 form assists police to make an assessment of future risks, taking into account all the information obtained and recorded on the form. Police record the risk of future family violence as 'Likely' or 'Unlikely'.⁵⁰

⁴⁹

It may be that police lay charges instead of taking civil action.

⁵⁰

Civil actions taken by police are based on an assessment of risk of future violence, and the necessity, on reasonable grounds, to ensure the safety of the AFM, preserve property of the AFM, or protect a child.

Table 5.15 shows that for all FIRs after hours, police considered future family violence to be likely in 52% of cases. In incidents where police took civil action, police assessed that future family violence was likely in 79% of incidents.

Table 5.15: Assessed victim's level of fear, proportion of civil action taken by level of fear (8th Dec 2008 to 8th March 2010)

	FVIR (ah)	FVSN issued	C&W issued	C&S issued	Int Int Order	Civil action	Charges laid
Unlikely	48%	25%	17%	28%	19%	21%	24%
Likely	52%	75%	83%	72%	81%	79%	76%

Source: LEAP (L17)

When police issued a FVSN, they made the assessment that future family violence was likely in 75% of cases. The likelihood of future family violence was assessed to be slightly higher when A&Ws were issued (83% of cases).

Further clarification of police assessment of the 'likelihood' of future family violence is required. To comply with legislation, all FVSNs and A&Ws should be based on the assessment that future family violence is 'Likely', and that civil action is required to ensure the safety of the AFM.

Risk factors identified

Police undertake a risk assessment every time they attend a family violence incident. The VP Form L17 includes a list of risk and vulnerability factors, grouped into victim, relationship and perpetrator factors. The average number of risk and vulnerability factors identified by police are shown in Table 5.16.

Table 5.16: Average number of risk factors by civil action taken and charges laid (8th Dec 2008 to 8th March 2010)

	Victim	Relationship	Perpetrator	Total average
FIRs	1.35	1.11	2.11	4.6
FVSNs	1.39	1.14	2.39	4.9
A&Ws	1.40	1.15	2.80	5.4
A&Ss	1.45	1.13	2.38	5.0
Int Int Order	1.49	1.17	2.91	5.6
Charges laid	1.44	1.15	2.95	5.5

Source: LEAP (L17)

The data suggests that on average police identify 1-2 Victim risk factors, 1 Relationship risk factor, and 2-3 Perpetrator risk factors. Perpetrator risk factors are higher for A&Ws and criminal charges compared to FVSNs.

A key risk factor is alcohol and drugs. Police report that perpetrators are often affected by drugs and/or alcohol, and this is one reason why police take perpetrators to the police station for processing.

Table 5.17 shows that police assess alcohol or drugs to be a definite risk factor in nearly 50% of FIRs where a FVSN is issued.

Table 5.17: FIRs where alcohol or drugs are definite risk factors (8th Dec 2008 to 8th March 2010)

	Total	Alcohol or drugs are risk factors	
		Number	% total
FIR (ah)	34,221	13,143	38%
FVSNs	3,962	1,934	49%
C&W	5,211	2,195	42%
C&S	1,671	507	30%
IIO	968	334	35%
Charges	7,678	2,995	39%
No civil action	22,409	8,173	36%

Source: LEAP

Number of previous police reports when civil action is taken

The majority of civil action (47%) occurs the first time police attend a family violence incident. A further 41% of civil action occurs when the number of previous police reports are 1-3 (Table 5.18).

Table 5.18: Number of previous police reports, proportion of civil action taken and charges laid (8th Dec 2008 to 8th March 2010)

	Nil	1-3	4-6	7-10	11-15	> 15
FVIR (ah)	46%	40%	8%	3%	2%	2%
FVSN issued	47%	40%	8%	3%	1%	1%
A&W issued	47%	41%	7%	2%	1%	1%
A&S issued	48%	41%	7%	2%	1%	1%
Int Int Order	43%	42%	8%	3%	2%	1%
Civil action	47%	41%	7%	3%	1%	1%
Charges laid	36%	44%	11%	5%	3%	2%

Source: LEAP (L17)

There is little or no difference between use of FVSNs and other types of civil action, in relation to number of police attendances at the same address. Thus police do not appear to be issuing FVSNs any sooner or later than other civil actions in relation to the number of previous police reports. The data suggests that police are less likely to lay charges on the first attendance, compared to taking civil action, and are more likely to lay charges after multiple attendances.

Approximately one third (34%) of FIRs are recorded as the first incident of family violence, and a further 15% record that family violence started less than a month prior to the FIR. Thus in 50% of FIRs family violence is reported as having commenced more than one month prior. The length of time since commencement of violence appears to have little impact on whether a FVSN or an A&W is issued, however police are more likely to lay charges where family violence has been going on longer (Table 5.19).

Table 5.19: Time between FIR and when abuse/violence first started, proportion of civil action and charges laid (8th Dec 2008 to 8th March 2010)

	First incident	< 1 month	< 6 months	< 12 months	< 2 years	< 5 years	>5 years
FIR (ah)	34%	15%	13%	9%	9%	10%	7%
FVSN	32%	15%	13%	9%	10%	12%	9%
A&W	28%	16%	14%	10%	10%	13%	10%
A&S	31%	14%	16%	10%	11%	11%	7%
Int Int Order	27%	13%	16%	12%	9%	13%	10%
Charges laid	23%	14%	17%	12%	11%	14%	10%

Source: LEAP

5.2.7 Criminal charges

The number of criminal charges laid when police attend family violence incidents after hours has averaged approximately 2,100 per 6 month period, or 16-17% of FIRs since July 2007. Importantly, the number of criminal charges that have been laid in incidents of family violence after hours, do not appear to have increased or decreased, following the introduction of FVSNs (and increased civil actions).

Table 5.20: Criminal charges July 07 to December 2009 (After-Hours)

	July 07 – Dec 07	Jan 08 – June 08	July 08 – Dec 08	Jan 09 – June 09	July 09 – Dec 09
Charges	2,029	2,038	2,224	2,092	2,341
FIRs	11,991	12,864	13,379	13,092	13,789
	17%	16%	17%	16%	17%

Source: LEAP (L17)

For the 15 months period December 2008 to March 2009, there were 5,722 FIRs where criminal charges were laid (ie. 17% of FIRs). The majority (4,366 FIRs, or 76%) of criminal charges were associated with civil actions. This is illustrated below (Chart 5.3).

Chart 5.3: Civil actions and criminal charges (8th Dec 2008 to 8th March 2010)

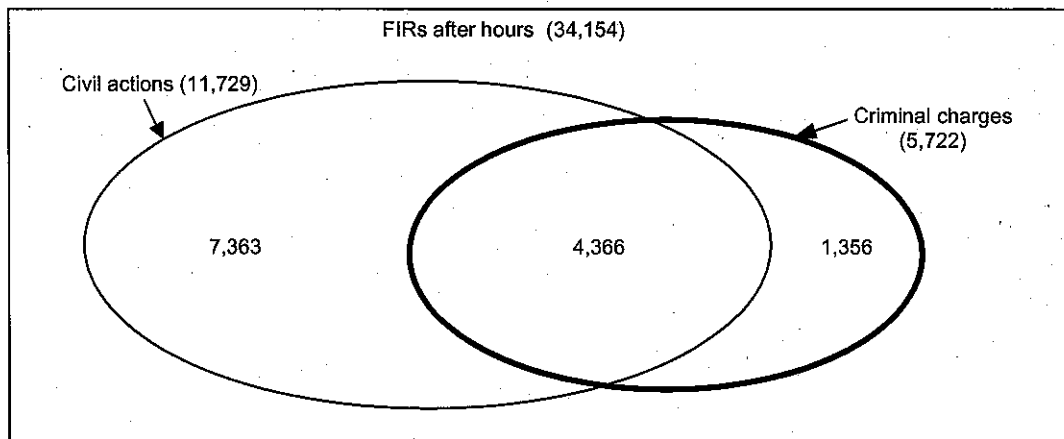


Table 5.21 shows the proportion of civil actions where criminal charges were laid, by police Region. Across Victoria, 28% of FVSNs were issued in conjunction with criminal charges being laid. Criminal charges were laid in 48% of incidents where A&Ws were issued.

Table 5.21: Criminal charges, by type of civil action by Region (after hours) (8th Dec 2008 to 8th March 2010)

	Region 1	Region 2	Region 3	Region 4	Region 5	Victoria
FIRs (ah)	14%	18%	17%	14%	19%	17%
FVSN issued	30%	26%	25%	26%	31%	28%
A&W issued	48%	46%	47%	47%	51%	48%
A&S issued	32%	20%	23%	27%	30%	25%
Int Int Order	39%	38%	37%	39%	44%	40%
Total civil action	38%	40%	33%	36%	40%	37%
No civil action	3%	3%	4%	5%	5%	4%

Source: LEAP

The higher rate of criminal charges associated with A&Ws compared to FVSNs may be due to the need to lay charges at a police station. Some police members report that it is administratively easier to apply for an A&W in conjunction with criminal charges, compared to a FVSN. It may also be that police are more likely to apply for an A&W where the respondent's behaviour is perceived to be more serious.

There are some differences between Regions in terms of the rate at which criminal charges are laid, when police attend FIRs. In Region 5 police lay charges in 19% of FIRs, which is slightly higher than the state average of 17%, whereas Regions 1 and 4 lay charges at a slightly lower rate (14% of FIRs).

Notable differences between Regions are seen in the frequency of use of different civil actions, and whether criminal charges are laid. The proportion of FVSNs issued in conjunction with criminal charges ranges from 25% in Region 3, to 31% in Region 5. An even greater range is noted with A&Ss (20% to 32%).

5.3 Extent to which police feel empowered to respond to family violence

One of the expected benefits of FVSNs was that police would feel empowered to respond to family violence, by being able to take immediate action without reference to the courts. The overall increase in civil action (FVSNs and A&Ws, see section 5.2.4) provides support for the contention that police have been empowered. Qualitative responses to date also indicate that many police feel empowered by FVSNs, and that many police particularly appreciate the capacity to take immediate action. In addition to empowerment, some stakeholders noted that some police members appear to have greater 'ownership' or commitment to following up the AFM, after issuing a FVSN, to ensure the AFM's safety in the period prior to attendance at court.

5.4 Appropriate use of FVSNs

5.4.1 Introduction

The evaluation framework provides for an assessment of the extent to which FVSNs are being used appropriately. Appropriate use is indicated by minimum number of defects in FVSNs (section 5.4.2); the reasons for issuing a FVSN (section 5.4.3); and whether the courts uphold or strike out FVSN applications (section 5.4.4). The appropriateness of police actions (including issuing FVSNs) when children are present also need to be considered (sections 5.4.5 and 5.4.6). Finally appropriateness may be indicated by the views of AFMs and perpetrators, although limited information is available from these sources (section 5.4.7).

5.4.2 Defects in FVSNs issued by police

The Magistrates' Court After Hours Service refers to any errors in FVSNs as 'defects'. Errors which might result in a case being struck out are referred to by the service as 'fatal defects'. This report uses the term 'serious defect'.

The After Hours Service reports that 37% of FVSNs filed contained 'defects'. Types of 'defect' are shown in Table 5.22. The most common defects included incomplete recording of service details, and the FVSN being filed directly at a court (rather than with the After Hours Service).

Table 5.22: Defects in FVSNs (15 months March 2010)

Type of defect	Total	% of FVSNs
Multiple protected persons on one notice	179	3.8%
No service details page	362	7.8%
Respondent is a child	9	0.2%
No issue time	65	1.4%
No issuing member identified	106	2.3%
Returnable on a non sitting day	20	0.4%
Illegible notice	39	0.8%
No court listing details	26	0.6%
Listing outside of statutory time frame	44	0.9%
Incorrect, or no relationship specified	84	1.8%
Returned to incorrect court (improper venue)	59	1.3%
Filed directly at court	469	10.1%
Other	387	8.3%
Total FVSNs	4,653	100.0%

Source: Magistrates' Court After Hours Service

Time series analysis produced by the After Hours service shows the number of defects decreasing over time, since the introduction of FVSNs. Currently around 10% of FVSNs have defects, with the most common defect being the filing of FVSNs directly with the hearing court rather than with the After Hours Service. These are process 'defects' rather than material 'defects'. The After Hours Service reports that predominantly the defects are not so serious as to result in applications being struck out.⁵¹

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The After Hours Services collaborates with the Police Family Violence Unit to instruct police to fax FVSNs direct to the After Hours Service, and to provide police with up to date list of court preferred sitting days.

5.4.3 Primary reasons for issuing a notice

Police record an Incident Code as part of the Risk Assessment and Management Report (L17) which is completed for every FIR. Police select one of 20 codes, which best describes the most serious feature of the incident.

For the 15 months December 2008 to March 2010, the incident code recorded most frequently was 'Non criminal abuse – verbal' (9,481 FIRs), which is described as 'swearing and making derogatory insults to the AFM' (see Table 5.23).

A high proportion (87%) of 'Non criminal abuse – verbal' resulted in no civil action. The second most frequent Incident Code was 'Non criminal non abuse' (8,217 FIRs), which resulted in no civil action in 96% of records. Assaults (actual and threatened) were also frequently coded, representing 31% of all FIRs. Property damage represented 6% of all FIRs.

FVSNs were mainly issued for 'Assault' (63% of FVSNs), 'Property damage' (13%), and 'Non criminal abuse' (24%). A higher proportion (75%) of A&Ws were issued for incidents coded as 'Assaults', and a lower proportion (12%) were issued for 'Non criminal abuse'. This data indicates that FVSNs are used relatively less than A&Ws for more serious incidents (Chart 5.4).

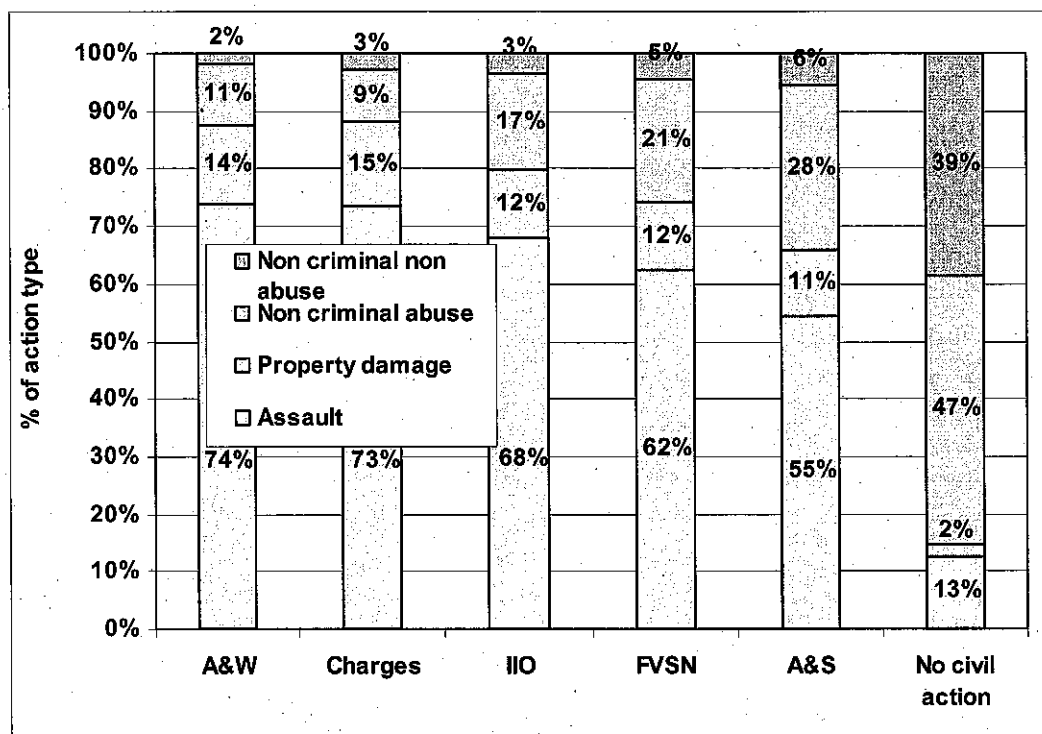
Table 5.23: Incident codes by civil action and charges laid for main Incidents (8th Dec. 2008 to 8th May 2010)

	FIRs	FVSNs	A&W	A&S	IIO	No civil action	Charges laid
Assault – physical indictable	3,143	729	1,444	196	210	564	2,032
Assault – physical summary	4,839	1,237	1,515	488	247	1,352	1,746
Assault – sexual	338	22	89	20	16	191	173
Assault – threatened	1,403	344	577	146	125	211	600
Assault – other	293	19	27	13	5	229	34
Prop damage indictable	1,263	310	541	110	84	218	764
Prop damage summary	602	144	127	71	21	239	164
Non crim abuse - emotional	1,671	256	193	128	52	1,042	204
Non crim abuse - verbal	9,481	520	343	312	91	8,215	355
Non crim abuse - other	245	18	12	11	5	199	14
Non crim non abuse	8,217	172	78	88	30	7,849	165
Total	31,495	3,771	4,946	1,583	886	20,309	6,251

Source: LEAP (L17). Note that there are 20 incident codes, but not all codes are shown as some were not frequently used. Police are required to select one Incident Code. More than one charge may be laid for each incident.

A total of 2,547 FIRs coded as Assaults, resulted in no civil action, and 4,552 resulted in charges being laid.

Chart 5.4: Incident codes (grouped) by civil action, and charges ;aid (8th Dec 2008 to 8th March 2010)



5.4.4 Court outcomes

One measure of the appropriateness of a FVSN may be the extent to which the courts uphold FVSN applications. This is measured by the rate at which FVSN applications are converted to final orders. Granting of Interim Intervention Orders at first mention of a FVSN also suggests a level of concurrence between police applications and the views of the court.

Conversion of FVSNs to FVIOs

In the 15 months December 2008 to February 2010, 5,292 FVSN applications were finalised. Two thirds (65%) of FVSNs resulted in an Intervention Order, and 25% were struck out (Table 5.24). The other outcome was 'complaint withdrawn' (9% of FVSNs, and 12% of A&Ws). An application may be withdrawn because the AFM requests it, and the police are satisfied that the order is not required to protect her safety. Alternatively, there may be insufficient evidence to support the application, or further enquiries or changes in circumstances lead police to conclude the application is not appropriate.

Table 5.24: Number of Finalised Family Violence Applications - FVSNs and A&Ws, by Outcome – (Dec 2008 to Feb 2010)

	Family Violence Safety Notice		A&W	
IVO made	3,165	67%	3,340	71%
IVO made (restrictions unknown)	3	0%	0	0%
IVO refused	14	0%	12	0%
Application withdrawn	420	9%	552	12%
Application withdrawn with undertaking	50	1%	79	2%
Application struck out	1,058	22%	734	15%
Total FV Applications Finalised	4,710	100%	4,717	100%

Source: Courtlink

A&Ws were converted to orders at a higher rate than FVSNs (71% for A&Ws compared to 67% for FVSNs), and were struck out at a lower rate (15% for A&Ws compared to 22% for FVSNs). There is no information available about why FVSN applications have been struck out, and whether the applications were inappropriate.

Analysis suggests that the conversion of FVSNs to final orders is not dissimilar to A&Ws, and that police appear to be issuing FVSNs appropriately.⁵²

Table 5.25 shows outcomes at court following FVSN applications, by police Region. Region 2 shows a higher rate of applications being withdrawn, and Regions 3 and 5 show a slightly higher rate of applications being struck out.

Table 5.25: Finalised Family Violence FVSN Applications - Police Region by Outcome % (Dec 2008 to Feb 2010)

	Region 1	Region 2	Region 3	Region 4	Region 5	Total
IVO made	69%	61%	62%	65%	67%	65%
IVO made (restrictions unknown)	0%	0%	0%	0%	0%	0%
IVO refused	0%	0%	1%	0%	0%	0%
Application withdrawn	11%	17%	10%	11%	5%	9%
Application withdrawn with undertaking	2%	2%	1%	1%	1%	1%
Application struck out	18%	20%	25%	23%	27%	25%
Total	100%	100%	100%	100%	100%	100%

Source: Courtlink

Interim intervention orders and adjournments

Table 5.26 shows that nearly two thirds (65%) of all FVSN applications are finalised at the first hearing. Thus 35% of cases proceeded to a second hearing. Nearly one quarter (23%) of all FVSN applications were finalised at the second hearing. Thus, 88% of all FVSN applications were finalised at one or two hearings. For those cases which were finalised at the second hearing (1,236 cases), an interim intervention order had been issued at the first hearing in 555 instances. Overall courts issued interim intervention orders in relation to 906 (or 17%) of FVSN applications (over 2 to 6+ hearings).

Table 5.26: Number of Family Violence Applications finalised. FVSNs – Interim Intervention Orders made by the number of hearing bookings (Dec 2008 to Feb 2010)

	Total FVSN applications finalised	Interim order made	Interim order not made
1 hearing	3,462 (65%)	na	3,462
2 hearing	1,236 (23%)	555	681
3 hearing	380 (7%)	216	164
4 hearing	121 (2%)	80	41
5 hearings	57 (1%)	32	25
6 or more hearings	36 (1%)	23	13
Total	5,292 (100%)	906	4,386

Source: Courtlink

⁵² If legislation were changed to enable adjournment of FVSNs, it is likely that the proportion of IVOs made in relation to FVSN would be higher.

In total, there were 924 cases which proceeded beyond the first hearing without an interim intervention order (shown as the part of Table 5.26 shaded grey). Thus 17.5% of total FVSN applications were adjourned without an interim intervention order being issued.

Reasons for the court not issuing an interim order include a lack evidence to support the application before the court, which may be because neither the police applicant, nor the AFM, attended court on the first mention date to support the application.

The data indicates that around 30% of FVSN applications lacked oral and affidavit evidence. This comprised 17.5% of applications which were adjourned without an interim order and possibly 12% of applications (of the 22%) which were struck out for lack of evidence.⁵³ The capacity to issue an interim order based on a certified FVSN will result in less FVSN applications being struck out, and may see the conversion rate for FVSN equal, and possibly exceed that of A&Ws.

Where cases have been struck out, or adjourned without an interim intervention order, AFMs have been left unprotected. In these circumstances it is understood that some magistrates have encouraged police to seek an Application & Warrant, which would potentially provide protection for the AFM through bail conditions.

There is a perception by many stakeholders (primarily magistrates and registrars, and some police) that there is a lower rate of attendance at court by AFMs and respondents on the first FVSN mention date, compared to rates of attendance for A&Ws.

This may be due to:

- police not providing sufficient information to AFMs and respondents at the time of issuing the FVSN, and stressing the importance of attendance at court
- difficulties associated with parties attending court within 72 hours (see section 5.5.2, below)
- police proceeding on their own initiative to issue a FVSN where AFMs are reluctant (ie. do not wish to be involved in Court processes).
- a higher rate of attendance by respondents for A&W hearings because attendance is a bail condition, and they may be charged if they fail to appear (whereas there is no penalty for failing to appear in response to a FVSN).

Where an application for a FVIO has been made by an A&W, the court can adjourn the hearing, extend bail, make an interim order (if there is sufficient admissible evidence) and/or issue a warrant if the respondent does not attend as is required by the bail conditions. Several magistrates considered that A&Ws provide greater safety for AFMs, as cases are less likely to be struck out because of lack of oral evidence, and because the court can order the arrest of a respondent who breaches bail.

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The 12% estimate is notional only. Further analysis of Courtlink data may provide a more accurate estimate of the number of cases which are adjourned and struck out due to lack of evidence.

Where a FVSN application is struck out because of process issues, and no further action ensues, perpetrator accountability is decreased, and the effectiveness of FVSNs as a deterrent is diminished. Respondents are also less accountable if they do not attend court, and/or if they encourage the AFM not to attend, and the matter is struck out.

5.4.5 Presence of children when FVSN issued

Children were recorded as being present in 35% of all FIRs in the 15 months 8th December 2008 to 8th March 2010 (Table 5.27). Where children were present, civil action was taken in 38% of incidents. Civil action was slightly lower where children were not present (civil action was taken in 32% of incidents where children were not present).

Table 5.27: Presence of children in FIRs, after hours (8th Dec 2008 to 8th March 2010)

	Children present		No children present		Total FIRs	
	No.	%	No.	%	No.	%
Civil action	4,650	38%	7,079	32%	11,729	34%
No civil action	7,460	62%	14,965	68%	22,425	66%
Total	12,110	100%	22,044	100%	34,154	100%
	35%		65%		100%	

Source: LEAP

Children were recorded as being present in 39% of all FVSNs issued, and 39% of all A&Ws issued (Table 5.28). Thus the use of FVSNs does not appear to be higher, or lower compared to A&Ws, when children are present. The presence of children is higher when Interim Intervention Orders are issued (children are present in 43% of Orders).

Table 5.28: Presence of children in FIRs by type of civil action, after hours (8th Dec 2009 to 8th March 2010)

	Children present (number)	Total incidents	Presence of children (% Total)
FIRs (ah)	12,110	34,154	35%
FVSNs	1,506	3,909	39%
A&Ws	2,014	5,193	39%
A&Ss	713	1,666	43%
I I Os	417	961	43%
Charges	2,963	7,646	39%
No civil action	7,460	22,425	33%

Source: LEAP

There are notable differences between regions in the presence of children at FIRs (Table 5.29). Relatively fewer children are recorded as being present at FIRs in Region 1. This needs further investigation, but may be associated with a different demographic profile (eg. associated with inner city dwelling). This however requires further investigation, as it is a requirement of the Code of Practice that police undertake a risk assessment of children present at every FIR.

Table 5.29 Presence of children % of FIRs (ah), police Region by type of civil action, and charges laid (8th Dec 2009 to 8th March 2010)

	Region 1	Region 2	Region 3	Region 4	Region 5	Total
FIRs (ah)	24%	36%	37%	39%	35%	35%
FVSNs	26%	44%	40%	41%	39%	39%
A&W	26%	41%	41%	42%	36%	39%
A&S	34%	42%	44%	40%	45%	43%
IIO	32%	45%	47%	47%	40%	43%
Charges	28%	41%	41%	41%	38%	39%
No civil action	22%	33%	34%	38%	33%	33%

Source: LEAP

5.4.6 Notifications to DHS Child Protection after hours

Police made notifications to DHS Child Protection in 12% of FIRs (after hours) in the 15 months December 2008 to March 2010. This may be compared to the above finding that children are present in 35% of FIRs.

Of the notifications which were made, 46% were made in conjunction with civil actions, and 54% were made when no civil action was taken (Table 5.30).

Table 5.30: Notifications to DHS, FIRs after hours (8th Dec 2008 to 8th March 2010)

	Notification made		No notification made		Total FIRs	
	No.	%	No.	%	No.	%
Civil action	1,945	46%	9,784	33%	11,729	34%
No civil action	2,272	54%	20,153	67%	22,425	66%
Total	4,217	100%	29,937	100%	34,154	100%
	12%		88%		100%	

Source: LEAP

The FVPA 2008 includes provisions for protection of children from the effects of family violence, recognising that *“children are particularly vulnerable and that exposure to family violence may have a serious impact on children’s current and future physical, psychological and emotional wellbeing”*.⁵⁴

The meaning of family violence includes behaviour by a person that causes a child to hear or witness family violence.⁵⁵ Under the Options Model police are required to make a referral (formal or informal). All police are required to observe mandatory reporting, but there is no overall policy which states that DHS should be notified if children are present at an FIR. Children may be referred in conjunction with the AFM, or may be separately referred to DHS, Child First or another family support service.

The number of notifications made by type of civil action are shown in Table 5.31, together with FIRs where children were present. Assuming that notifications are only made when children are present, a notification rate may be calculated. For example, in the 15 months December 2008 to March 2010, there were 560 notifications made to DHS associated with FVSNs (37% of

⁵⁴ FVPA 2008, Preamble

⁵⁵ FVPA 2008, s5(b).

FVSNs where children were present). There were higher rates of notification to DHS made for other civil actions, particularly Interim Intervention Orders (50%), and where charges were laid (51%). Statewide, police notify DHS in approximately 35% of incidents when children are present at after hours incidents.

Table 5.31: Notifications made to DHS, FIRs after hours where children are present, by type of civil action, and charges laid (8th Dec 2008 to 8th March 2010)

	Children present	Notifications	Notification rate (%)
FIRs	12,110	4,217	35%
FVSNs	1,506	560	37%
A&W	2,014	842	42%
A&S	713	336	47%
IIOs	417	207	50%
Charges laid	2,963	1,499	51%
No civil action	7,460	2,272	30%

Source: LEAP

There are differences in notification rates between regions, with notably lower rates of notification in Region 1 (Table 5.32).

Table 5.32: Notifications to DHS - police Region by type of civil action, and charges laid, % of FIRs (ah) where children are present, (8th Dec 2009 to 8th March 2010)

	Region 1	Region 2	Region 3	Region 4	Region 5	Total
FIRs (ah)	22%	32%	41%	33%	37%	35%
FVSNs	20%	35%	44%	33%	37%	37%
A&W	38%	41%	46%	37%	43%	42%
A&S	51%	46%	49%	40%	48%	47%
IIO	46%	49%	53%	44%	52%	50%
Charges	43%	52%	56%	44%	50%	51%
No civil action	16%	24%	37%	31%	33%	30%

Source: LEAP

5.5 Processes

5.5.1 Introduction

The processes within and between the Victoria Police and the Magistrates' Court of Victoria had been streamlined to some extent for after hours responses to family violence prior to the FVPA 2008. The introduction of FVSNs has however introduced an additional number of processes which require further refinement and clarification.

Processes prior to the introduction of FVSNs

Before the introduction of FVSNs, police would return to the station after attending a family violence incident to make application to the After Hours Service for a warrant to be issued (if appropriate), or would make an

application and seek an Interim Intervention Order. Police usually applied for A&Ws or A&Ss after hours, rather than Interim Intervention Orders.

Warrants can be issued by a registrar (ie. the After Hours Service), whereas Interim Intervention Orders can only be issued by the after hours magistrate. An A&S can be issued (relatively infrequently after hours) where police consider they have an obligation under the Code of Practice to take civil action, but are less certain that the case will result in an Intervention Order.

The application for a warrant is made by fax to the After Hours Service, and police and the After Hours Service duty registrar discuss and clarify any matters before the warrant is issued (or not). The police then serve the warrant on the perpetrator and return to the station with the perpetrator for processing, and set bail conditions, similar to the conditions of an intervention order. Bail conditions are designed to protect the AFM, and help ensure that the perpetrator attends the court hearing. The perpetrator may accompany the police to the station (police may have used holding powers), or the perpetrator may abscond (in which case the AFM may accompany police to the station, or go to a refuge, or other accommodation, or stay at home).

FVSN processes

The introduction of FVSNs resulted in a range of new processes within Victoria Police for the issuing of FVSNs. FVSNs require that the member attending the incident make application to another member of Sergeant rank or above, for the FVSN to be issued. This can be done in-person or remotely.

One of the stated benefits of issuing a FVSN remotely was the expected time saving involved in issuing the Notice 'on the spot', and avoiding the need for police to return to the station immediately. In practice however, the majority (more than 90%) of FVSNs are being issued to the respondent in person at the police station.⁵⁶ Where a FVSN is issued remotely, a subsequent reconciliation of FVSN paperwork is required.

The FVSN is handwritten, and is subsequently faxed to the Central Data Entry Bureau (CDEB) for entering onto the police LEAP data base. FVSN forms are faxed to the After Hours Registrar for subsequent faxing to relevant courts, and the referral is faxed to appropriate domestic violence services.

After Hours service

Up until April 2007, the After Hours Service operated from the Coroner's Court (see also section 5.2.5). Relatively low staffing levels often resulted in delays in responding. The transfer of the After Hours Service to the Melbourne Magistrates' Court in 2007 was accompanied by the employment of additional staff, who are family violence trained registrars. The response times have been markedly improved, and 96% of all after hours applications are now responded to by the After Hours Service (but not necessarily completed) within 10 minutes.⁵⁷ The After Hours Service continues to monitor and report on its response time. In achieving such good response times, the necessity for using 'on the spot' FVSNs is diminished.

The After Hours service does not issue FVSNs. Its primary role is to administer the listing of FVSN cases in appropriate venues. It does however

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The Magistrates' Court After Hours Service records the location at which the FVSN is issued. After Hours Service data.

provide a quality control role, and contacts police members if FVSNs are defective. FVSNs with serious defects are faxed to the Victoria Police Family Violence Unit with an attached report, and the FVU contacts the police informant to advise them of the defect. The After Hours Service also sends information about defects to relevant courts.

Some police incorrectly send FVSNs directly to the courts, rather than via the After Hours Service. Courts receiving FVSNs directly from police, reportedly send a copy to the After Hours Service. Up to 10% of FVSNs have been sent directly to courts. There are governance structures and communications strategies in place to oversee police – court processes, and to address some of these issues. The After Hours Service produces regular internal reports, including statistical information about FVSNs (applications, process issues, breaches).

5.5.2 Impact of FVSNs on police processes

Time savings

The average time spent on issuing a FVSN is 166 - 177 minutes, or an hour more than the average total time to attend all FIRs (Table 5.6). This includes time taken at an incident, conducting a risk assessment, transporting the respondent to the police station (where applicable), as well as the time completing paperwork. On average A&Ws take 186-207 minutes, or 20-30 minutes longer than FVSNs.

The time saved by using FVSNs is significant, but is probably not as great as expected. The average time spent issuing a FVSN is likely to be longer than expected due to a higher proportion of FVSNs which are issued in person, rather than remotely. Importantly, more than 90% of FVSNs are issued in person at the police station. While police highlight a number of benefits in this approach (eg. separation of parties, and in-person contact with a Sergeant), time spent returning to the police station, completing paperwork, and subsequently returning copies to the AFM, inevitably prolongs the total time spent issuing a FVSN.

Moreover, it is not known how well police complete 'time' information on the L17 Form. While the arrival and departure times may be completed during the initial shift, this information may not be particularly accurate as times are recorded in hours rather than minutes (and are thus subject to rounding errors).

It is also possible that police do not complete the 'Extra Time' section, which is time spent on related activities, after police have departed the site where the incident occurred. Some police however, may not subsequently revisit the L17 Form to enter this information.

While there is an apparent time saving benefit of FVSNs over A&Ws of 20-30 minutes, this may not be comparable because of the extra time associated with serving a warrant, which is irrelevant to issuing a FVSN where the respondent is always present.⁵⁸

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Time savings may be more accurately estimated by comparing the time taken to issue a FVSN with the time taken to issue an A&W where the respondent is present.

Increased administrative workload

A common complaint of police is that issuing a FVSN involves two steps – handwriting the application, and then subsequently duplicating some of the information onto the L17 (or other police form) on the computer system. . An A&W is entered onto the computer system in the first instance, according to a straightforward pro forma. FVSNs were designed to be issued manually, with the data subsequently entered by the Central Data Entry Bureau (CDEB). CDEB operates 24 hours per day, and aims to input data in a timely manner (usually within a few hours). Thus there is a chance that some contraventions which occur very soon after the FVSN is issued will not be picked up.

Police recognise that there is additional administrative work in checking FVSN paperwork for material discrepancies, and reconciling documentation where FVSNs are issued remotely. Issuing FVSNs in person obviates the need to reconcile documents. It is clear however, that most police consider the remote issuing of FVSNs is not sufficiently beneficial to outweigh the advantages of issuing a notice on the spot or at the station.

Ability to list

As noted (section 5.2.5), the 72 hour time frame reduces the capacity of police to issue FVSNs in some areas, due to courts not being available. In most metropolitan areas this is not a major concern (Moorabbin, Werribee, and Dromana courts are not 100% available), but in rural areas lack of court days can significantly reduce the days on which a FVSN can be issued, to less than 50% of days (eg. the availability of Bendigo court limits the availability to issue a FVSN to 5 days per fortnight).

Across Victoria the ability to list FVSNs (due to court availability), is estimated to be about 80%. This is based on individual court availability, and weighted according to the volume of FIRs per police station. This may be considered inequitable, in that AFMs in some areas do not have access to a police issued FVSN.

Defects in FVSNs

As noted (section 5.4.2), the After Hours Service reports that 37% of FVSNs submitted by police had some form of 'defect'. The number of defects has gradually reduced over time as police have become more adept at completing the FVSNs. Most of the defects were not sufficiently serious to be struck out and were rectified following actions by the After Hours Service. Common defects include a lack of service details, filing directly with courts, and incorrect listing days and times. Some of these issues have been addressed by redesigning the FVSN form, and by instructing police accordingly.

5.5.3 Impact of FVSNs on court processes

FVSNs have had a number of impacts on court processes, which have provided logistical (scheduling) and other challenges.

Hand written FVSNs

Handwritten FVSNs can be problematic (especially if they are to be treated as evidence in court), due to poor quality handwriting, poor grammar, and insufficient relevant information in the 'Statement of Reasons'. An electronic form provides greater opportunity for police members to review and edit their text. The After Hours Service has suggested to police who issue FVSNs in

person, that they type up the Statement of Reasons, and tape it to the FVSN, rather than hand write it.

Magistrates confirm these concerns and report that the quality of FVSNs completed by Police can be poor, compared to A&Ws. Issues may include poor handwriting; an inadequate understanding by police of what information is relevant; and lack of input ('quality control') from the After Hours Service, if police choose not to utilise it. Poor quality FVSNs are more likely to result in an application being struck out, resulting in relatively less protection for AFMs compared to A&Ws.

Control of court lists

The 72 hour limitation means that there is very limited flexibility with the date of the first mention. Cases are not necessarily listed on preferred listing days, or cannot be listed over several days to even out the workload (this is in the context of pre-existing demands on courts and specific increases in family violence workload). The impacts of FVSNs on lists are greatest on Mondays,⁵⁹ and experienced most keenly in high volume courts which lack an appropriate physical layout, and/or adequate family violence court support services (eg. Dandenong Court).⁶⁰

Some courts give priority to hearing FVSN applications early in the day, in order to allow time to bring parties to court, if required, later on the same day, due to the difficulties with adjournment. As a result, FVSNs are treated more urgently than other matters before the Court, with flow on time pressures and/or adjournment of other matters. This is seen as inequitable, with one magistrate referring to this as 'queue jumping'.

The reduction in the court's control over its lists as a result of FVSNs, was viewed with concern by most magistrates, regardless of their views about FVSNs more generally.

FVSNs are listed on non preferred listing days

FVSNs listings (within 72 hours) may fall on a non preferred (family violence) listing day. Attendance at Court on non preferred family violence listing days can be more difficult for AFMs and respondents, as they have no access to specialist support or advice. Lack of specialist support may also lead to adjournment, with an interim rather than a final order. With A&Ws, there is greater flexibility for cases to be listed on preferred listing days.⁶¹

Since December 2008, nearly 73% of FVSNs were returned to a court on a preferred listing day, with 27% returned on a non-listing day.⁶² The After Hours Service reports that of those FVSNs returned to a court on a non preferred listing day, 13% could have been returned on a preferred listing day. Listing FVSNs on preferred listing days has improved however, with a notable reduction in FVSNs listed on non preferred days in the six months to December 2009.

⁵⁹ FVSNs issued on Friday, Saturday and Sunday contribute to Monday's lists.

⁶⁰ Dandenong Court had the highest number of family violence applications finalised of any court in Victoria, in 2008/09.

⁶¹ The extent to which this is an issue depends on the level and type of assistance available on preferred listing days. The range of support workers varies between Courts.

⁶² Magistrates' Court After Hours Service, April 2010 report.

Proper venue provisions

There is no central data set which records the level of compliance with proper venue provisions, nor is there data about cases which have been struck out on the basis of improper venue. Feedback from police, the After Hours Service, and magistrates suggest that police occasionally list FVSN applications at courts which are not the closest available (see also 5.2.5). In some instances this may be because the nearest court (or a preferred listing day) is not available within 72 hours, or it may be that the AFM (or respondent) has requested a particular court.

The relatively high rate of use of FVSNs in Gippsland, despite a lack of court availability, suggests that FVSNs are listed for hearing in courts other than the nearest location. It has also been suggested that police may, on occasions, return a FVSN application to a court where the magistrate does not insist on the presence of the police applicant, and/ or where the magistrate is less likely to strike out the application where there is a lack of oral evidence.

Impact of the 72 hour limitation on parties

The 72 hour limitation of FVSNs may not provide enough time for AFMs to prepare, and consult with legal, and/or community services. Some AFMs may not have adequately recovered from the incident, might be in hospital, or some distance away with family or friends, and are unable to attend court.

Within such tight time frames, access to court based and community support services is less likely. In addition to police making a formal referral by faxback, the Women's Domestic Violence Crisis Service (WDVCS) can be contacted after hours by telephone, however most community based family violence outreach services are currently not able to respond quickly enough, for example overnight, or on the weekends, and may be unable to advise and assist AFMs in the 72 hour time frame.⁶³ This may have implications for safety (ie. in helping protect the AFM); whether the AFM attends court; whether the AFM is fully informed about options and supports available; and whether the AFM ultimately supports the police application at court.

Similarly, the 72 hour limitation of FVSNs may not provide enough time for respondents to prepare for court, and consult with legal, and/or community services. Some respondents may still be intoxicated when they attend court, if it is within 1-2 days of the family violence incident. Alcohol and drugs were identified as a risk factor in 49% of FVSNs (Table 2.38).

Police applicants' attendance at court within 72 hours of issuing the FVSN can be limited due to difficulties with rosters, shifts and limited resources to address competing priorities. The 72 hours limitation makes it more difficult for police to attend to provide oral evidence (compared to A&W), and Police may not have enough time to prepare a separate affidavit (where they will not be present) which may be used as evidence.⁶⁴

Court processes may be delayed where AFMs or respondents have not received prior support (ie. information about court processes, options, etc.). As indicated, the level of support available to AFMs and respondents also

⁶³ DHS H&CB Division is currently in the process of establishing enhanced after hours responses through community based family violence outreach services.

⁶⁴ This issue is less important since July 2010, as courts may accept FVSNs as evidence.

depends on whether courts have support workers, and whether cases are heard on preferred listing days.

Built environment of the court

The built court environment and processes by which AFMs and respondents are assisted on court days vary considerably between courts. For example Heidelberg Court was renovated to provide a safer and supportive environment for AFMs. By contrast the Dandenong Court facilities do not enable physical separation of AFM and respondent. This exposes the AFM to potential risks and threats at Court, and can provide the respondent with greater opportunity to persuade the AFM to withdraw, or not support the application. Dandenong Court also lacks appropriate facilities for support workers, in spite of being the highest volume Court in the State in terms of family violence lists. FVSNs and the associated higher number of cases on Monday mornings have reportedly exacerbated some of the crowding (and potentially safety) issues, at a number of Courts.

Potential increased adjournment on first mention

Insufficient lack of preparation by all parties (and low rates of attendance) may increase the rates of adjournment, with interim rather than final orders being made on the first mention. This can potentially result in longer periods of exclusion of the respondent before the matter is finalised by the court. As noted, adjournment rates also have potential impact on court administration if matters are not finalised at the earliest point possible in the hearing process. Data suggests however, that this is not a major issue (see section 5.4.4).

Final orders in the absence of the respondent

If the respondent does not attend, the Court may be reluctant to make a final order (refer s.61), although technically it is able to do so under s.74(1), acknowledging the 72 hour (or less) time constraint. There may also be a reluctance by the Court to make a final order if the AFM does not attend (and does not explicitly provide consent), as final orders can only be limited orders in these circumstances, under s.75(2). Respondents were not present at 29% of hearings when final orders were made, where the application was based on a FVSN (see Table 6.5).

5.5.4. Contested understandings

Different court practices resulting from contested interpretations of the FVPA legislation, have resulted in differing police understandings and practices. Differences include views on:

- the capacity of courts to adjourn
- the requirement that FVSNs be sworn
- the need for applicants to attend court.

Police understanding of particular issues has also become embedded by customary procedures. Thus some police believe that all FVSNs must be completed in person by the Sergeant, or that a FVSN always requires that the respondent be excluded as a condition of the notice.

More broadly, some magistrates have concerns about whether police officers have sufficient knowledge and skills to effectively make an interim order (ie. a FVSN). This goes to the broader issue of whether quasi-judicial powers

should be vested in the executive (Police), when other options (ie. A&Ws using holding powers if necessary) are available.

5.5.5 Commonality of processes

Data systems

The data systems underpinning the reforms reflect the fact that the magistracy and police are two independent entities. The LEAP system is dynamic and used by operational police, as well as police analysts. The Courtlink system records court processes and outcomes, and data is based on finalised applications.

The After Hours Service also maintains separate data on applications made, warrants issued, and registrations. Data within the three systems cannot readily be reconciled. Table 5.33 shows the number of FVSNs, and A&Ws recorded by the three organisations, for 15 months, commencing December 2009.

Table 5.33: Number of FVSNs and A&Ws recorded by three data systems, commencing December 2008

	LEAP	Courtlink	After Hours Service
FVSNs	3,909	5,292	4,301
A&Ws	5,193	4,717	5,355

Source: LEAP, Courtlink and the After Hours Service

The differences in numbers could be the result of police submitting applications to the after hours service (and sometimes the hearing courts), but not recording the incident where a FVSN was issued on the LEAP data base.⁶⁵

It is unlikely that timing of data entry differences would explain the size of the differences. LEAP data is updated within 24 hours of the incident, whereas Courtlink data is updated when an application is finalised. In this case however, Courtlink numbers should be less than LEAP numbers (and this effect should be less for FVSNs which are mostly finalised within a month of the incident).

The lower number of FVSNs recorded by the After Hours Service may in part be explained by the police practice of faxing FVSNs directly to the hearing court (about 10% of FVSNs issued). Courts receiving FVSNs directly are meant to send a copy of the FVSN to the After Hours Service.

There are serious implications associated with police not recording FVSNs on the LEAP data base. For example, police may attend an incident without knowledge of a recent prior incident involving the same respondent, or AFM.

The inability to link and reconcile databases is a lost opportunity to better understand, monitor and respond to family violence in Victoria, on an evidence base of congruent, quality data and analysis.

⁶⁵ The consultants have not sought to fully reconcile the different numbers, but have discussed this issue with various parties.

Risk assessment

There has been considerable progress towards common risk assessment as part of the Statewide reform strategy. DPCD oversaw the development of the Common Risk Assessment Framework (CRAF) which is a statewide framework. As indicated police have been undertaking risk assessments since 2002, and the police Risk Assessment and Management Report (L17) was revised to complement the CRAF. Court registrars use aspects of the tool to assess risk in the court on the day of the hearing, and to assess relevant information to include in the application they prepare on behalf of the applicants.

While there is increasing commonality of the risk assessment framework, there are reported differences in the measurement of risk by police and family violence services. This could be because the police risk assessment is equivalent to a preliminary CRAF assessment and not the comprehensive risk assessment undertaken by family violence services. Due to privacy restrictions, family violence services do not automatically receive a full copy of the L17 by fax, and therefore do not receive the preliminary risk assessment conducted by the police. Work is currently under way on a statewide project aimed at strengthening risk management, including practice guidelines across sectors.

Conditions of FVSNs and court orders

There have been concerns about inconsistencies in the conditions imposed by FVSNs, A&Ws and court orders, reportedly resulting in confusion among respondents and AFMs. This has been partly addressed, and it is intended that in the future, FVSNs will include conditions which are more closely aligned with the conditions used by the court, and recorded on Courtlink.

5.6 Summary

The following points summarise the key issues of this section:

- a) Police are using FVSNs as an option in the after hours response to family violence. Indications are that police feel empowered to respond to family violence after hours through the FVSN option.
- b) The rate of use of FVSNs is significant given the limitations on their use and the restricted availability of some courts within the 72 hour timeframe. Furthermore the Chief Commissioners Instruction states that an application for a FVSN can only be made if the respondent is present when police attend a family violence incident, and holding powers can be used if necessary.
- c) Other factors which limit the consistent use of FVSNs include police culture and practices; whether criminal charges are laid; perceived effort involved in issuing a FVSN (particularly remotely); adequacy and coverage of training and ongoing professional development; magistrates' interpretation of legislation and consistency of practice; and the improved response time to A&W applications by the After Hours Service.
- d) Two thirds of FVSN applications to court (67%) were upheld, compared to 71% for A&Ws. 22% of FVSNs were struck out and 9% were withdrawn. The conversion of FVSNs to final orders is not dissimilar to A&Ws. On this basis it may be reasonable to suggest that police are

issuing FVSNs appropriately. The conversion rate for FVSNs to Intervention Orders is influenced by the practice of some courts to strike out applications (rather than adjourn) when faced with a lack of evidence.

- e) FVSNs represent approximately one third of all civil actions taken, compared to A&Ws which represent 44% of all civil actions (after hours). There is little or no difference between the use of FVSNs and other types of civil action in relation to the number of prior attendances by police, when civil action is taken.
- f) The proportion of FIRs resulting in civil action overall has increased since the introduction of FVSNs, from 28% to 34%. It may be inferred that FVSNs are contributing to an enhanced after hours response by police to family violence.
- g) The level and type of civil action taken by police after hours in response to family violence varies between Regions (ranging from 25% to 37%), and between Divisions.
- h) The rate at which FVSNs are issued varies between Regions, with Region 2 issuing fewer FVSNs than average. In Region 2 FVSNs represent 4% of FIRs compared to the average of 11% for the State, however A&Ws are issued at a much higher rate in Region 2.
- i) A high level of defects in FVSNs were initially identified by the After Hours service (38% of FVSNs). Most defects were able to be remedied, and did not directly contravene the FVPA 2008 (eg. the most common defect is filing FVSNs directly with the hearing court). The number of defects has reduced over time and is now around 10% of all FVSN applications.
- j) Nearly two thirds of all FVSN applications are finalised at the first hearing, and nearly one quarter of all FVSN applications are finalised at the second hearing. Thus 88% of all FVSN applications were finalised at the first or second hearing. Almost 18% of total FVSN cases were adjourned without an interim intervention order being issued.
- k) Across Victoria the ability to list a FVSN in the 72 hour timeframe, according to court availability, is about 80% (based on individual court availability, and weighted according to the volume of FIRs per police service area). AFMs in rural areas do not have the same (equitable) access to FVSNs as AFMs in metropolitan areas.
- l) Since December 2008, nearly 72% of FVSNs were returned to a court on a preferred listing day, with 28% returned on a non preferred listing day.⁶⁶ 13% of FVSNs not returned to a court on a preferred listing day could have been returned on a preferred listing day. Listing FVSNs on preferred listing days has improved, with a notable reduction in FVSNs listed on non preferred days in the six months to December 2009.
- m) The 72 hour timeframe may provide insufficient time for AFMs to be assisted by family violence and other support services. This may have implications for safety (family violence services have insufficient time to help protect the AFM); may influence whether the AFM attends court;

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Magistrates' Court After Hours Service, December 2009 report.

whether the AFM fully understands the options available; and whether the AFM supports the police application.

- n) The introduction of FVSNs has significantly impacted court processes, particularly in the context of increased volume of family violence lists. The 72 hour limitation results in priority being given to FVSNs, and can lead to listing on non preferred listing days, and cases not being heard at 'proper venues'. The reduction in the court's control over its lists (and associated ramifications) as a result of FVSNs, was viewed with concern by most magistrates, regardless of their views about FVSNs more generally.
- o) FVSNs are less likely to be issued as the victim's level of fear increases. For example, 22% of FVSNs were issued where the victim was assessed as 'very fearful', compared to 53% of A&W where the victim was assessed as 'very fearful'. Police took no civil action in 37% of FIRs where the victim was assessed as 'fearful', and in 10% of FIRs where the victim was assessed as 'very fearful'.
- p) Police assessed the risk of future family violence to be 'likely' in 75% of instances when a FVSN was issued, and 82% of instances when an A&W was issued. The risk of future family violence was assessed as 'likely' in 52% of FIRs.
- q) The introduction of FVSNs does not appear to have influenced the rate at which criminal charges are laid overall. There are however, some notable differences between Regions in the rate at which criminal charges are laid at FIRs after hours. 28% of FVSNs were accompanied by criminal charges being laid, compared to 48% of A&Ws where charges were laid. This is consistent with Incident code data (ie. primary reason for issuing) which suggests that FVSNs are used less frequently than A&Ws for more serious incidents.
- r) There are no significant differences between FVSNs and A&Ws in terms of AFM and perpetrator characteristics (age or gender). People issued with FVSNs are more likely to be married or in a de facto relationship compared to other civil actions (56% of FVSNs compared to 45% for all FIRs)
- s) Indigenous people are issued with FVSNs at a higher rate (7% of FVSNs) than their representation in the population (0.5%).
- t) The presence of children is recorded as 36% for all FIRs (39% for FVSNs and 39% for A&Ws). This appears low overall, but particularly low in Region 1.
- u) Notifications to DHS following police attendance at a family violence incident appear to be low (police notify DHS in 35% of instances when children are present at FIRs) and appears to be relatively independent of whether civil action is taken.
- v) The average time spent on issuing a FVSN is about 165 minutes, or an hour more than the average total time to attend all FIRs. On average A&Ws take about 195 minutes, or 30 minutes longer than FVSNs
- w) Data between the LEAP, Courtlink and After Hours data bases cannot readily be correlated. This is a lost opportunity to better understand, monitor and respond to family violence in Victoria, from an evidence

base of quality data and analysis. Additionally there is no electronic interface between Victoria Police and Magistrates' Court of Victoria to enable a consistent analysis, and allow for the transfer of information on IVOs and outcomes. This results in duplication, and increases the chance for data errors.

For the future, areas requiring further investigation and capacity building include:

- i) The desirability and feasibility of extending the 72 hour limitation, which would increase the number of available court days. Increasing the availability of days on which FVSNs can be listed could be achieved in a number of ways. Examples include:
 - increasing the time frame from 72 hours (3 days) to 120 hours (5 days);
 - maintaining the time frame at 72 hours in metropolitan areas (ie. designated Divisions) and increasing it to 120 hours in non metropolitan areas;
 - changing the time frame to: "72 hours, or if no court available within 72 hours, the soonest available court thereafter";
 - maintaining the time frame at 72 hours, but providing more flexibility to list cases at courts in adjacent areas;
 - police issue FVSNs for 72 hours, but where a court day is not available, the After Hours Service could grant an extension.
- ii) Improving court conditions and supports in high volume courts (eg. Dandenong) including additional support workers, and renovating buildings.
- iii) Investigating the reasons for significant differences in police practices between Regions and Divisions, including the rate of use of FVSNs; the rate at which criminal charges are laid; consistency and adequacy in completion of FVSNs, recording the presence of children; and developing strategies to address anomalies.
- iv) Legislative amendment to achieve clarity and increased consistency in court practices, particularly whether or not a case can be adjourned, and how protection can best be provided to AFMs (addressed to some extent).
- v) Improving police practice in making notifications to DHS, through training and ongoing professional development.
- vi) Investigating whether police should be taking civil action more frequently when victims are assessed as 'fearful'; or 'very fearful', or future family violence is assessed as 'likely'.
- vii) Investigation of the adequacy of police risk assessment, and how and when police assess the level of fear, and the likelihood of future violence.
- viii) Developing a coordinated approach to data collection and analysis, especially between LEAP and Courtlink, and establishing FVSNs as part of the Victoria Police computer system.

6 CLIENT OUTCOMES ASSOCIATED WITH THE USE OF FVSNs IN VICTORIA

6.1 Introduction

This section addresses the outcomes of FVSNs, for affected family members (AFMs) and perpetrators of violence. The section draws on LEAP and Courtlink data, as well as qualitative information provided from a range of stakeholders. Some of the issues discussed in this section are similar or relate to those discussed in section 5, and may appear repetitive. The issues however, are discussed from the perspective of people most affected by FVSNs, and the outcomes which ensue.

Section 6.2 presents a discussion of whether the immediate safety of AFMs and their children has been enhanced through the use of FVSNs. The extent to which FVSNs contribute to perpetrators being held accountable for their behaviour is also discussed.

Section 6.3 reports on whether AFMs and perpetrators are informed about their situation, status and rights under the FVSN system.

Section 6.4 discusses the outcomes of FVSNs in relation to Aboriginal people.

Section 6.5 considers the outcomes of FVSNs in relation to people from diverse cultural backgrounds.

Section 6.6 concludes the discussion by drawing together key themes.

6.2 Client outcomes – Police responses

6.2.1 Introduction

Two primary reasons for developing FVSNs were to enhance the safety of AFMs, and to hold perpetrators accountable for their behaviour.

The evaluation has found that FVSNs have contributed to enhanced immediate safety for a greater number of AFMs as a result of an increased number of FIRs (after hours), and in particular, an increase in civil actions which have been initiated after hours in response to family violence. On this basis the introduction of FVSNs appears to have been a significant contributing factor to enhanced immediate safety of AFMs (Table 5.5).

Qualitative information supplementing this data was provided by police members, community based services, and other stakeholders, including 20 AFMs. Overall the majority of police providing input to the evaluation consider that FVSNs contribute to delivering greater safety for AFMs and children, mainly due to the immediacy of the action, and the consequences for the perpetrator for contravening the FVSN.

Community services indicate that FVSNs contribute to greater immediate safety for AFMs and their children through the swiftness of response, the exclusion of the perpetrator, police informing the AFM and perpetrator of the serious consequences of a breach, and linking AFMs to support services so that locks can be changed if appropriate, and advice provided regarding other safety measures. Community services also report that many police have greater 'ownership' of their actions, and greater concern for the safety of the AFM, when they issue a FVSN. This is contrasted with police having the

Magistrates' Court issue an A&W. Examples were given where police visit the AFM the day following the issue of the FVSN to check on AFM's safety.

6.2.2 Issuing FVSNs in person

An unexpected finding from the evaluation is that a high proportion (90%) of FVSNs are issued to the respondent in person, at a police station. Police report that there are significant benefits in detaining the perpetrator, including removing him from the home and transporting him back to the station for interviewing and processing. This action separates the parties, defuses the tension and immediate conflict, reduces the possibility of children being further traumatised, and allows police to take control and appropriate action in relation to the situation. Once at the station, the Sergeant has the opportunity to hear the issues, and police have the option to lay criminal charges if necessary.

Police suggest that this experience is more meaningful for the respondent, and has greater impact, compared to issuing the FVSN in the respondent's own home.⁶⁷ Whilst in custody the respondent may be given the opportunity to organise alternative accommodation and make other arrangements. This helps police comply with the requirements in the FVPA relating to respondents' accommodation, and helps ensure that the respondent does not return home (unless accompanied by police, for example to collect belongings).

6.2.3 Use of holding powers

Data indicate that holding powers were used in 5% of all FIRs, and in 14% of incidents where police took civil action. The greatest use of holding powers occurred in conjunction with FVSNs, where holding powers were used in one quarter (25%) of all incidents where a FVSN was issued. The greater proportion of these were Directions (14%), with Detention comprising 10%. Holding powers were used in 9% of incidents where A&Ws were issued.

The higher use of holding powers when a FVSN is issued, is undoubtedly due to the requirement that the respondent is present in order for police to be able to issue a FVSN. This is not the case for A&Ws and it is important to note that police are instructed to use arrest powers in favour of holding powers where criminal offences have been committed.

Table 6.1: Holding powers used for perpetrators, by civil actions and charges laid (8th Dec 2008 to 8th March 2010)

	Direction		Detention		Total	
FVSNs	568	14.3%	410	10.3%	978	24.7%
A&Ws	281	5.4%	211	4.0%	492	9.4%
A&S	36	2.2%	30	1.8%	66	3.9%
IIO	56	5.8%	52	5.4%	108	11.2%
Charges laid	291	3.8%	282	3.7%	573	7.5%

Source: LEAP (L17)

⁶⁷

This is confirmed in a number of US studies. Holder, refers to US studies which suggest that the use of arrest in certain domestic violence situations had a stronger preventative effect in reducing future assaults than did other types of resolution from the police.

6.2.4 Conditions of FVSNs

An analysis of LEAP data shows that respondents are excluded from their place of residence in the majority (84%) of FVSNs issued. Police report high rates of exclusion and some police believe that exclusion is mandatory. Data on other conditions of FVSNs which are issued, was not available.

6.2.5 Charges laid

Charges laid against a perpetrator may be considered to provide additional protection for the AFM. As indicated in Section 5.2.7, charges were laid in 28% of incidents when FVSNs were issued, compared to 48% when A&Ws were issued. Where criminal charges have been laid, respondents are reportedly more likely to comply with the conditions of FVSNs and A&Ws. As noted, it may be that the use of A&Ws by police is associated with higher levels of criminal behaviour and more serious incidents, and that FVSNs are used for less serious incidents.⁶⁸

6.2.6 Impact of FVSNs on police culture to enable victims to stay at home, if appropriate

The evaluation has found that a combination of factors have supported ongoing culture change within VicPol, of which FVSNs are one important component. As noted in Section 4, policy and legislative change, and training have been key underpinnings for the introduction of FVSNs. While most stakeholders report significant shifts (for the better) in police culture, reflected in enhanced responses to family violence, many examples were provided to the evaluation which indicate limited understandings, and variable and poor practice by individuals and segments within the police force in relation to FVSNs, and family violence more broadly.

Concerted, coordinated efforts at a number of levels are still required in an ongoing way, if violence is to be reduced, and responded to consistently within the spirit and intent of the legislation, resulting in women and children being enabled to live and remain safely in their homes. Excellence and consistency in practice by police in issuing FVSNs are intended to be a key part of achieving the necessary change in culture. There is a considerable way to go to achieve these aims.

6.2.7 Contraventions of FVSNs

FVSNs are designed to provide for the immediate safety of the AFM, as they are issued on the spot and have a life span of 72 hours, and contravention of a FVSN is a criminal offence. The penalties applicable for a contravention of a FVSN are Level 7 which include imprisonment for up to 2 years, and/ or fines (maximum of 240 penalty units).

Recorded contraventions of FVSNs are very low. The Magistrates' After Hours Service records 127 charges laid for breach of FVSNs as at 31 December 2009.

There were 72 proven offences of contravention of FVSNs in the period December 2008 to February 2010.⁶⁹ This represents approximately 1.3% of FVSNs issued in the same period. Of the 72 proven contraventions, 27

⁶⁸ It may also be that A&Ws are used when there is a current IVO or Family Law Order in place (FVSNs cannot be used) and respondents are being charged with breach of that Order (ie. an Order that does not contain an exclusion condition).

⁶⁹ Courtlink data

resulted in fines, 9 resulted in Community Based Orders and 6 resulted in imprisonment. There were 6 suspended sentences, and 24 cases adjourned with undertakings.

These data under represent the response to contraventions in relation to the number of FVSNs issued, due to the time required for finalisation of criminal charges. It is open to question however, whether police actions (charging for contraventions) and subsequent court sanctions, represent an adequate response.

Police acknowledge the benefit of being able to arrest for contraventions of FVSNs, and some police consider that the low rate of recorded contraventions within the 72 hours indicates successful protection for the AFM. Other police however, expressed frustration at contraventions which have clearly occurred when the AFM and respondent attend court together having apparently reconciled their differences, with no consequences.

Comparison of FVSN contraventions with breaches of other orders might be favourable, however FVSNs exist for 72 hours, compared to longer periods for other orders, and thus are not directly comparable.⁷⁰ Police also noted that contraventions of FVSNs could be undetected if they occurred within a few hours of issuing of the FVSN (as it takes this long to record FVSNs on the LEAP database).

At this stage, and based on limited data, it is difficult to draw firm conclusions about the deterrent nature of FVSNs. On the surface it would appear that FVSNs are a reasonably effective deterrent to further immediate violence. Anecdotally stakeholders report that most, but not all, perpetrators comply with the FVSN conditions until the Court hearing. These assertions need to be subject to further testing.

6.2.8 Other impacts of FVSNs and associated police processes on safety of AFMs

Referral of AFMs to family violence services after hours

The police Options Model (see section 3.3.4) requires that police make a formal or informal referral to a DHS funded community based family violence support service at every family violence incident attended. It is expected that police will make a formal referral whenever they take civil action or lay criminal charges related to family violence, or where there are concerns for the physical, mental or psychological health or welfare of the AFM.⁷¹

Data indicate that police are not consistently complying with these guidelines. In particular, police do not always make a formal referral when taking civil action. Table 6.2 shows that formal referrals are made in 46% of incidents where a FVSN is issued, and 55% where an A&W is issued. In addition police make informal referrals in 34% of incidents where a FVSN is issued, and 26% of incidents where an A&W is issued.

Overall, police are making formal or informal referrals in about 80% of civil (and criminal) actions.

⁷⁰ Approximately 27% of intervention orders were breached in the 3 years 2004 to 2007 (Sentencing Advisory Council, 2008, p 20)

⁷¹ See for example, Victoria Police *Code of Practice*, Section 3.2.

Table 6.2: Referrals of AFMs made by police attending FIRs, 15 months (8th Dec 2008 to 8th March 2010)

	Informal referrals		Formal referrals		Total referrals	
FIR (ah)	18,597	54%	10,289	30%	28,886	84%
FVSNs	1,351	34%	1,807	46%	3,158	80%
A&W	1,367	26%	2,858	55%	4,225	81%
A&S	606	36%	718	43%	1,324	79%
IIO	277	29%	472	49%	749	77%
Charges	2,356	31%	3,772	49%	6,128	80%
No civil action	14,996	67%	4,434	20%	19,430	87%

Source: LEAP

Referrals by police members to family violence services are important to help ensure the immediate safety of the AFM and children, and to provide support and advice to the AFM in relation to the incident, her decision making and subsequent court processes. A range of resources are provided by family violence services, and there are ongoing initiatives to further provide for the safety of AFMs following an FIR. There is also some urgency for family violence services to provide support where a FVSN has been issued, given a court listing with 72 hours.

A formal referral to a community based service for a subsequent comprehensive risk assessment and safety planning is particularly important if the risk assessment undertaken by police is brief, superficial or based on crisis conditions. Feedback from AFMs and domestic violence outreach services, and data (ie. low number of risk indicators recorded by some police) suggest that risk assessments conducted by police may frequently be inadequate. This is a concern where perpetrators are removed, as is most often the case with FVSNs, as the perpetrator obviously knows the whereabouts of the AFM, and how to access their home.

It needs to be recognised however, that most family violence outreach services are not currently resourced to provide a 24 hour response, and may not be able to assist women to change locks and put other security measures in place until some days after the incident, which in the case of FVSNs may be after the first court hearing.⁷²

The after hours telephone service provided by WDVCS is the primary immediately available option for assistance for AFMs at the time of the incident, and is currently under utilised. Referrals to WDVCS represent a very small proportion (4%) of all formal referrals made by police members after hours (Table 6.3).

WDVCS is funded for a direct police line 24 hours per day, and could be expected to respond to a much higher number of AFMs (if police were to link all AFMs to WDVCS). For example, referral of all AFMs where a FVSN is issued would correspond to an average of about 10 calls per night, based on current FVSN applications.

⁷²

DHS H&CB is currently in the process of establishing enhanced after hours responses through community based family violence outreach services.

Table 6.3: Formal referrals of AFMs made by police attending FIRs, 15 months (8th Dec 2008 to 8th March 2010)

	FV services	WDVCS	Total
FIR (ah)	9,873	416	10,289
FVSNs	1,691	116	1,807
A&W	2,702	156	2,858
A&S	689	29	718
IIO	442	30	472
Charges	3,567	205	3,772
No civil action	4,349	85	4,434

Source: LEAP

Safety of AFMs who remain in their home

Data and feedback to the evaluation indicate that women are encouraged to leave their home in very few instances where FVSNs are issued (or in any event for that matter).

Very few women go to a refuge or other crisis accommodation after hours, as part of the police risk management strategy. FVSNs have the lowest rate of removal of the AFM to a refuge or other accommodation, of all civil actions.

Table 6.4 shows that only 34 women out of 3,962 FVSNs issued were removed to a refuge or other accommodation. The safety considerations point to the imperative for skilled, accurate, comprehensive risk assessments by police members.

Table 6.4: AFM going to refuge, or other crisis accommodation (risk management strategy) (8th Dec 2008 to 8th March 2010)

	No. removed to refuge	Total	% Total
FIR	293	34,221	0.9%
FVSN	34	3,962	0.9%
A&W	98	5,211	1.9%
A&S	19	1,671	1.1%
IIO	18	968	1.9%
Charges	161	7,678	2.1%
No civil action	124	22,409	0.6%

Source: LEAP (L17)

Of all FVSNs issued, approximately 84% exclude respondents, meaning that respondents may have stayed in their homes for 16% of FVSNs issued.⁷³ If police serve a FVSN which does not exclude the respondent, police must consider the accommodation needs of the AFM, and take any reasonable steps to ensure that the AFM has access to temporary accommodation.⁷⁴

In some circumstances where the respondent has been excluded it will be more appropriate for the AFM to also leave (eg. where respondents do not respect police or the law, and who may return in contravention of the FVSN,

⁷³

LEAP data

⁷⁴

See Chief Commissioner's Instruction; FVPA 2008, No. 49; FVPA 2008 S 36(2). Note also that Courts issue limited Orders, where respondents are not excluded from their home, but are ordered to comply with other conditions of the Order.

and continue to use violence; or where family or community members do not support the AFM, and act as agents of the respondent). A minority (20%) of AFMs interviewed for this project reported ongoing harassment and verbal and emotional violence from the perpetrator.⁷⁵

In this context, the proportion of AFMs who go to refuges or other accommodation appears particularly low. It is possible however, that AFMs leave their homes and go to stay elsewhere without police recording this as a risk management strategy, especially as police action is not necessarily formally involved. It is also likely that police consider that their referral of an AFM to a family violence service will subsequently include relocation, as appropriate. Some women may choose to leave their homes the day following an incident, perhaps after having been contacted by family violence services.

Importantly, risk assessment needs to be rigorous to ascertain if women and children would be safer in a refuge or alternative accommodation, rather than the 'accepted practice' which has developed which means that AFMs are generally not assisted by police to find alternative safe accommodation.

AFMs experience of FVSNs

AFMs (20 AFMs were interviewed) indicate a reasonably high level of satisfaction with FVSNs and related police actions. Fifteen of the 20 AFMs interviewed believed that the FVSN was an appropriate response to their situation at the time (although only 2 AFMs had known about FVSNs before the police arrived).

Eleven of the 20 AFMs reported that they felt immediately safer as a result of the FVSN, and the removal of the perpetrator. Seven of the AFMs considered that the FVSN made little or no difference to their feelings of safety, as they did not trust that the respondent would comply with the conditions of the FVSN. Two AFMs considered they were safe with or without the FVSN, as they considered the violent incident to have passed and unlikely to be repeated.

AFMs noted that police took control and made decisions independently, and were grateful that they did not have to support police action, or initiate charges themselves in order to have the perpetrator removed. AFMs considered this was preferable to them seeking an order, noting that they found it difficult to think clearly at the time; they sometimes needed external intervention to force a change; and that perpetrators were less likely to take retributive action with the AFM if the police issued the FVSN independently of the AFM.

Three women who had previous contact with police in relation to family violence noted that the police issuing of the FVSN was different, and better, than previous police responses. Family Violence women's services reported reasonably high levels of AFM satisfaction overall, where FVSNs had been used.

Only 7 AFMs recalled clearly that police had undertaken a formal risk assessment, while 6 other AFMs believed there may have been an informal risk assessment. Seven reported no risk assessment having been undertaken by the police.

⁷⁵ 20 AFMs were interviewed.

Most of the women interviewed had received an explanation of the FVSN, and understood the implications of the FVSN. Many were unclear however about the status of the FVSN, with some confusing it with an intervention order.

Most AFMs (17) considered the FVSN to be fair to both AFMs and respondents. The few with concerns noted that they felt pressured to support police in laying charges; that FVSNs did not allow the respondent to see his children; and that police had served a FVSN without the AFMs agreement.⁷⁶ Overall however, the benefits of safety were seen by AFMs to outweigh concerns.

6.2.9 Impact of police actions and FVSNs on perpetrators

Increasing the accountability of perpetrators

Key stakeholders (eg. women's services and men's support services) consulted during the evaluation, reported that FVSNs provide a clear and immediate message to perpetrators which conveys the serious and unacceptable nature of their behaviour.

For many perpetrators, the experience of being issued with a FVSN was described by these services as a shock, and far more effective than a police warning and/or informal referrals. This is particularly the case when perpetrators are taken by a divisional van back to the police station. A FVSN provides a clear and immediate statement by a law enforcement agency (ie. the police) to perpetrators that their behaviour is unacceptable.

FVSNs give police an additional option in some situations where they may not have previously taken any action. In this regard, FVSNs are perceived to have increased the response to family violence and enhanced accountability of perpetrators.

Men are often not aware however, of the differences between FVSNs and A&Ws, and are only aware that they were excluded, and subsequently need to attend court.

FVSNs were also designed to increase accountability by strengthening the consequences of a contravention (breach). Some stakeholders suggest however that some respondents are not aware of, or do not fully understand the seriousness of breaching a FVSN. Respondents' attitudes towards the status of a FVSN are influenced by the fact that it is handwritten (like a parking ticket) and issued by police (and not the courts).

The views of police on the impact of the FVSN on perpetrators, and keeping perpetrators accountable is mixed. The majority view is that FVSNs are not significantly different from A&Ws in terms of making perpetrators accountable. There are however, a small number of perpetrators who reportedly did not take FVSNs seriously, regarding it as a 'cautionary notice', or a token measure, lacking official status.

Some police who favour A&Ws argue that some respondents would be more familiar with bail conditions, and the consequences of breaching bail conditions (associated with A&Ws), and that the experience of detention at a police station, and having to 'show cause' represent adequate deterrence, and accountability.

⁷⁶ Police do not require consent

Of the 20 AFMs interviewed, 14 considered that FVSNs increased respondents' accountability, noting that respondents were forced to take their situation more seriously, and had modified their behaviour. Five AFMs however said that the FVSN had not made any difference as the respondents continued to believe they were not at fault, or believed that their behaviour was justified.

Six of the 20 AFMs said that respondents had contravened the FVSN. In 4 cases the contraventions were reported to the police. In two cases police made arrests, and in two cases police took no action.

Data on contraventions of FVSNs (section 6.2.7) suggests that police responses to contraventions may be inadequate. Anecdotally, police may be reluctant to arrest and charge a respondent for a contravention unless an AFM is clearly at risk or experiences violence (as this involves collecting evidence and taking statements), in the knowledge that the matter will be before the court within 72 hours.

Exclusion of perpetrators

The exclusion of perpetrators from their home was reported by some stakeholders as an area of concern. The FVPA specifically requires that police issuing a FVSN which excludes respondents, should make inquiries about where respondents will reside in the 72 hour period. Exclusion as a condition of a FVSN is not greatly different from bail conditions, differing in that it is the police, rather than courts, who are responsible for issuing the FVSN and the associated conditions.

Most men (respondents) who are excluded by FVSNs reportedly can find accommodation. Police report that only occasionally perpetrators say they have nowhere to go. Furthermore there has been a lower than expected take up of funded emergency accommodation by men who have been excluded, implying that they have alternative options.

Police have not, to date, reported a pattern of major objections by respondents, about being excluded. There are isolated examples given by police where a perpetrator has considered a FVSN to be 'excessively powerful' (especially the exclusion condition) insofar as it relies on 'untested evidence'; or the more common verbal protest that it is unfair that the perpetrator has to leave his own home.

Referral of perpetrators

In addition to referral of AFMs to community based family violence support services, police make formal and informal referrals for perpetrators to men's services and programs. Where police issue FVSNs, referrals of perpetrators are made in 47% of cases, including about half of which are formal referrals (Table 6.5). This is the highest perpetrator referral rate of all police actions.

Referral of perpetrators is an important strategy to help ensure accountability, and bring about changes in behaviour to reduce violence towards women. Police are frequently referring perpetrators informally, when they do not take civil action. While the overall rate of referral of perpetrators by police has been increasing it is inadequate, and needs to be increased to make perpetrators more accountable.

Table 6.5: Referral of perpetrators, 15 months (8th Dec. 2008 to 8th March 2010)

	Formal	Informal	Total referrals
FVSNs	22%	26%	47%
A&W	23%	16%	39%
A&S	20%	20%	39%
IIO	20%	16%	36%
Charges	21%	19%	40%
No action	10%	34%	44%
Total FIRs (ah)	14%	29%	43%

Source: LEAP

In order to facilitate higher rates of referral the Victorian Department of Human Services has recently established enhanced intake services. Potentially all referral forms generated by police after hours are now faxed to Enhanced Intake Services for Men's Behaviour Change Programs, or the Men's Referral Services After Hours Service (on the weekend). These services subsequently make contact with the perpetrator to provide information and advice, help ensure the safety of the AFM, and to engage men with Behaviour Change Programs, or other appropriate support services.

Perpetrator attendance at court

Available data suggests that perpetrators are less likely to attend court where a FVSN has been issued, compared to an A&W. Comparable data is not available for AFM attendance at court, where a FVSN has been issued.

Table 6.6 shows that respondents are present at 71% of court hearings when a final order is made, following a FVSN, compared to 85% attendance for A&Ws. Data is not available for attendance by respondents or AFMs for other court outcomes (struck out, withdrawal).

Table 6.6 Presence of respondent at court when an FVIO is issued following a FVSN or an A&W (after hours) (Dec. 2008 to Feb. 2010)

	FVSN		A&W	
	No.	%	No.	%
Respondent not Present	987	29%	516	15%
Respondent Present	2,439	71%	2,824	85%
Total	3,426	100%	3,341	100%

Source: Courtlink

In the majority of cases finalised, respondents did not consent to an IVO being made.

Table 6.7: Consent of respondent at final hearing, and presence of respondent, FVSNs (Dec. 2008 to Feb 2010)

Presence	Consent not recorded	Consented to IVO being made	Did not consent to IVO being made	Total
Respondent not Present	8	18	961	987
Respondent presence not recorded	0	262	1,604	1,866
Respondent present	19	64	2,356	2,439
Total	27	344	4,921	5,292

Source: Courtlink

Further consideration needs to be given to the impact of FVSNs on respondents' rights and best interests, in terms of referral, and attendance at court hearings.

Impact of FVSNs on repeat perpetrators

Police (LEAP) data suggests that the rate at which perpetrators re-offend has decreased since the introduction of the FVPA, and FVSNs. While it is not reasonable to attribute the reduction to FVSNs alone, it is likely that FVSNs have contributed to the improvement. Table 6.8 shows that for the 15 months from the introduction of FVSNs in December 2008, 80% of perpetrators were recorded once, compared to 74% for the 3 years March 2007 to March 2010.

Table 6.8: Number of repeat perpetrators

No. of times recorded as the perpetrator in an FIR during the time period	3 year period March 2007 to March 2010	15 month period Dec 2008 to March 2010
1	74%	80%
2	15%	13%
3	5%	4%
4	2%	1%
5	1%	1%
6	1%	0%
7+	0%	0%

Source: LEAP

6.3 Client outcomes at court

6.3.1 FVIOs

The medium term safety of AFMs is directly related to court outcomes, and to a lesser extent court processes.

As shown in Table 5.21 in Section 5.4.4, 67% of FVSNs resulted in a FVIO, with 22% of applications struck out, and 10% withdrawn.

Compared to A&Ws the number of FVSNs which are struck out due to non attendance by the AFM and the respondent implies that these AFMs are less safe. In some courts however, where non attendance is the reason for cases being struck out, the court may request that the police immediately issue an A&W. The extent of this practice is unknown, and may be influenced by the seriousness of the case.

Attendance rates at court would likely be improved if the 72 hour limitation were extended, giving the AFM and the respondent more time to access information and support, and prepare for, and attend court.

6.3.2 Adjournments without interim intervention orders

A key issue of concern is that AFMs can be considered to be at risk where cases are adjourned without an interim intervention order. The majority of FVSN applications which proceed to a second hearing are adjourned without an interim intervention order (17.5% of all FVSN applications). Interim intervention orders are made in approximately 17% of FVSN applications.

As indicated in section 5.4.4, adjournment without an interim intervention order offers no court protection to AFMs, although the matter is still before the court.

A high proportion (78%) of FVSN applications however, are finalised within 7 days (Table 6.9), and thus if matters are adjourned without an interim intervention order, AFMs may lack legal protection only for a relatively short period of time. The issue is nevertheless significant, and a major concern to some magistrates and community members. Adjournment without an interim intervention order is a key contributing factor to the reservations of some magistrates about FVSNs, and requires urgent attention.

6.3.3 Time taken to finalise FVSN applications

The majority of FVSN applications are resolved very quickly by the courts. Approximately 65% of FVSN applications are finalised at the first mention, and a further 24% are finalised at the subsequent hearing (refer Table 5.23). The data suggests that FVSNs are finalised with fewer hearings than A&Ws. Table 6.9 shows outcomes of FVSN applications by elapsed time. A high proportion (70%) of FVSNs are finalised within 72 hours.

Table 6.9: FVSN outcomes by elapsed time (Dec 2008 to Feb 2010)

	< 24 hrs	1-2 days	2-3 days	3-4 days	4-7 days	1-2 weeks	3-4 weeks	4 +
IVO made	1,131	993	475	188	91	115	230	197
IVO refused	6	3	3	3	1	0	0	2
Application struck out	356	273	164	63	51	122	163	110
Application withdrawn	125	89	64	21	22	38	69	59
Application withdrawn with undertaking	15	8	7	7	3	5	7	7
Revoked	0	0	0	0	0	1	1	4
Total	1,633	1,366	713	282	168	281	470	379
FVSN total	31%	26%	13%	5%	3%	5%	9%	7%
FVSN cumulative	31%	57%	70%	75%	78%	83%	92%	100%
A&Ws	4%	9%	10%	10%	24%	12%	12%	18%
A&Ws cumulative	4%	13%	23%	33%	57%	69%	81%	100%

Source: Courtlink

The 72 hour limitation of FVSNs has a significant impact on the speed with which applications are heard, and finalised by the courts. This is clearly beneficial for AFMs in terms of safety, and reduces the number of times AFMs need to attend court. There are also benefits for respondents who have been excluded as cases are finalised more quickly.

6.3.4 Conditions of court orders

Conditions of court orders, consistent with the aim of conditions on FVSNs, are designed to ensure the safety of the AFM.

The majority (98%) of restrictions on court orders resulting from FVSN applications prohibit the respondent from assaulting, harassing, or threatening the affected person (Table 6.10). Approximately three quarters of orders prohibit the respondent from causing another person to engage in prohibited conduct (76%), and prohibit damaging property (74%).

There are two definitions of "exclusion condition". One is where the respondent must stay a specified distance from the AFM, thereby excluding him from the family home by proxy (Courtlink definition). Section 82 of the FVPA states that "If the court decides to make a family violence intervention order, the court must consider whether to include a condition (an *exclusion condition*) excluding the respondent from the protected person's residence. Exclusion conditions of this type are not explicit in Table 6.10, which is based on the Courtlink definitions, but are reflected in the first two restrictions shown in the table.

Table 6.10: Court Order Restrictions, proportion of Orders made (Dec 2008 to Feb 2010)

	A&W	FVSN
Prohibits respondent from approaching, telephoning or contacting the AFM	57%	52%
Prohibits the respondent from being within a specific distance of premises where the AFM lives or works	52%	49%
Prohibits respondent from assaulting, harassing, threatening, etc.	99%	98%
Prohibits respondent from damaging property	92%	74%
Prohibits respondent from causing another person to engage in conduct prohibited by the order	83%	76%
Prohibits respondent from carrying a firearm	8%	6%
Following the protected person, keeping them under surveillance	47%	37%
Publish material about the protected person	41%	34%
Contact Men's Referral Service	6%	6%

Source: Courtlink

Overall A&Ws result in higher levels of restriction compared to FVSNs. This suggests that A&Ws may sometimes be used for more serious family violence incidents, consistent with other data. Another factor is the use of A&Ws by police as a means of varying orders that are limited to no family violence conditions.

Slightly more than half (52%) court orders following FVSNs prohibit the respondent from approaching, telephoning or contacting the AFM (Table 6.10). This restriction is made more frequently where the application was initiated by A&Ws (57%). One reason for the difference in the rate at which this condition is imposed (ie. FVSNs compared to A&Ws) might be that Court ordered exclusion restrictions cannot be made if the AFM does not agree with exclusion (and this may be more likely where the application originates with a FVSN).

Note that 'Contact Men's Referral Service' (6%) is not technically a condition of the order, but rather a clause that provides information to a respondent about the Men's Referral Service. The order for men to attend the mandatory counselling program is always made as a separate order.

6.4 AFM and perpetrator knowledge of status and rights, in relation to FVSNs

Feedback from AFM interviews and women's services indicates that when police take the respondent to the police station to issue a FVSN, they do not always return to the AFM to deliver her copy on the same day, and sometimes do not deliver her a copy of the notice at all.⁷⁷

All 20 of the AFMs interviewed were informed verbally about the conditions of the FVSN by police, and 14 said that they were provided with a copy of the FVSN, either at the time police attended the incident, or at a later time on the same night/ day.

Failure to deliver a copy of the FVSN to the AFM has a number of serious implications. Some women will be unaware that they need to attend court, because they do not have anything in writing, and may not have heard or understood the instructions of police at the time of crisis.

Some women reportedly did not understand the relevance or conditions of a FVSN, or the consequences of the notice being breached. Some women interviewed had only previously been aware that they could apply for an intervention order themselves, and were confused about the new police powers, and that FVSNs were different from an interim intervention order. Four of the AFMs interviewed would have liked more information about court orders. In particular, they wanted the police to tell them that an intervention order could be made by the court which allowed the respondent to still reside with them. Several AFMs were under the impression that the exclusion condition of the FVSN would automatically carry over to the intervention order. This impression is reportedly a factor in AFMs not supporting applications.

For the future, it will be important for Victoria Police to monitor how widespread this practice is (ie failure by police to provide all AFMs with a copy of the FVSN, with a full and clear explanation), and develop strategies to ensure compliance by police members with this important procedural matter, if FVSNs are to be continued. It will also be important for police and/or AFM support services to clarify the nature of FVSNs, and to differentiate FVSNs from court issued intervention orders.

6.5 Equity and appropriateness of FVSNs, in relation to Indigenous people

One of the issues for the evaluation is the extent to which FVSNs have been used with diverse groups within the community, whether FVSNs are equitable and appropriate, and whether there are specific additional issues which need to be taken into account, for different groups within the population.

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Issuing a FVSN 'on the spot' was intended to facilitate the provision of paperwork immediately to the AFM, and address the problem that AFMs were not provided with information about bail conditions associated with an A&W. Not providing the AFM with a copy of the FVSN is contrary to s34 of the FVPA, and may result in a notice being struck out.

Data indicates that FVSNs are issued to perpetrators and AFMs who are Indigenous at a slightly higher rate than all FIRs, and at a significantly higher rate than the proportion of Indigenous people in the community (for example, see Table 5.9).

Feedback from community based (including Indigenous) services indicates both benefits and concerns with FVSNs for Indigenous people.

Services report that many Indigenous AFMs prefer FVSNs because it helps them feel safer for 72 hours. A FVSN 'takes the matter out of their hands', and there are reportedly fewer recriminations from the perpetrator post crisis. Some Indigenous women view FVSNs as useful in facilitating a 'cooling off' or time out period over 72 hours, especially if alcohol abuse has been part of the incident, after which time they wish to be reunited with the respondent.

It was also reported that Indigenous AFMs prefer that respondents are not locked up or charged with an offence, but that they are simply removed from the house (ie. using a FVSN), which nevertheless conveys a clear message.

Stakeholders also reported a number of concerns about police use of FVSNs, and police response to family violence in relation to Indigenous people, more broadly.

Issues include:

- history of systemic racism and discrimination; poor relationships and suspicion between police and Indigenous people, including judgemental attitudes; and unjust treatment of Indigenous people by some police. Given this history, some Indigenous women reportedly do not want police involved at all in family violence incidents, and especially if police have powers to remove perpetrators (which is enabled by FVSNs) or arrange removal of children.
- lack of support for the AFM by the wider Indigenous community, if police are involved, and especially if they have increased powers through the FVSN.
- some Indigenous women are reportedly fearful of what will become of perpetrators, especially if he is affected by alcohol and police use holding powers and detain him in cells. In these circumstances AFMs may invite the perpetrator back home within the 72 hour period, contravening the FVSN. This is linked to another concern that if harm befalls the perpetrator during the 72 hour period, the AFM may experience dangerous or life threatening reprisals from other community members.
- a fundamental fear that if police are called and issue a FVSN, that DHS will be contacted and children will be removed.
- a concern that FVSNs and the initiative taken by the police, may be disempowering for Indigenous women. Some stakeholders consider it would be more empowering for Indigenous women if police assisted them to apply for a FVIO themselves (with limited conditions, such as the respondent staying away from the home if alcohol affected)
- some police are reportedly not fully explaining FVSNs, the conditions, and the need to attend court, to Indigenous AFMs.

- some police are reportedly making an inaccurate risk assessment when they assume that both AFM and respondent are alcohol affected.

In the context of these issues, agencies estimate that more than half of Indigenous AFMs do not attend court. The reportedly high rate of reconciliation with respondents following a FVSN, and low attendance rate at court raises safety issues for Indigenous women. In addition this may contribute to police becoming less responsive to FIRs involving Indigenous people, especially when there have been previous FIRs.

A number of initiatives are under way to address the incidence of family violence in Indigenous communities, and to develop better responses by police, and support services (including Time Out services for Indigenous men). A protocol is being developed in the northern region between police and the Aboriginal community in relation to Aboriginal family violence. A case management program for Aboriginal men who use violence has been established and is currently being evaluated as well as additional funding to the Aboriginal Family Violence Prevention and Legal Services in 2009 to provide improved capacity to support Indigenous women to prepare for and attend court. It will be important to continue to consider the role of FVSNs in developing enhanced responses to family violence in Indigenous communities throughout the State. In addition, DOJ has developed a Koori Family Violence support program, based at the Melbourne Magistrates' Court.

6.6 Equity and appropriateness of FVSNs, in relation to women from culturally and linguistically diverse backgrounds

A range of issues are associated with providing an appropriate police response to people from CALD communities. Low English language proficiency has been identified as a risk factor for family violence. Poor language skills exacerbate social isolation and marginalisation from the wider community, and represent a barrier in acquiring information about services, options and rights for AFMs.⁷⁸

In recognition of these and other issues, the Police Code of Practice highlights the importance of clear and culturally sensitive communication; not making assumptions based on one's own belief system or standards; and providing AFMs with specific CALD service referrals as an alternative to mainstream referrals.

Police are required to use independent interpreters at every stage of the investigation where necessary. The Code of Practice notes that police may seek immediate interpreter assistance from neighbours or persons present in emergency situations, but that they should never use children, suspects or offenders as interpreters.

Feedback to the evaluation indicated there are concerns with the extent to which police members consistently abide by the Code in terms of culturally appropriate practice and use of interpreters, particularly with FVSNs. Police members themselves however, reported in their survey responses that there were no particular issues in the use of FVSNs with people from CALD, other than an occasional reference to the need for interpreters.

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Department of Justice (2009) *Victorian Family Violence Database Volume 4: Nine Year Trend Analysis (1999-2008)*, p 99.

A major shortcoming is the significant knowledge gap arising from the fact that CALD status is not accurately or adequately captured in the data. The L17 form has provision for recording three items – country of birth, ethnic appearance, and whether interpreter services are used.

Table 6.11 indicates that police identify approximately 13% of AFMs and perpetrators as having an 'ethnic appearance'. This is clearly an inexact measure and likely understates the number of people who are from CALD backgrounds (28% of Victorians were born overseas). Police indicate Aboriginal appearance in 3.5% of cases, which is lower than 5% of AFMs established by other L17 Aboriginality data (see Table 5.9).

Table 6.11: Ethnic appearance AFM, perpetrator (8th Dec 2008 to 8th March 2010)

Ethnic Appearance	AFM		Perpetrator	
	No.	% valid	No.	% valid
Unspecified	6,843		6,287	
Aboriginal	1,297	3.5%	1,440	3.8%
Other	3,214	8.6%	3,571	9.5%
Asian	1,776	4.8%	1,527	4.0%
Caucasian	30,944	83.1%	31,249	82.7%
Total (valid)	37,231	100.0%	37,787	100.0%

Source: LEAP

Limited data indicates that police use interpreters with 3% of FVSNs (about the same as A&Ws). This is relatively low compared to the number of people in Victoria born overseas in non English speaking countries (18% of the population). One key indicator, however should be poor proficiency in English, which is estimated to be about 4% of the population.⁷⁹

Neither FVSNs nor L17 forms provide adequate data on 'proficiency in English'. Another key indicator is immigration/ citizenship status which can influence the attitude of women from CALD backgrounds towards seeking assistance from police and/or supporting applications. This information is not recorded on existing data forms. The inadequacy of data, and resultant knowledge gap impacts this and other evaluations which may be undertaken.

Community based family violence women's services provided important qualitative input, and identified a number of benefits of FVSNs for women from CALD backgrounds. In general these services support the continuation of FVSNs. They also identified a number of issues which need to be addressed. The following benefits of FVSNs in CALD communities were reported:

- police can make an application for a FVIO using a FVSN whereas women from CALD backgrounds frequently will not make an application because of fear, and/or cultural value systems.
- the perpetrator is less likely to take retributive action against the AFM if police have issued the FVSN
- the immediacy of a FVSN, together with an exclusion condition, has a profound impact on respondents, particularly where the respondent believes that the AFM has no rights (eg. if she is on a spousal visa).

⁷⁹

ABS Census of Population, 2006, Expanded Community Profile, Cat. No. 2005.0

- FVSNs enable women from CALD backgrounds who are reluctant to enter a refuge to remain safely in the home, with the perpetrator temporarily removed.
- issuing the FVSN with exclusion conditions immediately following the incident, with instructions to attend court, provides a strong message to AFMs and perpetrators that family violence is against the law, and that the government and community is committed to protecting and upholding the rights of AFMs to safety in the home.

A number of concerns were identified with the use of FVSNs with women from CALD backgrounds, and with police practices more broadly in response to family violence in CALD communities. These included:

- failure by police to always use an interpreter when the AFM has limited or no English. There is a particular concern that if the perpetrator speaks English and the AFM does not, police will not use an interpreter. Of equal concern is the use of children to interpret, or other family or community members who may support the perpetrator. While this is an issue relevant to all family violence incidents, the use of a FVSN without an interpreter has serious consequences and is likely to disadvantage the AFM further. The AFM may not understand the FVSN or the conditions, may not understand how long the perpetrator will be excluded or where he will be, and may not understand that it is in her interests to attend court.
- failure by police to ensure women from CALD backgrounds are fully informed about their status and rights in relation to the FVSN.
- failure by police to issue FVSNs when they respond to a FIR with a woman from a CALD background. Community based women's services attribute this to police using a different lens to evaluate family violence in CALD situations, and may dismiss or take the incident less seriously, on the basis that it may be culturally acceptable in that community; police being uncomfortable and forming negative opinions if the AFM is expressing her fear and distress in ways the police are not familiar with; and not being willing to take the additional time required to fully assess the situation (with an interpreter), and complete the FVSN.
- police may be wrongly issuing FVSNs to women from CALD backgrounds who are in fact victims trying to protect themselves from violence. Data shows that 20% of FVSNs are issued to female respondents, but does not indicate the proportion who are from CALD backgrounds. Anecdotal examples were provided where AFMs, with no English language proficiency, have been named as the respondent.
- police do not provide complete information on the FVSN, or it may be incorrect. This means that the magistrate will be considering an inaccurate report, and the AFM will have to 'set the record straight' in court (and disagree with the police) from a position of fear and vulnerability, and often without adequate support. Community services report that it is not uncommon for police to record the wrong language group on the notice, resulting in a delay in obtaining an appropriate interpreter in court on the day of the hearing.

As noted, the data in its current form cannot be interrogated to provide an evidence base for all these examples, but services report that the anecdotal

evidence is compelling. These issues are profound, and require further consideration and analysis.

Other points raised by community services include the additional fear which AFMs who have lived in oppressive regimes may experience. Examples given include police entering the home and removing the perpetrator; fear of reprisals by community members both in Australia, and towards her family members in her country of origin, especially if it has been an arranged marriage; fear her children will be removed; and fears about her immigration status and being deported.

The experience of CALD women at court was also raised as a major concern, particularly with a FVSN, and especially if no support workers are available, or alert to her situation. Services report CALD women may be unaware of their options or court or legal processes; they have not had sufficient time to seek assistance; they may be disoriented and confused, and frightened by community members or the perpetrator who may approach them in the waiting area and exert pressure on them to ask police to withdraw, or not support the application. Services reported that police prosecutors generally do not take extra measures to ensure women from CALD backgrounds are provided with clear information about the process, how long she will need to wait, etc.

Irrespective of whether FVSNs are continued (and especially if they are continued), police require more cross-cultural training and specific guidelines for responses to family violence in CALD communities, and better reporting and data systems; monitoring and accountability mechanisms to ensure compliance with culturally competent practice.

6.7 Equity and appropriateness of FVSNs in relation to women with disabilities

Disability affects at least one in five women in Victoria, and severe and profound disability affects over 6% of the Australia population. Disability is recognised as a risk factor for family violence, and women with cognitive and physical disabilities are reported to experience higher rates of family violence than those without disabilities.⁸⁰ A range of research has been undertaken reviewing family violence involving women with disabilities.⁸¹

Women with disabilities may be more dependent on their partner, family member or carer for housing, and other basic life necessities. They may also have additional care needs associated with the disability. The experience of abuse and family violence may relate specifically to the disability, and can include a perpetrator withholding access to equipment and aids, inappropriate control of food and medication, threats of institutionalisation and other demeaning actions. More broadly, women with disabilities are known to be more likely to experience social and economic marginalisation.

Women with disabilities face a number of challenges in accessing assistance from the community sector, police and the courts. In particular women with disabilities may be less likely to want to progress matters with police or courts. Specific fears include not being believed; difficulties in communication; having to respond to questioning and becoming confused; being institutionalised; or

⁸⁰ Department of Justice (2009) *Victorian Family Violence Database Volume 4: Nine Year Trend Analysis (1999-2008)*, p 82.

⁸¹ See for example <http://www.wvda.org.au/viol2006.htm>; Healey et al. 2008; Hague et al. 2008.

having their children removed or losing their children to the perpetrator. They may not fully understand that what has happened to them is a crime; and they may experience prejudice, assumptions, and misunderstanding

Women with disabilities reportedly find it more difficult to take independent action and apply for an intervention order, and to obtain appropriate support and advocacy in relation to their experiences of family violence.

The use of FVSNs, especially if the respondent is excluded, may prove difficult for some women with disabilities, especially if the exclusion is immediate without giving the AFM sufficient time to put in place adequate supports. Women with disabilities may also have difficulty in finding alternative accommodation that is tailored to meet their needs, or in obtaining help with personal care if they leave the perpetrator.

Because of their disability, and the 72 hour time frame for FVSNs, women with disabilities are reportedly less likely to attend court, with greater likelihood that courts will strike out the application. This would leave the AFM unprotected and perhaps less safe than before, and reinforce to the perpetrator that the behaviour will go unsanctioned.

It is essential that police make adequate assessments and formal referrals and other arrangements (eg. assist women to relocate), to ensure that women with disabilities are safe and have the appropriate level of assistance, including assistance to access supports in order to attend court.

6.8 Summary

The following points summarise the key issues identified in this section:

- a) FVSNs have contributed to an increase in safety for AFMs in Victoria, as since their introduction there has been an increased level of civil actions in response to FIRs. Women report feeling safer as a result of police issuing FVSNs, and acknowledge the benefits of police taking the initiative. FVSNs give police an additional option in some situations where they may not have previously taken any action. In this regard FVSNs are perceived to have increased the response to family violence and enhanced accountability of perpetrators.
- b) The majority of FVSNs (90%) are issued by police in person at a police station. Police report that benefits to this approach relate to physically separating the parties, thus defusing the tension and immediate conflict; reducing the possibility of children being further traumatised; and allowing police to take control and take appropriate action.
- c) Holding powers were used in nearly one quarter (24%) of all incidents where a FVSN was issued, which is higher than other civil options. Considering the high proportion of respondents who are removed and taken to a police station (90%), the exercise of holding powers appears relatively conservative.
- d) Recorded contraventions of FVSNs are relatively low. One reading of this is that FVSNs may be a reasonable deterrent to perpetrators. Another is that police are not responding in an appropriate way to contraventions. There had been 127 charges laid for contravention of FVSNs as at 31st December 2009, with 72 proven offences, to the end of February 2010. Of the 72 proven offences, 27 resulted in fines, 6 resulted in imprisonment, and 9 resulted in Community Based Orders.

There were 6 suspended sentences, and 24 cases adjourned with undertakings.

- e) The majority (84%) of FVSNs exclude respondents. Most men (respondents) who are excluded by FVSNs arrange their own accommodation, and government funded emergency accommodation is being used at a lower than anticipated rate.
- f) Where respondents are not excluded (16% of FVSNs), AFMs are not being assisted by police to find alternative refuge accommodation. The recorded rate of removal of AFMs to refuges or other accommodation is very low, and needs to be addressed. The FVPA 2008, states that police should take any reasonable steps necessary to ensure the AFM has access to temporary accommodation, where the respondent is not excluded.
- g) Police are not meeting expectations in relation to referrals of AFMs to community based services, and the rate of both formal and informal referrals needs to be increased in order to provide enhanced safety for AFMs in the short and long term. This is particularly important in light of item f) above.
- h) The referral of perpetrators to men's referral services when a FVSN is issued is relatively low (47%, including 22% formal referrals). An increase in referrals by police to men's services should contribute to the increased accountability of perpetrators.
- i) Police do not always provide the AFM with copies of the FVSN. This appears to be related to police removing the respondent and completing the paperwork at the police station. Failure of police to provide all AFMs with a copy of the FVSN is disadvantageous to AFMs, and a serious concern. This is contrary to legislative requirements and may invalidate the safety notice (if AFM does not attend).
- j) FVSN applications are processed through the courts relatively quickly compared to other civil actions, with 70% of FVSNs being finalised within 3 days of issue.
- k) Available data suggests that respondents are less likely to attend court when a FVSN has been issued, compared to an A&W. Respondents are present at 71% of court hearings for a FVSN when a final order is made, compared to 84% attendance for A&Ws.
- l) A minority (18%) of all FVSN applications have been adjourned at first mention, without an interim intervention order being made. This is a significant concern as women are not protected by the court during this period. The admission of a certified FVSN as evidence will likely to reduce the number of unprotected adjournments.
- m) Stakeholders report particular issues with FVSNs for people from CALD backgrounds. A number of factors reduce the likelihood that AFMs from CALD backgrounds will attend court. Police understanding and responses need to be enhanced, including the use of interpreters, particularly where FVSNs are issued. Improved data collection is required to better understand factors specific to CALD communities, and the impact of FVSNs.

- n) The use of FVSNs with Indigenous people requires further consideration and understanding, to enable enhanced ways of responding to family violence, as per the Victoria Police Indigenous protocol.
- o) On the limited evidence to date, it appears that FVSNs are less likely to be appropriate for women with disabilities, unless safety and care needs of the AFM are guaranteed during the 72 period, and the AFM is assisted to attend and be supported at court.

For the future, areas requiring further investigation and capacity building include:

- i) Providing enhanced responses to Indigenous people, consistent with the VicPol protocol
- ii) Providing enhanced responses to people from CALD backgrounds, including obtaining appropriate data; using trained interpreters; providing police with cultural awareness training; strengthening support systems for AFMs from CALD backgrounds; and reviewing the cultural appropriateness of men's behaviour change programs
- iii) Providing enhanced responses to people with disabilities
- iv) Enhancing the rate of referral of AFMs to community specialist family violence services consistent with the Code of Practice. Enhancements would include facilitating immediate telephone contact between the AFM and WDVCS (at the time a FVSN is issued), and formal faxback referral to regional community based family violence outreach services every time a FVSN is issued.
- v) Enhancing measures to ensure the safety of AFMs where respondents are not excluded. This may include increasing the use of women's refuges.
- vi) Clarifying/ amending the legislation to ensure the safety of AFMs. This would include the ability of the court to adjourn with appropriate safety measures in place, and the evidence status of the FVSN.
- vii) Clarifying court and police practices in order to ensure protection for the AFM, when a case is adjourned, or struck out (for lack of evidence).
- viii) Investigating whether police actions and laying of charges and subsequent court sanctions, represent an adequate response to contraventions of FVSNs.
- ix) Enhancing police practice to ensure that AFMs receive a copy of the FVSN.

6.9 Concluding comment

The evaluation has found that at a minimum, the pilot has contributed to some extent to each of the stated objectives. These objectives reflect the broader intent of the FVPA 2008 legislation. At best the introduction of FVSNs has made a significant contribution to the whole of government reform agenda to reduce, and more effectively address family violence in the Victorian community.

Considerable resources were invested in the new legislation and the development and roll out of the FVSN pilot. One would expect some

challenges in the introduction of a new system which enables police to directly administer new legislative powers.

The evaluation has highlighted several issues of concern and shortcomings in the clarity of the legislation, police practice, court practices, and in collaborative arrangements, which if addressed would undoubtedly contribute to furthering the achievement of the stated objectives.

Based on the data provided to the evaluation, there is sufficient evidence to suggest that FVSNs are being applied with appropriate discretion overall, and being upheld by the courts in 67% of cases. The shortcomings which have been identified need to be addressed and remedied in the near future, in order that a strengthened, coordinated response to family violence can be achieved.

Appendix 1: Methodology

The methodology was finalised with the FVSN Evaluation Steering Committee.

Key tasks and activities are summarised below.

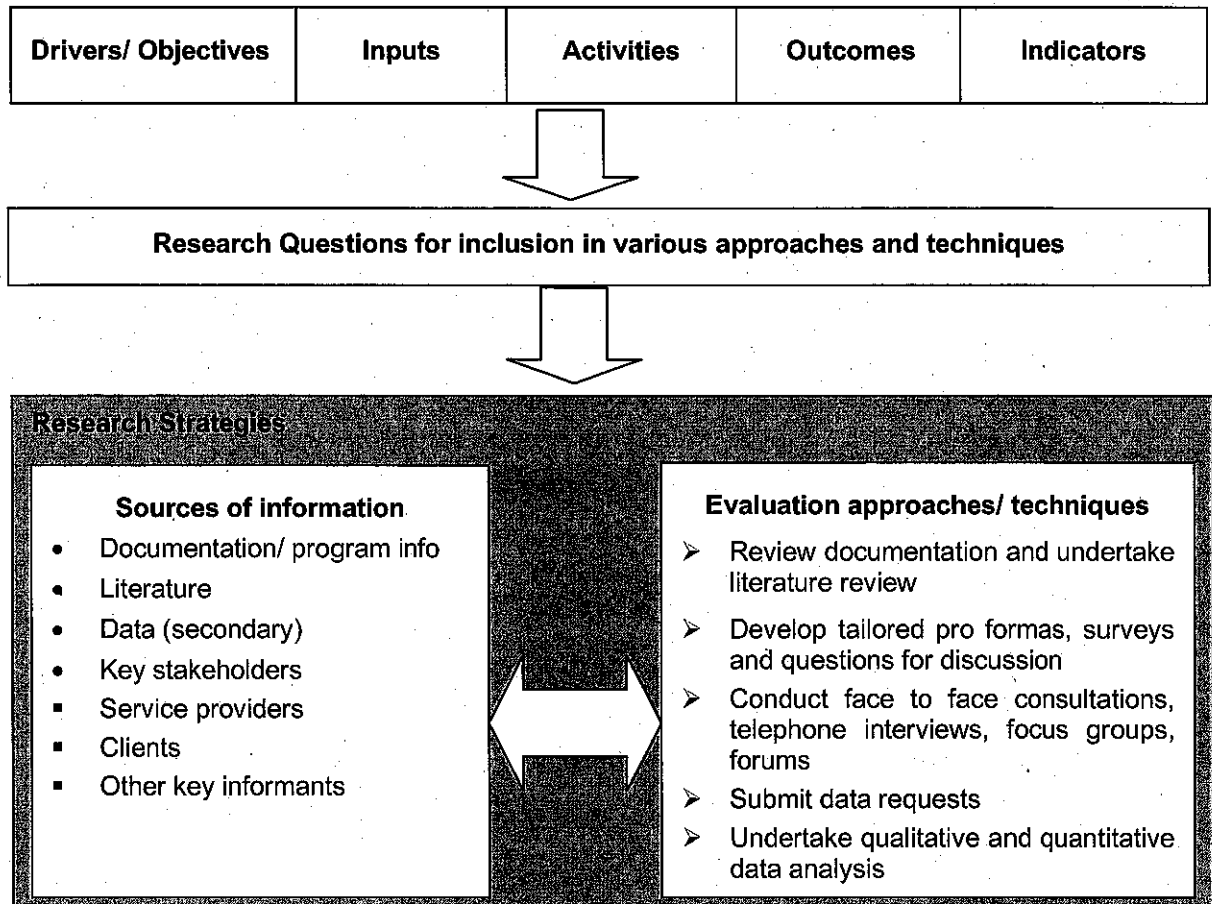
1 Evaluation Plan

A detailed evaluation plan was prepared including:

- Major and subsidiary research questions
- Detailed strategies (methodologies) to obtain answers to the questions, including types of evaluation tools and techniques, and clearly identified sources of information.

The approach is illustrated in Chart 1. Research questions were developed from existing documentation, and preliminary discussions with key stakeholders. Research questions were then incorporated into different approaches and techniques, and applied to various sources of information.

Chart 1: Development of Evaluation Plan



Research Questions

Detailed research questions were finalised following input from the FVSN Evaluation Working Group. These incorporated Program Logic Map for the Family Violence Safety Notice initiative which recognises the following components in relation to the FVSN initiative:

- Drivers/ Objectives
- Inputs
- Activities
- Short term outcomes
- Long term outcomes

Research tools

A number of research tools were prepared (interview schedules, data requests, surveys, topics for discussion), and supplementary guidelines (as required).

2 Ethics applications and approval

Two ethics applications were prepared and submitted to VicPol and DoJ Human Research Ethics Committees (15th October 2009). These were accepted.

3 Consultations

The project included wide ranging discussions with a number of organisations and individuals. These included (number of individuals):

- Department of Justice (6)
- DPCD (2)
- Victoria Police SOCAU (6)
- Department of Human Services (5)
- Registrars (individual and group meeting 33)
- Magistrates After Hours Service (4)
- Magistrates (individual and group meeting 10)
- Court support staff (5)
- Victoria Legal Aid (individual and group meeting 12)
- Aboriginal Family Violence Prevention and Legal Service (3)
- Federation of Community Legal Centres (Group meeting 20)
- No to Violence
- Women with Disabilities Network (2)
- DVIRC
- FVLO meetings (individual and group meeting 55)
- VicPol Family Violence Advisors (individual and group meeting 8)
- Court attendances – observation (5)
- Family Violence Services (11)
- Men's Services (5)
- DV Vic
- DoJ Family Violence Initiatives Professional Development Forum
- DoJ Family Violence Stakeholder Reference Group

4 Data

Detailed data requests were prepared for Courtlink and LEAP, and data was received and analysed. A further data request was submitted early April 2010 in order to update the original data. Data was subsequently received and analysed.

It is important to note that the accuracy of the L17 LEAP data is entirely dependent upon police ticking the appropriate boxes, and in particular the risk management strategy section of the L17. Anecdotally, police tend to under-record a number of data fields on the L17, and in particular the actions they have taken in relation to family violence.

Other data was reviewed and analysed including Police training feedback sheets (388); After Hours Service data (monthly reports).

5 Literature review

An Australian and international literature review was undertaken, focusing on police responses to family violence, and in particular police orders involving exclusion, or making a third party application for an intervention order.

6 Interviews with AFMs

A total of 20 interviews were undertaken with women who had been AFMs in the issuing of FVSNs.

7 Surveys

A number of surveys were developed and distributed. These are summarised below, together with the number of surveys returned. A number of supplementary consultations were conducted to ensure there was adequate information from each group of survey respondents.

Summary of Surveys

Type of organisation	No. sent	No. received	Supplementary consultations (number of participants)
Police		109	Consultations with 4 groups of FVLOs and other members (Mordialloc, Caroline Springs, Ballarat, Mornington) (55)
Sergeants		53	
Prosecutors		10	Consultations with 3 police prosecutors
Magistrates	115	8	Consultations with individual magistrates and the Family Violence Portfolio Group (12)
Registrars	30+	5	Consultations with Family Violence Registrars (25)
Family violence outreach services	19	13	Consultations with family violence services (9)
Men's behaviour change programs	40	10	Consultations with men's services (5)
Community Legal Centres	50	4	Consultation with Victorian Federation of CLCs (20)

8 Reports

The Interim Report was submitted to the Working Group on 29th January 2010, and finalised following feedback on 12th February 2010.

The final draft report was submitted at the end of June 2010. This report comprised an update of the Interim Report, including 15 months of data, additional information, and a number of attachments/ appendices.

Appendix 2: AFM interviews

1 Introduction

Interviews were conducted with 20 AFMs, all women. Interviews were based on an ethical process.⁸² This included development of interview questions, obtaining cooperation from family violence agencies to identify and support women who were willing to be interviewed, undertaking interviews, maintaining confidentiality, and analysis and reporting of data.

The focus of the interviews was the AFM's experience of the issuing of a FVSN, and related processes and interactions. AFMs were not asked to provide details of the violence they had experienced.

Interviews were conducted at the premises of family violence support agencies, and ran for between 20 minutes and one hour. All interviews were conducted by the same female interviewer, and followed a standard set of questions. Women were reimbursed for their participation, and agency staff were available to discuss the interview and provide support to women following the interview, if women required this.

2 Interview sample

The interview sample of 20 women included:

- women living in rural and metropolitan areas
- an age range between 32 and 81 years. Eight women were in their early 30s, six in their 40s, two in their 50s, three in their 60s, and one in her 80s.
- 18 women had children or step-children; 12 had children currently living with them; 6 women had adult children who no longer lived with them; 2 had younger children living with the child's other parent.
- 14 women described their cultural background as Australian. The 6 other women were from Thailand, Brazil, Indonesia, Africa, China, and Scotland.
- in 14 instances, the respondent of the FVSN was the husband, intimate partner or ex-partner of the AFM. In 3 instances the respondent was the AFM's brother, in 2 instances the respondent was the AFM's adult son, and in one case the respondent was the AFM's grandson.

⁸² The research design for interviewing AFMs was subject to the approval of the Victoria Police Human Research Ethics Committee and the Department of Justice Human Research Ethics Committee.

3 Background to the issuing of the FVSN

In 13 cases, the family violence incident(s) that led to police being contacted occurred during a weekend, with the other 7 instances occurring on a week night. Twelve of the 20 women interviewed had previously contacted police for assistance with family violence, with 8 of the 12 women having done so in relation to the same respondent. Eight AFMs had never before contacted police in relation to family violence.

Interviews with AFMs were challenging because some women did not necessarily understand that the Family Violence Safety Notice was a separate (but complementary) process to an intervention order. While they understood that the Police had commenced a legal process in order to provide protection until a magistrate could hear the application, several clients described the FVSN as an 'Interim Intervention Order', which was likely to be ratified/continued by the magistrate. In addition, several women found it difficult to recall and/or describe aspects of the incident, with the issuing of the FVSN not necessarily an important part of the incident, or the aftermath. Nevertheless, AFMs were able to contribute important insights and opinions from their personal experiences, or police issuing a FVSN in response to the family violence incident.

4 Are AFMs satisfied that FVSNs are being applied appropriately (by police)?

Fifteen of the 20 AFMs interviewed believed that the FVSN was the most appropriate response to their situation at the time.

"It gave me full confidence that there was something there to help and that I didn't have to suffer."

"It was a good response to a bad situation."

Only two of the 20 AFMs had any previous knowledge about the existence of FVSNs, one because her ex-partner had been issued with a FVSN on an earlier occasion. The other woman was already receiving support from a family violence service, who advised her that a FVSN may be an appropriate response to her situation.

"I think it's better, I wish they would have done it before. I asked the Police Sergeant to take out an order and he said he couldn't do it. I don't know why – even my worker rang him and said 'why can't you take out a FVSN before it goes to court', and he said no."

All but 3 AFMs knew about IVOs, and a number of AFMs believed that the FVSN was the commencement of a process to obtain an IVO. There was a common hope that the police would be able to do something to exclude the respondent from the home. The 3 AFMs who did not know about IVOs were all newly arrived to Australia, and had limited knowledge of the justice system and the availability of support services for victims of family violence. Overall, most AFMs considered that it was appropriate for police to take action, including removing the perpetrator.

"I really didn't know what they could do. I just wanted them to take him away and lock him up."

"I didn't know what they would do. But I was afraid about whether he would beat me or harm me, because he said that before, 'I kill you, I kill you'. I thought the police would take me away again [to a refuge]."

"I thought they might take him somewhere where he could get some treatment. Sometimes his thinking is not right. He has a bit of a mental problem, it gets worse when he drinks alcohol. But they took him to the hospital and they let him out after 6 hours."

"I knew they would take him away for a while, but I didn't realise they could make him stay away until court."

"I was just hoping for them to get him out because he was threatening me. I wanted him out for my safety."

"I just wanted them to take him because I told him to leave and he wouldn't. I don't really think that if I did that it could be the end. Because before sometimes I would go but I would always come back. This time I had the courage. This time I had my Mum here, so I knew that someone would be able to help me. They asked me if I wanted to charge him, and they put on a safety notice."

"No [I didn't know what they would do], but he was going to kill me. I tried to get out the door, and he kept pushing me back. Luckily I had the mobile and called 000 and kept it in my back pocket and they heard it all. I yelled out my address, he kept trying to get the phone to smash it. The whole house was full of glass and broken furniture, I was bleeding...it was a nightmare."

One AFM whose son was threatening suicide as well as violence towards her believed that a CAT team response would have been more appropriate than a police response, but recognised the extremely difficult position that the police were in.

"He's trying to kill himself with the drink or get shot by police. I called the police afterwards and thanked them for not shooting him. Because really my heart goes out to them. He was threatening them with a spear gun, they had to be in fear for their lives, but they talked him round...I honestly thought he was going to kill me."

AFMs' views on police responses

The majority (16) of AFMs called police themselves. In the other four cases police were contacted by neighbours or other family members. The main reason these AFMs did not call police was that they were scared of the potential implications of angering the respondent further, if they knew that the AFM had called the Police. Three of these four AFMs stated that they would now call Police themselves if such an incident occurred again, as they believed that the FVSN increased their safety and did not escalate risk, as they had feared. The remaining AFM did not believe she would call the Police, despite feeling well protected by the FVSN, as she is reluctant to get the respondent into further trouble.

The AFMs' views on the responsiveness of police varied. One AFM rated police responsiveness as 'very good'. This AFM explained that police arrived within 10 minutes of contact, asked the AFM what she would like included in the FVSN, provided a referral to a family violence service, and followed-up next morning with a visit to see if the AFM had any further needs. In another instance however, an AFM called the police several times from 5 am, and eventually had to go to the police station in the afternoon to lodge a complaint. The examples below show the range of police responses, and experiences of AFMs.

"They were there within 10 minutes. They were in control. They weren't asking 'do you want this or that', they decided. I thought that was a good thing."

"One police officer was really good, a young bloke. He was fantastic, he came every time which helped because I didn't have to tell him what was what. He sat outside the house one bad night for about 45 minutes so I could have 45 minutes peace to get my nerves together. And he patrolled at night, said 'anything you need, call me and I'll do whatever I can. He was actually the one who caught him. He took it seriously."

"It was such a big thing for me, and I need someone to help me. It happened so quickly, I needed to get help right away. I expected them to help me with the support networks. That's been great."

"The Police took some time to come, maybe 15, 20 minutes. If it had turned physical, it could have been very bad for me. I had to just keep away from him until they came."

"I called the police but they didn't come. He threw me and my kids out on the footpath, a neighbour let us come inside. All my stuff was out in the garden. I had to go down to the police in the afternoon to make a statement, because they never came. Then they went and arrested him. I ended up in hospital with concussion."

"I was thinking that the police wouldn't come. It was 2 hours I was waiting"

Five AFMs who had had previous contact with police in relation to family violence noted that the most recent police response (ie. issuing a FVSN) was different, and better, than previous responses.

"Well they took him away this time and told him he couldn't come back, that was the big difference."

"The police made it a lot easier at the time. They wouldn't listen to any [of his] excuses."

"The first time, the police came and found him and they took me to a women's refuge. The second time, they took him away so I could stay in my house with my son"

"It was better to stay in my home, because my boyfriend, he doesn't even live with me. I was sad I had to go from my house (the first incident). He has his own house, he could go back to it, but my house was not safe."

"They did take him away before, but I didn't want to press charges. Once the drinks gone through him, he's alright. And often when we get into a blue he just grabs his swag and sleeps in the shed or in the bush out the back of our place. He was just in one of those moods... He told me to ring the police because he was up for a blue. He threw the vacuum cleaner at the roof, then came into the bathroom and smashed the shower screen. Then he went and called the police and said 'come and get me or I'm going to kill her'. He says it's all my fault, that I like to stir the pot. The cops came out and took it really seriously."

5 Did/ do AFMs feel safer as a result of the FVSN?

Eleven (11) of the 20 AFMs reported that they felt safer as a result of the FVSN and the subsequent intervention order.

"Just knowing that he was locked up, and that the police would keep an eye on him made me feel safer."

"The way they did it was great because I was protected from the word go. I had the order 48 hours later."

"Yes I suppose it did [make me feel safer]. He can't ring us up and come near the house. That makes me feel...safer? No, more relieved that he won't just turn up again."

Nine AFMs reported that they felt safer because they received timely follow-up from police after the issuing of the FVSN. This often involved dropping off the FVSN paperwork to the AFM following the incident and checking how they were going.

"[Police] were really really good, kept checking on me, really proactive. Always willing to help."

"The police were so professional. He was out of control. My heart goes out to them, they are so caring and helpful."

Of the 11 AFMs who felt safer, 2 noted that they also felt that the respondents' safety was also increased through being removed to a safe place by the police.

Seven (7) AFMs considered that the FVSN made little or no difference to their feelings of safety, as they did not trust that the respondent would comply with the conditions of the FVSN. Four AFMs continued to suffer harassment and verbal and emotional violence from the perpetrator, and did not believe that the protection afforded by the FVSN was adequate.

"I think I was still scared. I didn't know where they had taken him, he could have been in the next street. I felt uncomfortable not knowing where he was."

"I felt it was good to take him away, but I thought he really needed to be kept away overnight. He didn't come back, but he could have."

"Not really. Paperwork doesn't help peoples' tempers stay intact. It's just good for the trail after. I don't feel any safer now either, to tell you the truth."

"I feel safe a little bit but I know it can't stop him from violence. We tried very hard to get him to stop, he went to psychologists and counsellors but it can't change him much. When he talks to a counsellor he's ok, but when he gets angry it's the same."

"In extreme DV, you don't know if they're going to come back – they should be locked up, not given the benefit of the doubt. If the men are really determined, they won't be stopped."

"Not at all [safer], because he took no notice of it and the police couldn't catch him when he breached. I don't think they took it seriously for ages, not until the [family violence agency] worker got onto them. Only if they actually keep someone locked up before they go to court [are women actually safer]. If they are on the streets they can come back anytime and the police aren't likely to catch them."

"No, because so many things were happening and I didn't know where he was. I was a bit scared before the court order because I still stay in the house with the kids. When the police come, it is maybe too late. If he comes in the night, by the time the police come he might be in the house. He might come back because he knows the address. Maybe the woman should be taken away for her safety. Even though the law is in force on him, he could think 'well, I'll go back and finish the job'. I feel very insecure, especially at night."

However, at least 3 of these AFMs still considered that the FVSN was the most appropriate initial response to their situation.

Two AFMs believed that they were safe anyway, without the FVSN, as the violent incident had passed, and (they considered) was unlikely to be repeated.

A strong theme of the AFM interviews was that having police responsible for issuing a FVSN directly increases AFMs' safety. This is seen as preferable to requiring AFMs to seek an order or press charges in order for a respondent to be removed from the home. There were three main reasons identified by AFMs.

Firstly AFMs are often traumatised directly following a family violence incident and may be unable to think clearly

"The woman is always hoping that this time he might change and he doesn't. [I had called the police] quite often over a long period of time. I called the police but I wouldn't do anything [or press charges] in the end.... This time it didn't matter if I didn't want to press charges, the police just said he had to go."

"Yes, it's the best [that Police take out the FVSN]. Sometimes I was so confused. I don't know what to expect. It's good for the police to have power to do that. I think sometimes men with this problem, they know how to hide evidence. Like he knows where to hit where you can't see. He's a security guard, and he knows these things."

"Women deserve the power to lay charges but going on what I was feeling at the time, I probably would have just said 'ok, just go away and we'll sort it out ourselves.' It made it easier for police to do it; knowing that there was someone standing behind me. I think it's a lot nicer that way. And I know I might be making excuses for him. But he is so totally different when it's [alcohol] not in his system. So it's an easier and more controllable way of doing it. That being said, you know you're secure that if he does come back, you'll get a response in a short time."

"The police this time were a bit nicer (to me). Because last time, they said 'take out a restraining order, otherwise we're never coming again'. This time they did it. I don't know if I would ever have been ready to do it on my own."

"They said they could remove him from the house if I wanted them to, or they could take me and the kids somewhere safe. I chose to stay in the house, so they took him away. I was very upset. I don't remember everything. It's a bit blurry, that night. Police told him if he wanted anything from the house that police had to escort him to get it. But he didn't need anything or come back."

Secondly, the cycle of violence may be so entrenched that AFMs are unable to believe that anything can change their situation.

"Some women don't know any better, it's not their fault, they've lived in a relationship like that all the time. They need someone else to say 'look love, we're gonna charge him and you've got to get away'."

"I think it was better [for police to take out the FVSN]. Because I didn't have to do it. I would have probably gone back to him. I needed some help to make the best choice."

Thirdly, AFMs thought that perpetrators were more likely to direct their anger towards the police, and the AFM was spared some retributory violence and harassment.

"It makes them a lot angrier [if women do it] than if the police does it to them. It's a lot better. They can blame you for calling the police, but not for what the police decide to do."

"They did arrest him before but he never went to court about it. I didn't press charges. If you do then it makes things worse. It did last time for me. So the police, that's better."

"It was a relief, I felt I was given permission to do it, and I was not seen as the one who put us in this situation."

"I don't think the approval of victims should be required. Being a victim is difficult, and I think someone else taking it out can be easier. The person doesn't get so angry with you."

"The police told my partner really clearly 'AFM did not request this, this is our doing. She's not the cause here. This is our decision based on what we have seen and heard from both of you today.' It takes it out of the hands of the woman, who is scared about what happens. You might say that she has the 'right' to decide what happens to her, but safety is first, rights second. If I had said 'charge him' at that time, it would have made things much worse. I always see myself as such a fearless person, but put in a situation like this, you're not in the right frame of mind to make a decision. And so much fear of what they will do. You know it will come back on you."

By contrast, while most AFMs appreciated the police taking independent action, 5 AFMs were concerned that serving the FVSN had increased the anger that the perpetrator felt towards them. In three instances this had resulted in an escalation of threats of violence.

"To him, I'm the person who has put the order on him, it's all my fault, he doesn't accept he's done anything wrong."

Risk assessment

Only 7 out of 20 AFMs recalled that the police undertook a formal risk assessment process to assess their ongoing safety, while 6 others believed there may have been a brief, informal risk assessment, and 7 reported no risk assessment being undertaken by Police.

"I can't remember a formal process, we may have done it through discussion but don't think so."

"They didn't talk about safety, they reviewed the situation which was a dreadful mess. I wasn't very coherent."

"They asked if I felt safe or if I wanted to go somewhere he didn't know. There was a big emphasis on the children and their safety. But he would never lay a finger on them."

Risk assessment was often a feature of an AFMs initial interaction with a family violence service.

6 Do AFMs believe FVSNs contribute to perpetrators being held more accountable for their actions?

A total of 14 AFMs consider that being issued with a FVSN (and/or a subsequent intervention order) meant that respondents took their situation more seriously, and/or modified their behaviour to some degree. These AFMs believed that the FVSN had a strong impact on the perpetrator, that resulted in them ceasing their violent behaviour. They were unable to say however, whether this was related to respondents feeling more accountable, or taking responsibility, for their behaviour, or for fear of the consequences.

"I do think it gave him a scare, how seriously the police took it."

"I think he's scared about going back to jail. I'm only assuming, but I hope it's a wake up call for him, because if he has to go back to jail, I don't know what he'll do."

"I think it scared the pants off him, it's made him think twice."

"I think he would be surprised. I think he always took me for granted. Now, I think he has hope, he is still expecting something. You know I moved out and he was surprised. He didn't think I would move out."

"I think the police and the intervention order would stop him. I think he's scared. I've heard he could go to jail if he breaches. He doesn't want jail, he's not...he would not go there. It would be very hard for him. It's not his experience of life, to go to jail."

"It would have shocked the daylights out of him. He would have thought, 'mum won't do it', but I have. He needs to know how serious this is. He has to get the shock. Otherwise, we'll lose him."

Four AFMs commented that FVSNs have the potential to be particularly effective when applied in response to early notifications of family violence to Police, when violence has just commenced or is increasing.

"Where the violence is new and escalating, or where the offender is not involved with the police and prison and things, it could be a real wake-up call. It might be all that is needed in some cases. For my ex, it's nothing. But it's probably useful to have all kinds of things that you can do."

"It scared him because he doesn't want to get involved with the police. Many times I told him I would call the police but I didn't. Now he knows that the police can come even if I don't call them, that someone else might."

"He's never had anything to do with Police and courts, and this has really scared him. I know he is so scared of being in trouble. This was enough. I didn't want him to have to go to jail, just to stop."

Five AFMs did not believe that the FVSN made any difference to the respondents sense of responsibility or accountability, as they believed the respondents continued to either believe that they were not at fault, or that their violent behaviour was valid and justified.

"I don't know about accountability...he doesn't think any of it is his fault, it's all my doing according to him."

"I think he was a bit scared, but if he wants to get me, a piece of paper will not stop him."

"Don't think it bothered him that much, to be honest. My ex, he's been in jail for 5 years for manslaughter and that, there's not much they can do to frighten him. I'm concerned because he has a very violent history and he's not getting the message, it just doesn't phase him."

At least 4 AFMs did not believe that the FVSN and subsequent intervention order were a strong enough response to violence to hold perpetrators accountable.

"But the Intervention Orders, they're not worth it. My ex-partner, he used to stand by my window and spy on me. I told the police but unless he hurt me, they didn't do anything...the only thing to make me safer would have been if he was kept in a cell. Even only overnight so he can think about what he has done. Maybe they should make them watch a video about violence, I don't know, just something. They shouldn't let them straight out. They don't really make a difference. If he wants to get at me, it's not going to stop him."

"Police should do it – it's safe and it's good. But if the things do happen in the house and I don't ring the police, it still happens. It doesn't stop it happening. It helps but can't stop."

7 Did police contact victim support agencies to provide support to the AFM?

Fifteen of the 20 AFMs interviewed reported that Police referred them to victim support agencies, or advised them that a family violence service would be in contact with them. DHS Child Protection was also notified in one instance, where police were concerned about children witnessing violence.

"They gave me a folder with some contact details and pamphlets."

"They rang [family violence service] that night and I talked to them on the phone and the next morning I saw a lady from [family violence service]."

"Yes, they told me that a women's protection place would call me, and they did."

"The police didn't [make a referral], but a court support worker did. She referred me following the hearing, and I was seen immediately by [family violence support service]. They gave me HEF for a motel and within 2 weeks I moved into a THM property."

"My support worker was fantastic. She explained what was going to happen in court, she helped me explain to the court what had happened, gave me supporting letters that said I needed new housing because the family violence was serious. And I could ring her and ask her about other services. She was really persistent with the cops as well. I've had the same worker the whole time, that's really important."

Only 8 of the 15 AFMs contacted by family violence agencies, took up the offer of assistance at the time they were first contacted. Following the interview, a further four AFMs accepted assistance from a support agency at a later time.⁸³ A systematic approach to follow-up may ensure that AFMs seek assistance at a later date, once the immediate crisis has passed.

The 4 AFMs who were subsequently interested in family violence support, included 3 AFMs where the respondent was their son or brother. AFMs who suffered violence from family members rather than current or intimate partners did not generally believe that family violence agencies would be prepared to assist them, as they believed that they were targeted to women suffering intimate partner violence. In two instances, AFMs declined assistance from support services as they were aware that members of the respondent's family were clients of the service in another capacity, and were concerned that their privacy would be compromised if they were observed visiting the service. In neither instance was an outreach visit offered.

Five of the 15 AFMs referred to a violence support agency reported that they waited an unacceptably long time to be contacted, for periods between 3 and 9 weeks.

"Police gave me the details of the family violence service. I contacted them over 3 weeks ago but have not been contacted back. I've rung twice now, they say my case is 'in the pipeline'."

⁸³

This has implications for practice within family violence support agencies.

"When the police came the first time [9 weeks previously] they told me that they were going to give my number to someone to come and talk to me, but it didn't happen. Just at court they asked me if I wanted to talk to a social worker and I said yes. It made me feel a little bit better. But after that, I felt bad."

Two AFMs were not told by Police that their details would be passed on to a victim support service, who would later contact them. In both instances, AFMs were unhappy that they had not been told of this, and felt their privacy had been compromised.

"The next day I got a phone call from [family violence service] and they were asking 'are you ok, would you like any help', and they were really nice, but all I was thinking was 'how do you know? How did you get my number?' I was shocked to think that other people knew my business."

8 What do AFMs say about their experience of the FVSN, including how it was dealt with at Court?

Eleven AFMs were accompanied to court by workers from victim support agencies, or received assistance at court from Police family violence liaison officers or a Police prosecutor. In all but one instance, this support was welcomed. AFMs reported that court processes were easier for them when a family violence worker or a sympathetic police officer accompanied them.

"[Police prosecutor] was really good, because I didn't understand about the procedures. I was nervous, I was shaking like a leaf. I kept my hands behind my back so my ex wouldn't see how scared I was, but he didn't even come to court."

"It's like nothing I've ever experienced. When they told me that [respondent] was attending, I felt very anxious, I didn't want to see him." The policewoman was very nice, very helpful. She came in with me and explained everything."

"I went into a room with 3 people, there was a lawyer and a social worker and someone else...they explained what would happen, what the Order was. Explained everything that was going to happen, what the words meant. They helped me understand what my husband could and could not do."

"When I was in court, I heard a girl talking to a worker. But they didn't send anyone for me, I had to go and ask her. And she said, 'oh sure, when I am finished here I will come with you'. If I didn't hear her, I wouldn't know what to do. Inside the court, they said something I didn't want. So with the worker, she could explain and I could get what I wanted. I was really happy with 1 year intervention order, I thought it would be a lot shorter. It's complicated now, there are immigration issues."

Four AFMs mentioned specifically that the magistrate had been particularly careful to ensure they understood what was happening, and the choices they could make.

"The magistrate was excellent. He asked me what happened, he listened and asked questions. I talked to a court support worker, also someone from the CAT team."

One AFM was frustrated by having to wait most of the day at court, only to be told that the case was going to be heard by video-link anyway. Another AFM reported an unhelpful response from a Police Family Violence Liaison Officer.

"I went to see the police family violence worker or whatever, he looks after the whole area, and he just preached to us. He told me I shouldn't let things get

to me. He was singing, telling me I should go to church. He told me, 'go for a walk, pick some flowers and come back'. Bloody useless. I couldn't believe it."

At least 4 AFMs did not believe they were properly advised about potential options that could be included in an IVO, once the FVSN expired. This related particularly to the fact that an IVO can be issued that allows for cohabitation. In one instance, the AFM was unaware that if she took out an IVO, the respondent would no longer be able to contact her. Low literacy in English was a possible factor in this instance.

"A social worker sat down and we talked. She stayed with me till I left the court. Nobody told me that if I took out the intervention order, then he could not contact me or he would be arrested or fined. He (perpetrator) told me when he saw me at lunch when we were at court. I want to contact him again and see him again but I don't want the violence to happen. So I wanted to drop the intervention order but then I didn't."

Overall 17 of the 20 AFMs had a good experience of the FVSN, even where they did not necessarily believe that the sanctions attached were strong enough to deter future violence.

"It was a good thing, everyone did their job."

"It was a good response to a bad situation."

"Everyone was very helpful and kind. It was good [for police] to be able to do something straight away."

Sixteen of the 20 AFMs would support issuing a FVSN in relation to future violent incidents. The remaining 4 AFMs did not believe that the FVSN was a strong enough deterrent to violence and did not provide them with adequate protection.

9 Did the AFM believe the FVSN had any other impacts on the perpetrator?

Exclusion

In general, AFMs were not greatly concerned about the perpetrator being excluded, as long as the AFMs were no longer in danger.

"I don't care what it meant for him. He has no right to my respect."

One AFM believed that the exclusion was an over-reaction by police to a family dispute involving her son, and would have preferred to have been left to deal with the situation herself.

"Where else is he going to go? The Police said he's not allowed to come home. But I've got to help him. He needs help."

One AFM was a little concerned that police used FVSNs to exclude perpetrators as a matter of course.

"The Police asked what happened. I explained to them. They went to him. They ask him what happened but he didn't want to talk. So they told him to get out and not come back and that he had to go to court on the Monday. They said it would be a mistake for him to come back, a serious thing."

Three AFMs were concerned about where the respondent would stay, and would have liked some feedback to reassure them that the respondent was safely housed, and was not an ongoing threat.

"[Police should] make sure that the men have somewhere to go and are not left to wander the streets. They would have been better locking him up till he went to court."

"The Police told me very little, they said he was going to be assessed. They said he would spend the night in the police lock up and then go to court the next day... I was hoping that they would take him to the psych department...but I don't know where he's living."

Contraventions (breaches)

Six of the 20 AFMs experienced breaches of the FVSN by the respondent. Four AFMs reported these breaches of the FVSN by the respondent to the Police, and 2 did not. In one instance, the respondent was arrested and charged by Police, and in another incident the AFM requested that the police not lay charges but remove the respondent from her home again. In the other 2 instances, the response from police was considered to be inadequate or non-existent.

"He came directly back [once released from the Police station]. That's why the police came back. They should have just taken him to court straight away. I didn't want any more dramas, I didn't want him to get riled up, so I didn't want them to lock him up."

"Yes, he came back the next day, yelling and screaming at me. I didn't have any sleep, he was so mad at me for reporting him. There were charges laid, he got locked up till the case. But then he's done it twice since to 2 other people, so he's not making a lot of sense."

"I knew that he could be locked up [for breaching the FVSN]. But it didn't happen, because I rang police to say he had been getting on a bus that I was on, and he wouldn't get off and yelled at me, and the bus driver told me I had to get off because I was the one causing trouble. I rang the police but they never got back to me."

"He breached [the FVSN] straight away, then breached the Intervention Order. When they finally caught him, he got a 3 months suspended sentence, then 6 months inside when he broke the suspended sentence."

"No. He threatened via text message to abduct my older daughter so that I would have to go to him. Showed this to police, who said it was not a credible threat and that I should ignore it."

"It's not really strong enough. He abuses me all the time, says I'm a dog and a rat. When I call the Police they say that it's not really enough to arrest him."

"They told me that they would take him away if he came back, but he never hung around so that they could arrest him, so he came and went, they couldn't do anything. He'd come back 3 or 4 times in the one night, but because they didn't stay, they never caught him."

The 2 AFMs who did not report breaches to Police did not do so because they were concerned about the impact of arrest on the respondent.

"I don't want the police to charge him because he will get into trouble or something. I want to be with him but not the violence"

10 Was the information provided by police to the AFM sufficient?

All 20 AFMs were informed verbally about the conditions of the FVSN by Police, and 14 of the 20 AFMs were provided with a written copy of the FVSN, either at the first point of contact or later on the same day/night.

"[They told me] that they were going to take him away for interviewing, and that he wasn't allowed to come near me until we went to court. Because he was drunk and disorderly, they probably had to keep him for a while before they could interview him. They gave me [some paperwork] that night. It was like an interim intervention order and it covered me for safety until the court case."

Eighteen of the 20 AFMs believed that the information they were provided was sufficient for the short period during which the FVSN was in place. However most AFMs did not know that the FVSN was a separate process from an intervention order.

Four AFMs did not believe that the police provided them with appropriate information about intervention orders with regard to their desire to remain living with their partners while an intervention order was in place.

"If I could have, I would have stopped everything then and there. At the court, I was talking to the police, and I was chickening out. I didn't want a 12-month restraining order, just for 3 months. I felt I was being pressured into doing it for 12 months and I didn't want to go through with it. And I didn't know but someone rang to tell me that there was a woman at the court that was there to support me. So I went and she explained that it was the police taking out the order, not me. And I explained that what I wanted was to teach him a lesson. And she explained that I could have an IVO and he could still reside with me. We'd been in contact on the phone, and now we're back together. But I've got a bit of back up with the IVO, and he's going to take Anger Management classes next year. At least he said he would, and I'm going to insist that he does if he wants us to stay together."

The AFMs were not aware of what information had been provided to the perpetrator, other than that they would be arrested if they were to contact the AFM before appearing in court.

11 How well did AFMs understand the conditions of the FVSN?

All AFMs understood the conditions of the FVSN reasonably well, and that the respondents would be arrested if they continued to harass and abuse them in the period before they went to court. AFMs understood that they were to immediately contact police if the respondent made contact of any kind while the FVSN was in place.

"They locked him up for a few hours and told him he couldn't go back to the house, and if he came back I should call them and he'd be locked up."

"He'd be remanded in custody until the case was heard."

"They said he would get 2 years in prison or a \$27,000 fine."

Three of the 5 AFMs who do not have English as a first language reported that it was not easy to understand what the FVSN was about.

"When they were first explaining it, they used some words that I would not have used, so I wasn't so sure what they meant. After I read it I realised it wasn't a permanent thing, that I would still have to go to court."

12 Do AFMs consider that any aspect of the FVSN is unfair?

Seventeen of the 20 AFMs believed that the FVSN were fair to both AFMs and respondents, although several expressed the view that they did not care what the respondent thought about it, as they had forfeited their right to 'fairness' through the use of violence.

"It puts you in an initial space away from each other, which you need."

"If you decide not to go any further, then no-one has really been put out, he hasn't been arrested or anything. And it lets everyone cool down and stops things getting worse."

"If that happened in [my country] I would have no help. So everything here, it's much more than I expect. So for me, I don't have anything that could be better – it's all good for me."

One AFM did not want an FVSN served on her son, and considered that the police took out the FVSN against her wishes, although her partner believed it was the best approach at the time. She subsequently felt forced by police into taking out an intervention order, and is not complying with the conditions of the order.

Another AFM believed that the stringent terms of the FVSN, which did not allow the respondent to see his children, was unnecessary, and inflamed an already difficult situation.

"It's not fair that he's not allowed to see the kids. He gets more angry. I don't want them to see violence, but to not let him see them makes him worse, and in the end that makes it much worse for me."

One AFM felt pressured to 'agree' to the police issuing a FVSN and supporting charges, although she was concerned about the implications for her safety.

"They said to me, if I called them again and didn't go ahead with charging him, they wouldn't come again, which I thought was pretty awful. I felt they didn't understand how hard it is, how long it takes to work yourself up to ask someone to leave or to leave yourself. I don't want to use the word threat, but that's what it was. They said they wouldn't attend the property in a hurry if it happened again. It was a bad place to be; if I charged him he'd be furious and likely much more violent, but if I didn't then he would be violent anyway and the police wouldn't come. They told me in very strong language that they were not prepared to keep helping me unless I supported charges."

13 Has the AFM complained about the FVSN to any bodies (eg Police Ethical Standards Unit) about FVSN?

None of the AFMs expressed that they had reason to complain about the FVSN to any official body. The AFM who believed that issuing the FVSN and subsequent intervention order was unnecessary and inappropriate believed that the police were acting in what they considered to be her best interests and, while she disagreed with them, did not wish to complain.

14 Additional Themes from client interviews

Two additional themes emerged from the AFM interviews, relating to issues for AFMs from CALD backgrounds, and referral for respondents to counselling and/or behaviour change programs.

Language and Cultural Issues

AFMs who were newly arrived to Australia from non-European countries reported that they were largely unaware of Police powers and judicial responses to family violence, and suggested that these issues needed to be better publicised to new arrivals. Possible literacy issues need to be considered in this regard. One AFM suggested (through an interpreter) that

interpreters should be available to the emergency services telephone service, so that women in crisis can communicate effectively.

"Probably for women who can't speak English so well, the police wouldn't understand. Because English is my second language. If someone of my ability rings 000, it is hard for the operator or cops ... Like me, I don't feel confident to call, I get nervous on the phone and I forget how to say. That night, when I ring police, they came very very late, maybe because I don't speak confidently on the phone. Is there something to help other women like this?"

Counselling and behaviour change

Five AFMs believed that it would be valuable for the FVSN and IVO process to incorporate referral to mandatory counselling and/or behaviour change programs for respondents, in order to effect long-term change.

"Sometime in the 12 months of the IVO, they should have to take family violence classes, where they learn about anger and violence. Just some sort of...not letting it go on and on and on and get them at the end. Some of them might spend 12 months stewing on it and then get the woman once the order is finished. They need to know how to change, anger management, both for men and for women who are violent.

"If you have an Intervention Order, it should be mandatory that you get anger management counselling. Because you get an IVO, it's about anger, you're angry and you don't know how to manage it. Even just counselling. Even for both parties, women might need something too. It might stop it from happening in the future. Because locking people up doesn't stop their anger, it just makes it worse."

Appendix 3 Summary of views of key stakeholders

1 Introduction

This evaluation is required to report on the extent to which the FVSN pilot has achieved its objectives to date, and what might be required for future consideration and capacity building. The detailed findings are found in each of the preceding sections of this report.

In addition to the quantitative and qualitative data and information provided in these preceding sections, it is important to briefly consider the views within each of the three main sectors which are most impacted by FVSNs.

Section 2 summarises the views of magistrates, section 3 provides an overview of the opinions of the community sector, and section 4 presents a summary of police views. The information provided in this section is based on consultations with representatives of each of the sectors, as well as written feedback provided through surveys specifically designed for the evaluation.

2 Summary of views of magistrates

The majority of magistrates who provided input to the evaluation expressed some concerns about FVSNs, and/or associated processes. While some magistrates reserved judgement, many considered that the benefits do not outweigh the disadvantages, within the legislative arrangements in place up to June 2010. Some magistrates believed the shortcomings can be addressed and the system improved. A few magistrates were clear that they believed that FVSNs should be discontinued (these views were expressed prior to any information being available from this evaluation).

Specific concerns raised by magistrates included:

- FVSN are a confusing addition to the police response to family violence, and since their introduction there has been a reduction in quality of applications before the Magistrates' Court.
- Police lack the capacity to consistently make appropriate judgements about whether FVSNs should be issued (compared to the After Hours Service, and magistrates) evidenced by FVSNs which are poor in quality, and based on inadequate risk assessments.
- AFMs are less safe, and less well protected by FVSNs compared to A&Ws. When there is lack of oral and affidavit evidence for the FVSN, matters may be struck out (leaving the AFM unprotected); or the matter adjourned (leaving the AFM unprotected until the next hearing). Magistrates would like to see FVSNs discontinued on this basis.
- Shortcomings in the FVPA 2008 legislation include the inability to adjourn FVSN applications; and the status of FVSNs as certificates rather than affidavits when evidence is required. These shortcomings have led to different practices among magistrates. To some extent this has been addressed by admitting certified FVSNs as evidence (as from 1 July 2010).
- There is no clear evidence that FVSNs make perpetrators more accountable for their behaviour.
- The nature of the FVSN (handwritten) and the process (issuing on the spot) contribute to a view in the community that FVSNs are similar to a

police issued parking ticket, and not to be taken seriously. The evaluation found however, that in practice up to 90% of FVSNs are issued at the police station.

- The 72 hour limitation means that courts have less control over their lists, as priority needs to be given to FVSN applications. This is regarded as both a logistic and equity issue.

3 Summary views of community based services

Community based family violence services and support agencies report that overall the FVSN pilot has met the stated objectives, and the benefits have been significant. Services report that FVSNs have contributed to improved police responses to family violence after hours.

The majority view is that FVSNs have assisted greater numbers of women than were being assisted prior to their introduction.

Services acknowledge that a number of improvements could be achieved, particularly through strengthening processes between police and community based family violence services, and police and the courts. Services also note that FVSNs have limited application in rural areas. Other major concerns relate to inconsistent police practices in issuing FVSNs, and the need for significantly enhanced culturally competent practice, and more sophisticated understanding of family violence in the police force.

The perceived benefits of the FVSN pilot, from the perspective of community based services include the following:

- FVSNs empower police with an additional option; they achieve an immediate outcome, and provide AFMs with temporary safety.
- FVSNs assist women who would not otherwise take action, and provide an important first step in enabling women and children to stay in the home, if they choose, and if appropriate.
- Women feel safer with the perpetrator excluded from the house, and knowing the court date is set within 3 days.
- In the long term FVSNs should contribute to a reduction in demand for emergency and refuge accommodation, and reduction in numbers of women and children being dislocated from their homes.
- Police take more responsibility for the safety of the AFM, when an FVSN has been issued.

Community based stakeholders report that FVSNs make perpetrators accountable by:

- the issuing of a notice on the spot (or at the police station), as close to the incident as possible
- emphasising that contravention of the FVSN is a criminal offence, with a possible fine or imprisonment
- excluding the perpetrator from the home for 72 hours
- resulting in final orders which restrict violent and controlling behaviour, and which provide AFMs with safety by law

- demonstrating to perpetrators that violence is a crime that will not be tolerated by the community, and will be sanctioned by law.
- linking some men who use violence with men's support and case management services and behaviour change programs.

Community based family violence services recognise most of the technical and procedural problems and issues noted throughout this report, and highlight a number of disturbing examples of poor and inappropriate police practice. These examples however, are not unique to FVSNs. Rural services would like the 72 hour limitation extended, and all services were concerned to provide enhanced support and practical assistance to women so they are safe immediately following the exclusion of the perpetrator.

Overall the view of community based services is that FVSNs should be continued on the proviso that shortcomings in the system are addressed. Services report that FVSNs provide an additional option to improve the safety of AFMs, and that a resourced, quality improvement strategy should be implemented to address service system deficits and performance at all levels, including within Victoria police and in the courts).

4 Summary views of police

The majority of police who provided input to the evaluation were of the view that the objectives of the pilot are being met. Benefits of FVSNs reported by police members include the following:

- FVSNs contribute to better equipping police to respond to family violence after hours.
- FVSNs enable time efficiencies for Victoria Police. It takes less time to issue a FVSN, compared to an A&W. This is seen as a major benefit.
- FVSNs deliver greater safety to victims, associated with the immediate removal of the perpetrator, and the greater protection provided by the penalties for contravention.
- FVSNs make perpetrators more accountable. Accountability was associated with the immediacy and impact of police action including removal.

Disadvantages of FVSNs reported by police include:

- the amount of paperwork involved, and double handling of information
- confusion with remote applications and reconciliation of two sets of forms
- the limitations on the use of FVSNs (72 hours where courts are not always available)
- not having a Sergeant available to issue the FVSN
- difficulties with rosters to enable attendance at court
- not being able to use FVSNs for perpetrators under 18 years old.

It is important to note that about 25% of police considered that FVSNs made little or no difference to police practice, AFM safety, or perpetrator accountability. A similar number of police consider that holding powers, and use of A&Ws have the same effect as FVSNs. A small number of police were

cynical about FVSNs, and police responses to family violence generally, which they do not regard as core police work.

Appendix 4: Additional data tables – regional variations

1 Differences in civil actions and charges laid

Analysis of data at Divisional level shows considerable variation in the use of civil options, and in the use of FVSNs. Table 1 shows civil actions and charges laid for each Region and Division. Differences in civil actions are illustrated on Chart 1 on the following page.

Table 1: Number of FVSN and A&W issued, by Division (after hours) (8th Dec 2008 to 8th March 2010)

Region	Division	FIRs (all hours)	FIRs (after hours*)	FIRs where FVSN issued	FIR where A&W issued	FIRs where A&S issued	FIRs where Int Int Order Issued	Charges laid
1	1	731	573	96	69	22	19	132
1	2	1932	1585	183	183	36	43	254
1	3	1918	1525	138	181	56	52	294
2	1	4673	3539	136	1034	97	72	748
2	2	1637	1289	38	230	28	31	249
2	3	1865	1400	41	361	196	40	465
2	4	580	457	10	119	74	12	130
2	5	971	760	71	96	42	27	205
3	1	2563	1978	376	241	62	55	452
3	2	3905	2992	311	373	124	86	603
3	3	1357	1049	208	131	70	39	242
3	4	1146	881	207	90	23	40	185
3	5	1493	1172	193	227	178	56	280
4	1	1788	1406	206	186	34	48	269
4	2	1934	1526	131	90	21	37	177
4	3	2580	2032	242	144	31	37	327
4	4	781	634	37	106	47	20	193
4	5	1030	800	41	118	28	21	188
5	1	3002	2267	283	327	129	73	593
5	2	5247	4037	572	557	263	107	965
5	3	2113	1596	274	210	87	40	468
5	4	827	655	115	119	18	6	227
		44074	34154	3909	5193	1666	961	7646

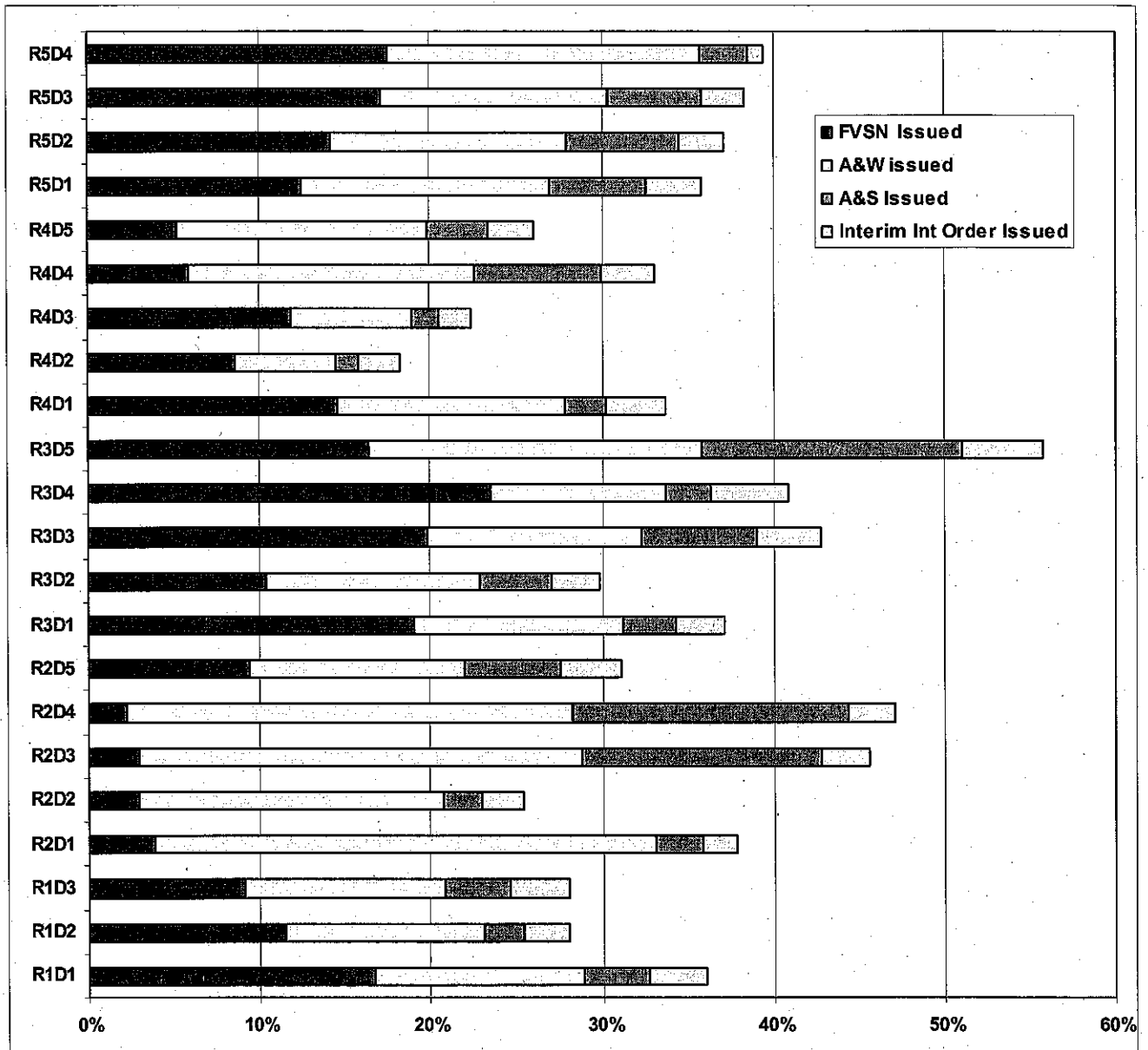
Source: LEAP

The chart shows that police in Region 3, Division 5 use civil options in 55% of FIRs, whereas police in Region 4, Division 2 use civil options in 19% of FIRs.

Higher use of civil options appears to be associated with higher use of A&Ss, for example Region 2, Divisions 3 and 4, and Region 3, Division 5 record significantly higher proportions of A&Ss, compared to all other Divisions.

Although Region 2 overall uses civil options in just over 35% of FIRs, the use of FVSNs is notably lower in 4 of the 5 Divisions in this Region. This is mainly due to a preference for A&Ws by the courts in this Region.

Chart 1: Civil actions (after hours) % by police Region and Division, Dec 2008 to March 2010



2 Court availability

Court availability is also an important factor in understanding regional and divisional use of FVSNs. Table 2 on the following page estimates the proportion of days per fortnight when police are unable to issue a FVSN.

Table 2: Proportion of days per fortnight when police are technically unable to issue a FVSN (by PSA) due to 72 hours limitation

Region	Division	PSA Name	FIRs Dec 08 to Jun 09	% of days in fortnight	
Region 1	1	MELBOURNE	293	100%	
		PORT PHILLIP	344	100%	
	3	STONNINGTON	271	100%	
		YARRA	290	100%	
		BAYSIDE	171	71%	
		GLEN EIRA	341	71%	
		KINGSTON	380	71%	
Region 2	1	BRIMBANK	771	100%	
		HOBSONS BAY	297	100%	
		MARIBYRNONG	204	100%	
		MELTON	374	100%	
		WYNDHAM	466	57%	
	2	GREATER GEELONG	722	100%	
		SURF COAST	68	100%	
	3	BALLARAT	541	86%	
		CENTRAL GOLDFIELDS	116	21%	
		MOORABOOL	196	43%	
		4	HORSHAM	124	43%
			NORTHERN GRAMPIANS	113	21%
	5	CORANGAMITE	95	43%	
		SOUTHERN GRAMPIANS	200	43%	
		WARRNAMBOOL	204	43%	
	Region 3	1	DAREBIN	470	100%
			WHITTLESEA	632	100%
2		HUME	878	100%	
		MOONEE VALLEY	408	100%	
		MORELAND	505	100%	
3		GREATER BENDIGO	442	36%	
		MACEDON RANGES	196	43%	
4		CAMPASPE	192	21%	
		GREATER SHEPPARTON	339	100%	
5		MILDURA	411	64%	
		SWAN HILL	262	21%	
Region 4	1	BANYULE	439	100%	
		MANNINGHAM	343	100%	
		NILLUMBIK	35	100%	
	2	BOROONDARA	286	100%	
		MONASH	312	100%	
		WHITEHORSE	320	100%	
	3	KNOX	513	100%	
		MAROONDAH	288	100%	
		YARRA RANGES	376	100%	
	4	BENALLA	94	43%	
		MITCHELL	222	43%	
		5	WANGARATTA	197	43%
	WODONGA		236	43%	
	Region 5	1	FRANKSTON	788	100%
			MORNINGTON PENINSULA	605	21%
2		CARDINIA	392	100%	
		CASEY	1192	100%	
		GREATER DANDENONG	785	100%	
3		BAW BAW	142	43%	
		BASS COAST	238	43%	
		LA TROBE	555	43%	
4		EAST GIPPSLAND	232	43%	
		WELLINGTON	140	57%	

Source: SOCAU

3 Court outcomes

The use of FVSNs by police may also be influenced by court outcomes. Tables 3 and 4 show the outcomes of FVSN applications by police Region.

Table 3: Number of Finalised Family Violence FVSN Applications where a FVIO was made, by police Region and Outcome – Dec 2008 to Dec 2009

	Region 1	Region 2	Region 3	Region 4	Region 5	Total
IVO made	317	271	970	590	1017	3165
IVO made (restrictions unknown)	0	1	1	1	0	3
IVO refused	1	1	8	2	2	14
Complaint withdrawn	47	71	143	85	74	420
Complaint withdrawn with undertaking	8	8	18	8	8	50
Complaint struck out	75	81	346	188	368	1058
Revoked	6	5	18	17	33	79
Total	454	438	1504	891	1502	4789

Source: Courtlink

Higher conversion rates are seen in Region 1, and higher rates of applications being struck out are seen in Region 5.

Table 4: Finalised Family Violence FVSN Applications where a FVIO was made, by police Region and Outcome - Dec 2008 to Dec 2009 (%)

	Region 1	Region 2	Region 3	Region 4	Region 5	Total
IVO made	70%	62%	64%	66%	68%	66%
IVO made (restrictions unknown)	0%	0%	0%	0%	0%	0%
IVO refused	0%	0%	1%	0%	0%	0%
Complaint withdrawn	10%	16%	10%	10%	5%	9%
Complaint withdrawn with undertaking	2%	2%	1%	1%	1%	1%
Complaint struck out	17%	18%	23%	21%	25%	22%
Revoked	1%	1%	1%	2%	2%	2%
Total	100%	100%	100%	100%	100%	100%

Source: Courtlink

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