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Submission to the Victorian Law Reform Commission in response to:
Review of Family violence Laws Consultation Paper 2004 – submitted
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In this submission we have referred to the person seeking an Intervention Order as a woman, as this is the case in over 80% of cases. There is clearly a need to recognize and deal appropriately with Intervention Orders sought by men, however we have not focused on this aspect of Intervention Orders.

A review of family violence laws might also include a review of the lack of an effective right to affordable housing and the lack of support services to assist women seeking to deal with family violence.

Last year in an address to a conference about Indigenous Family Violence Jackie Huggins co chair of reconciliation Australia outlined some of the reasons that family violence had not been reduced. She included failure of government and mainstream agency policies, the lack of a Commonwealth Government commitment and a failure to appreciate the context in which the problem occurred and lack of interjurisdictional consistency.(2004)

The Victorian Aboriginal Legal Service (VALS) believes that a clear philosophy is necessary to underpin a consistent approach to family violence.

A clear philosophy should

- Provide guidance as to the relative emphasis on criminal justice, civil justice, restorative justice and community education approaches.
- Encourage recognition of the intertwined effects of power, economics, gender and culture in family violence.
- Make clearer the advantages and disadvantages of different approaches.

Discussion of family violence laws is complex due to differing opinions about:

- Whether violence in the home should be treated differently to violence in any other context
- Whether the criminal justice or civil justice system or other systems are relevant options for reducing family violence

- Whether the woman making a complaint about family violence should or should not lose control of what happens after the police are called and
- Whether police, Magistrates, complainants and defendants can be trusted to do what the legislation or Intervention Orders require.

VALS believes that there needs to be both an effective criminal justice response to family violence and effective diversion and prevention strategies. Dealing with Indigenous family violence is often more complex than non indigenous family violence. This is due to longstanding problems Indigenous people have had in using the criminal justice system as well as the complexities of extended family and other family links which Intervention orders need to take into account.

The Victorian Law Reform Commission (VLRC) Consultation Paper asks what the object of the Crimes (Family Violence) Act 1989 (Act) is, but does not give any guidance such as criminological, economic or social evidence as to the likely outcomes of taking different approaches to family violence (eg: punishment versus safety or behavior change models).

The VLRC acknowledges that the criminal justice system is only a small part of the solution. The Consultation Paper lists benefits and disadvantages of the civil and criminal systems but does little with this analysis. VALS believes the issue deserves to be addressed in more detail.. For example, the inclusion of some scenarios which help to spell out the likely outcomes of a tougher criminal justice approach or a more wholistic civil justice approach.

In spite of the acknowledgement that the criminal justice system is only a small part of the solution the Consultation Paper appears to be convinced that there is much to be done in the criminal justice system. The Consultation Paper also accepts the argument that a low level of charges by police (eg: approximately 11%) equates with a decriminalization of family violence. There is consistent evidence that the majority of women who seek help from police are not seeking to have the male perpetrator of family violence charged. There is also evidence that women who want the man charged can for a variety of reasons change their mind prior to the Court case. A low charge rate does not necessarily equal decriminalization of family violence. Instead it may reflect a variety of factors including police use of discretion but also evidentiary problems and a disinclination to pursue charges by the victim.

The Consultation Paper indicates that the introduction of the Intervention Order system was not meant to replace the criminal justice response to family violence. VALS believes that it was the ineffectiveness of the criminal justice system which led to the introduction of the Intervention Order system. There are clearly significant problems with the operation of the Intervention Order system, but that does not mean that increasing reliance on the criminal justice system response will be an effective, sustainable or equitable solution.

VALS believes the VLRC has in practice placed considerable emphasis on enhancements to the criminal justice system without placing sufficient emphasis on the clear limitations of the criminal justice system to deal with the number of people experiencing family violence, the bias experienced by particular groups at the hands of the criminal justice system and the importance of effective civil, restorative and community education approaches. Recommending change to the criminal justice system does not preclude other changes occurring but it side steps the issue

of how effective the criminal justice system will be and makes other changes less likely to be prioritised.

VALS believes that the Intervention Order system is fundamentally flawed.

There is no clarity about the objects of the Act, there is disagreement about whether accountability or agency has priority as a goal and there is widespread complaint about the consistency of interpretation of the Act by virtually all participants (eg magistrates, police, victims and family violence workers). The attempt to provide clarity to the issue by the Women's Safety Committee has been to recommend three goals: safety, accountability and agency. These three goals encapsulate a central problem. In the search for safety some people emphasize accountability over agency. The people who prioritise 'accountability' over 'agency' want to achieve safety by ramping up the criminal justice system. A possible unfortunate consequence is that women who do not want to prosecute will be denied decision making power. This it is argued will be for the protection of the woman and will deter other perpetrators.

Alternatively the 'agency' approach takes the view that except in extreme circumstances (eg: risk of serious physical violence) the priority should be agency. This means the emphasis is to prioritize a response to the woman achieving greater safety and trying to be flexible in responding to safety needs. The accountability model is like the hamburger with the lot model; you seek police assistance and you buy the whole package (ie: arrest, charge, prosecution and sentencing). Those who support the 'agency' model would argue that the hamburger with the lot model is not responding to what women want but applying a one size fits all solution.

The directions suggested by the Consultation Paper are dominated by 'enhancements' to the criminal justice system. The criticisms of the effectiveness of pro-arrest and pro-prosecution policies are given scant attention in the Consultation Paper.

At the same time, the Consultation Paper canvases a stronger articulation of the inclusion of non physical violence acts or omissions as family violence in the Act. The problems of proving and using the criminal justice system to punish and deter non physical violence are barely considered.

The lower likelihood that Indigenous Australian communities will support greater reliance on using the criminal justice system to remedy the problem of family violence is noted in the Consultation Paper, but does not subsequently appear to inform discussion or further proposals. The criticisms about lack of police support for the enforcement and protection of people using Intervention Orders does not lead to any rethinking of the future police role, nor any caution about whether greater reliance should be placed on the police role in responding to family violence.

Key principles

Minimise reliance on the criminal justice system

VALS believes that use of the criminal justice system to stop violence is only ever partially successful. In cases of homicide the incidence varies from State to state and country to country

which indicates that social, economic and cultural conditions influence the level of violence. There is also the fact that in spite of vociferous calls for longer sentences from pockets of the public (ie: victims groups), there is criminological evidence that more punitive sentencing has no or a negligible effect on the level of crime being committed [Frieberg (2003)]. In Australia in 2005, any recommendation from any committee which gives politicians a chance to announce 'new penalties' or 'tougher penalties' is almost guaranteed to be adopted. The last decade has seen a trend towards the unrelenting expansion of the prison population, both men and particularly in recent years women. Naturally the groups who were already overrepresented in the prison population, such as low income people and Indigenous Australians, are affected most by this sort of trend. The VLRC would be well aware of these facts, but there appears to be little attempt to take them into account in the Consultation Paper.

Greater reliance on the criminal justice system to intervene in family violence should be a last resort given the cost, the ineffectiveness and the threat to family and community safety that it represents. The threats it poses to family and community safety are: the immediate problem of the criminal justice system response to family violence not working, the flow on effect of deterring all but the most desperate cases and it diverts funds from other more productive approaches.

There is also the problem that the widespread incidence of family violence which requires wide ranging programs and social change. To rely simply on the criminal justice system is impractical and ignores the scope of the problem.

Develop a system which will work for the most disadvantaged families and then look at how it fits the mainstream family

This approach is the reverse of most policy development. The usual approach is to develop something which looks OK to the mainstream population and then add on a couple of additional lines to encompass cultural and linguistic diversity and the needs of the disabled. Queensland researcher Heather Nancarrow (2003) has highlighted the different emphasis that Indigenous and non Indigenous women place on approaches of dealing with family violence. Nancarrow states,

The two groups had different understandings of restorative justice, however and different views about the role of restorative justice. For the Indigenous women restorative justice was preferred as the primary response with the criminal justice system assisting in more serious cases. The non indigenous women preferred the criminal justice system as the primary response with potential for restorative justice as a supplement to address weaknesses in the criminal justice system, where women wanted it(pg 68).

Nancarrow also outlines that both groups of women

"...saw that the criminal justice system fails to deliver key justice objectives and that restorative justice offers hope in addressing the shortfalls. For the non indigenous women, restorative justice offers an opportunity to give voice to women in the justice process and enable them to highlight what is significant for them, rather than what is legally relevant to an outcome of guilt or innocence. For Indigenous women, restorative justice offers the opportunity of healing for victims, offenders, families and communities. For them 'doing justice' means

finding the right response with 'attention to the wider problem of social justice' (Daly 2002a64) Quoted in Nancarrow, 2003.

This Queensland research may not represent Victorian Indigenous and non Indigenous women's views, but the Victorian Indigenous Family Violence Task Force emphasised community control and community based responses to family violence. The NSW Aboriginal Justice Advisory Council report 'Holistic Community Justice' also is critical of the present criminal justice approach and advocates a restorative justice approach.

Relying on the criminal justice system to protect families against family violence is unlikely to be effective. Indigenous Australians who have had an unhappy history of experiences with the criminal justice system, and who are still being locked up at record rates, will tend not to embrace the criminal justice system as a solution to family violence. The Consultation Paper acknowledges this but then proceeds to ignore it. A well resourced community development and civil justice or restorative justice approach together with increased access to housing and support would be more likely to meet the needs of Indigenous Australian families and some other cultural groups than a state of the art criminal justice approach. The idea of spending more money on housing and support services is often rejected as too expensive but there is a never ending supply of money to build new prisons and fund new police and equipment.

Nancarrow argues that Indigenous Australian women's perspectives cannot be simply added on to the dominant feminist paradigm. Instead effective strategies must make Indigenous women's standpoint the central standpoint (pg 68). If this were the approach adopted by the Consultation Paper it would have given more time to exploring the merits of an Indigenous Australian approach. This would mean considering non criminal justice approaches. Translating an Indigenous Australian approach to the mainstream system would mean considering the use of non-Court based dispute resolution services. This could take the form of both parties remotely and via a spokesperson clarifying what each wants to happen. This could be followed by both parties being advised of their options and appropriate referrals. If there is subsequently an agreement reached this could be like a non accountable undertaking. If it doesn't work then there could be the option of a Court mandated dispute resolution process with accountable undertakings. The Indigenous Australian approach attempts to create a space for behavior and relationship to improve. It doesn't condone violence, nor exclude criminal justice options but it places more emphasis on healing than mainstream approaches do. The bias towards healing approaches is arguably a good thing for a system that responds to family violence.

The Objective of Family Violence Laws

The objective of family violence laws should be to enhance family safety. The Statewide Steering Committee to reduce family violence put forward three goals safety, accountability and agency. The problem with the goal of safety is that the path to achieving it can be interpreted very differently. As can be seen from the discussion above some people place primacy on a criminal justice response, which in effect gives primacy to the accountability of perpetrators. Indigenous Australian people are more likely to emphasise the importance of agency (eg: the victim's capacity to make decisions) but also an emphasis in a more wholistic way on the perpetrator taking more responsibility and the community taking more responsibility.

The conflict between a criminal justice approach (accountability) and a restorative justice approach (agency) are considerable. The mainstream accountability response is to increase the role of police and Courts and reduce the agency of the woman. The benefits to the women who are forcibly assisted (mainstream accountability approach) must be compared to the women who do not seek 'help' because they wish to avoid the use of the arrest and charging process.

The logical extension of the criminal justice approach to family violence would be the introduction of mandatory reporting legislation to compel all family violence workers to report all cases of family violence, where a child was part of the family, to Child protection workers. Again the benefit of such an approach would need to be assessed against the real possibility that less people will seek help under such a system. Forcing people to be accountable (eg: mandating reports and pro arrest policies and mandatory sentences) undermines flexibility and creates obstacles to women who are wanting help and safety.

If a wholistic idea of 'agency' (eg: enhancing the victim, perpetrator and community to make decisions to address family violence) is seen as the best path to safety then a simplified system which includes restorative justice approaches and improved access to housing and support services would be the direction to take. There may be some discomfort that this approach is 'letting perpetrators off', however the reality is that the criminal justice system approach frequently fails. Furthermore, the more punitive the criminal justice approach is the more likely that disadvantaged women will decide not to use the Intervention Order system.

Consideration should be given to changing the name of the Intervention Order to Family Safety Order or Community Safety Order. These orders could initially be of limited duration (ie: one day to fourteen days). The Orders could be initiated by the person whose safety was at risk or people other than police, such as family violence workers or community health workers. The Orders could be linked to fast tracking access to counseling and support services. The Orders could be linked to non-Court based dispute settlement workers or lawyers or para legals. Such workers could do shuttle negotiation (ie: re a longer term order tailored to the needs of the family) or advise in relation to other courses of action (ie: separation, alternative housing, criminal charges).

The role of police

One of the reasons for the establishment of the Intervention Order system was the unwillingness of police to get involved in 'domestics'. The Consultation Paper includes a range of criticisms of police but now the criticisms include not responding quickly enough, not responding to breaches, not responding to 'minor' breaches and not responding to non-physically violent family violence and not charging enough people.

In short, the police spend considerable resources on Intervention Orders but there appears to be a new level of critique of the police, as some groups want the police to improve their capacity to prosecute non-physical violence and to cease using their discretion about whether breaches of Intervention Orders are minor or not..

Critiques of pro arrest policies are given scant attention in the Consultation Paper. Anna Stewart (1999) highlights critiques of pro arrest policies as do Buzawa and Buzawa (1996). One criticism is that alternative approaches are as successful or more successful. Another critique is that pro-arrest policies

are more likely to work on middle class males who are more likely to be deterred by the threat of imprisonment. A report by Chris Cunneen (1999) titled 'Zero Tolerance Policing - Implications for Indigenous People' found that a zero tolerance would lead to an increase in Aboriginal people being jailed for trivial offences.¹

A Western Australian based academic, Pfiefer, has also drawn attention to the criticisms of the pro arrest lobby. He is also critical of giving the police unfettered discretion. He argues for the development of protocols which attempt to correct systemic bias in police use of discretion. This approach appears to provide an ongoing means of police improving their ability to respond to family violence.

The recently developed Police Codes of Practice for Responding to Family Violence go some way in this direction by mandating recording of complaints and referral of people they deal with. However, they also include a pro-arrest direction which implies that the top priority is still convictions. Police are often frustrated if women fail to follow through with prosecutions. Police should be trained to prioritise responding to a woman's safety needs as an outcome rather than achieving convictions as an outcome.

The need to redefine the role of police and other participants has been recognized in Manitoba according to Ursel. "The new paradigm of justice asks Police to redefine their role from 'centre-stage actor' to participant in a process. It asks Police to increase patience and tolerance of repeated call-outs from victims and recognise that her primary motivation for calling police is safety for herself and her children.

Vulnerable family members use rapid police response to correct a power imbalance between themselves and their assaultive partner. The person who calls the police for protection may choose not to "use" the rest of the criminal justice system." (Ursel 2002 p50).

Housing workers and other workers who work with women experiencing family violence don't refuse a service if they have dealt with a woman previously for the same matter. Victims of family violence argue that police do not take complaints seriously if there is a history of police involvement and the victim withdrawing allegations or returning to the perpetrator. If the focus of Intervention Orders was on responding to women's requests for safety and 'agency' then convictions could be conceptualized as one of several possible outcomes. Rather than foster a mentality that convictions are a priority responding more quickly to emergency calls would be a valuable objective for police in a system where safety and agency were the priority.

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Chris Cunneen 'Zero Tolerance Policing - Implications for Indigenous People'(1999)
http://www.atsic.gov.au/issues/law_and_justice/zero_tolerance_policing/Report/default.asp

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According to Ursel, “Ongoing evaluation of the Manitoba specialised justice response to family violence demonstrates that the more the criminal justice system works in concert with the needs of the victim (eg safety, empowerment) and delivers consequences to the offender, the more likely people are to engage this system.”

It would also be interesting to investigate non-police based emergency intervention models and pilot such a model.

The Definition of Family violence

The present Act includes offensive behavior in the definition of family violence. How far police and Magistrates recognize different manifestations of offensive behavior is an issue. Trying to create a detailed list of things which fall within the definition of family violence seems to miss the point that the system should prioritise ‘agency’, at least for Interim Orders. If there is a greater emphasis placed on preventing non-physical violence and ramping up the use of the criminal justice system this will create an extension of criminal law sanctions over non-criminal behavior. It will also expand the amount of police and Court work. These consequences will possibly occur at the cost of responding quickly to calls from women who face immediate danger and require their safety needs to be met. VALS believes that there is a problem in trying to extend the reach of the Act further in the direction of non-physical violence when there is so much that remains to be done in terms of reducing the incidence of physical violence. If Intervention Orders are abolished and Community Safety Orders (CSO) are established there would be a clear distinction between CSO’s and supporting criminal charges against a family member. The police would have two clear responsibilities to respond to Community Safety Orders and advise people about them and to prosecute people for assault. The distinction would be clearer than with current Intervention Orders.

In order to encourage police to recognize violence in the home in the context of assault a specific addition to the Crimes Act (Vic) 1958 could include assault in the home.

Comments about specific issues

DEFINITION OF FAMILY

The Magistrates’ Court (Family Violence) Act 2004 will enable Intervention Orders to be made where a child who is a family member, has ‘heard or witnessed violence’. If there is an extended family member who does not fall under the umbrella of the intended interpretation given to the new Bill, Indigenous Australian families may not have the same access to Intervention Orders as non-Indigenous Australian families (ie: kinship networks).

The Consultation Paper recognises that the Act does not include notions of kinship and broader family relationships that are important to Indigenous Australian communities.

PROCESS BY WHICH AN INTERIM ORDER BECOMES A FINAL ORDER

Where an Interim Order automatically becomes a Final Order, if uncontested by the Respondent, this could prove to be detrimental to Indigenous Australian families. Legal

processes can be intimidating for Indigenous Australian people and requiring Respondents to attend Court and give evidence twice could severely disadvantage Indigenous Australian people.

EXTENSION OF ORDERS

Requiring the protected person to return to Court and prove the grounds for the Order are still present is distressing for that person, and may be even more acutely felt by an Indigenous Australian person due to a possible lack of cultural sensitivity in the Court system.

However, Intervention Orders can have serious implications for the preservation of Indigenous Australian families and communities. On this basis, any extension of the Intervention Order must be treated seriously and have the requisite basis for its continuation.

BARRIERS TO ACCESSING INTERVENTION ORDERS

The Consultation Paper recognises that Indigenous Australian people experience specific difficulties in accessing, as well as the implementation of Intervention Orders . The Paper outlines:

‘The Intervention Order system is generally not seen as providing what is needed or wanted to address family violence in Indigenous communities. Indigenous people identified barriers such as:

- Lack of appropriate services, including refuges and services for men’s support/rehabilitation;
- Difficulty accessing support or the courts for people in remote locations;
- Fear of institutional racism, especially police racism;
- Reluctance to involve criminal justice agencies and expose family members to incarceration and the consequences of incarceration;
- Fear of removal of children; and
- Potential isolation from family and community.’

APPLICATIONS BY POLICE

If the application process for Intervention Orders is carried out predominately by police, there may be a risk that Indigenous Australian people will not seek help as a victim of family violence. The long history of racism experienced by Indigenous people through police contact means that a person’s experience of family violence may be further exacerbated through a greater or predominant role for police in the Intervention Order application process. Applicants may further feel that the process is out of their control, and their family is at risk of being torn apart through police intervention, is police apply for Intervention Orders.

WHERE APPLICATIONS MAY BE MADE

‘Civil proceedings in the Magistrates’ Court must be held either in the place closest to the Respondent’s place of residence or to the location where the relevant event(s) occurred.’

This requirement could place considerable pressure on Indigenous Australian communities. If the proceedings are conducted close to the community involved, it may bring shame, or a reluctance to pursue the Order.

COURT-INITIATED ORDERS

Allowing courts to make an Intervention Order during criminal or child protection proceedings could lessen Indigenous Australian peoples' willingness to access the Courts as a forum for the enforcement of their rights. If faced with the possibility of an Intervention Order resulting from other proceedings, Indigenous people may not pursue legal avenues for the other proceedings.

OUSTER/EXCLUSION ORDERS

Orders that require the Respondent to leave the home may be valuable to impecunious victims of family violence. However, if more ouster orders are made, Indigenous Australian Respondents must be provided with access to refuges, and also provisions for support and rehabilitation.

DIRECTIONS TO ATTEND A PROGRAM

Where Indigenous Australian men are required to attend an assessment and counseling (Family Violence Court Mandated Behavioral Change Program), it must be a condition that this program is tailored to the needs of Indigenous Australian families and is culturally appropriate. There should be Indigenous Australian staff involved in this program.

REFERRALS TO THE CHILDREN'S COURT

The Children's Court may be a more suitable forum when an adult is making an application on behalf of a child, because of greater experience and sensitivity of the Children's Court in dealing with children. However, if a parent has already been through their own application for an Intervention Order through the Magistrates' Court, they may be reluctant to return to another Court. This is especially true for Indigenous Australian applicants whose experience in Court can be distressing and culturally alienating. In such circumstances, having the application for an adult and children heard in the same Court would be preferable at least on an interim basis.

MAGISTRATES' APPROACHES TO FAMILY VIOLENCE MATTERS

Participants in the consultation process were concerned with the varying levels of understanding of family violence that Magistrates possess. In addition to receiving training about the nature, dynamics, effects and underlying issues involved in family violence, Magistrates should also receive training which exposes them to Indigenous Australian specific issues in dealing with family violence. This could perhaps be done through involving people from organisations such as Elizabeth Hoffman House in the education process.

LEGISLATIVE GUIDELINES ABOUT MATTERS TO BE TAKEN INTO CONSIDERATION

The Act should include the examples provided:

- The need to ensure the person is protected from family violence;
- The welfare of children affected by the violence;
- The hardship caused to the Respondent or others;
- How the Order would be likely to affect contact with children.

The last two dot points are especially important for Indigenous Australian families and communities. Intervention Orders may have far reaching consequences for the wider Indigenous community but it may have the effect of ostracising either the Complainant or the Respondent from the Indigenous Australian community.

BREACH OF AN INTERVENTION ORDER – A CRIMINAL OFFENCE

Police responses to breaches of an Intervention Order should be conducted with cultural sensitivity. Police need comprehensive training and education programs which would help them better understand Indigenous Australian families and communities, and the entrenched fear Indigenous Australian people have of police.

PROTECTED PERSON’S WISHES

Police must be sensitive to the protected person’s wish not to pursue further action even where sufficient evidence exists to charge and prosecute a Respondent for a breach of an Intervention Order. There is a long history of fractured families in Indigenous Australian culture, wrought by the involvement of authorities, including police. The further intervention of authorities in Indigenous Australian’s lives today, may cause the relationship between Indigenous Australian people and the police to further deteriorate.

CONSEQUENCES OF BREACHING AN ORDER

The Consultation Paper identifies that ‘the possibility of jail may deter some women from seeking a criminal justice response, particularly Indigenous women.’ Under such circumstances, it would be beneficial if there was a possibility that breach of an Intervention Order not have the consequence of imprisonment, but an option of behavior change programs and diversion.

ALTERNATIVE OPTIONS FOR ENFORCING INTERVENTION ORDERS

Police should not be able to attend the Respondent’s premises uninvited to check on the Respondent. This is an unnecessary response and would be inappropriate for an Indigenous Australian family, where distrust of the police force is high in Indigenous Australian communities.

SERVICE OF INTERVENTION ORDERS

Providing police with greater powers to detain a person where an Intervention Order has been made, but not served, is an undesirable reform. The over-representation of Indigenous Australian people in custody, and the corresponding increase of deaths in custody requires that in a situation where service is difficult police should not be granted greater powers. Such a reform may also disproportionately affect Indigenous Australian people in remote areas. Where

difficulty of service is related to not being able to locate the respondent in a remote Indigenous community, this should not be met with police detention.

COURT ENVIRONMENT

To improve Court proceedings for Indigenous Australian parties, there should be an increase in Indigenous Australian staff. The Court environment should also reflect the needs of Indigenous Australian parties, being sensitive to the impact Intervention Orders have on the entire community and/or extended families.

REPRESENTATION AND SUPPORT AT COURT

It is desirable that both the Respondent and Applicant have access to legal representation. Indigenous Australian parties who are unfamiliar with Court proceedings would benefit greatly from ready access to lawyers. Legal representation may also provide a buffer to any Court bullying tactics by one party on the other party.

NON-LEGAL SUPPORT DURING PROCEEDINGS

The Court and lawyers can represent to Indigenous Australian people a foreign and intimidating, and culturally inappropriate forum for solving family violence disputes. It is thus imperative that under these circumstances where Court intervention is unavoidable that non-legal support be available. Non-legal staff provide a more holistic environment, which could possibly detract from the intimidating environment of the Court. The role of intermediaries is often critical in facilitating access for Indigenous Australians to mainstream proceedings. Arranging legal representation, refuge and counseling would be an invaluable asset to the Court in such proceedings.

PARTIES' UNDERSTANDING OF INTERVENTION ORDER PROCEEDINGS

As previously described, the Court can be a threatening environment for Indigenous Australian people. This is further exacerbated where English is a second language for the parties, and where the Court adopts 'legalise' in explaining the Order and its consequences. It is thus highly desirable that there is a greater representation of Indigenous Australian people in legal and non-legal Court staff.

REDUCING THE STRESS OF GIVING EVIDENCE

The use of close circuit television to allow Indigenous Australian Applicants to give evidence would be an advantageous development. By allowing an Indigenous Australian Applicant to give evidence this way, it lessens the likelihood of the Applicant feeling shameful in bringing such proceedings and being confronted by the Respondent. Controlling who is in Court during the time when evidence is given, or a having a closed Court would also be helpful for this reason.

EVIDENCE ABOUT THE NATURE AND EFFECT OF FAMILY VIOLENCE

Providing expert witnesses to ensure Magistrates better understand the impact of family violence on Indigenous Australian families would be a great asset. If this was available and

Magistrates had direct access to knowledge of the impact of family violence on Indigenous Australian communities, this may make the Court more accessible to Indigenous Australians.

- Criminal and civil systems.

Indigenous people are over-represented in the criminal justice system, as such, it is preferable that responses to family violence are not based solely on the criminalization of the person who has used violence. Such a system is unlikely to be perceived as one of assistance to Indigenous Australian people.

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