

25 October 2024

Ella George MP  
Legislative Assembly Legal and Social Issues Committee,  
Parliament House, Spring Street,  
East Melbourne Victoria 3002

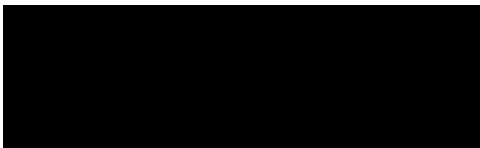
**Via email:** [fvpdata@parliament.vic.gov.au](mailto:fvpdata@parliament.vic.gov.au)

Dear Ms George

Thank you for the opportunity to further contribute to the work of the Committee. Please find enclosed the Magistrates' Court's response dated 25 October 2024. We acknowledge the detailed questions asked by the Committee. Given the independent role of the Court, the narrow purposes for which data is collected, and the significant policy related matters raised, we have prepared an overarching response in lieu of individual responses.

We trust the information provided is of some assistance to the Committee's inquiry.

Yours sincerely



**Melissa Martino**  
**Acting Chief Executive Officer**  
Magistrates' Court of Victoria



# Response to the Parliamentary Inquiry into capturing data on family violence perpetrators in Victoria



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## Introduction

1. The Magistrates' Court of Victoria is created by statute and its powers and operations are prescribed by Statute.
  - a. The Family Violence Division of the Court collects personal data to fulfil its statutory functions that include:
    - i. Decision making
    - ii. Assessment of risk for the purposes of decision making
    - iii. Legal compliance
    - iv. Case management
    - v. Appropriate referrals to services.
2. The collection and use of data is governed by State and Commonwealth legislation.
3. Where questions asked by the Committee are policy considerations for the government, the Court has not made comment.
4. The Court provides information through MARAM, FVISS and CIS reporting as well as the Central Information Point. The Court also provides data to the Crime Statistics Agency.
5. From time to time the Court undertakes evaluations to support continuous improvement by the Court.
6. The Court also responds to requests by external agencies (including government departments, legal organisations, external university or private sector evaluators, Victoria Police) to engage with research and evaluation projects that intersect with the Court's family violence functions.
7. Thank you for the opportunity to contribute to the Committee's inquiry.

## Demographic Data on people who use Family Violence

8. Some demographic data is collected and recorded through:
  - a. Pre-Information Court Form
  - b. Practitioner Engagement
9. Self -disclosure of demographic information is voluntary and provided for the purposes of Court processes.
10. Funding for the Courts' role in the Early Resolution Service was not continued beyond 2022-2023.

## Interpreters

11. Data is received from interpreter booking agencies. The information includes:
  - a. Number of interpreters requested and fulfilled
  - b. Languages booked
  - c. Jurisdiction
  - d. Location of service.

## Legislation that governs the sharing of information by Magistrates' Court Victoria

12. Information obtained by the Magistrates' Court of Victoria accords with legislation, including but not limited to:
  - a. *Family Violence Protection Act 2008*
  - b. *Charter of Human Rights and Responsibilities Act 2006*
  - c. *Magistrates Court Act 1989*
  - d. *Privacy and Data Protection Act 2014 (as applicable)*.

## The Family Violence Information Sharing Scheme

13. The Family Violence Information Sharing Scheme was established to provide for the sharing of information to *information sharing entities* about individuals at risk without needing consent, provided it is necessary for their safety or that of their children.
14. The Family Violence Information Sharing Scheme is established by Part 5A of the *Family Violence Protection Act 2008*.

## Intersectional Data

15. The recording and collection of intersectional data occurs when the Court is required to do so in order to fulfil its functions as prescribed by law.
16. The information obtained will depend on the purposes for which it is required according to law and can vary markedly in content dependent upon which function the data will be used to inform.
17. The collection, sharing and analysis of data is prescribed by the relevant statutes for specific purposes.
18. For example, the objectives of the Family Violence Information Sharing Service are:
  - a. to improve safety by facilitating the sharing of relevant information amongst authorised organisations to better protect victims.
  - b. and hold perpetrators accountable and enable a coordinated approach among services to respond effectively to family violence situations.<sup>1</sup>
19. The data permitted to be collected by the Court is limited to the purposes for which it is legislatively required.
20. The data collected by the Court on intersectional factors in family violence cannot provide a comprehensive understanding of the profiles of individuals who perpetrate family violence or the underlying reasons for their behaviour.
21. The Court collects data to fulfil its statutory functions and does not capture detailed individual circumstances, including cultural, socio-economic and psychological factors.
22. The opportunities to access and share data are limited by statute.

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<sup>1</sup> Family Violence Protection Act (2008) S144J(2)(c)(ii), see also sections 144H and 144J

## Case Management Systems

23. The Court has developed an application known as the **Family Violence Coordination Tool** to better facilitate authorised inter-agency sharing of case related information for co-ordination of individual Family Violence matters ahead of and on the day of their next listing date.
24. This technological innovation has improved pre-court preparations and reduced fragmentation in information sharing and supports to court users.
25. The new Case Management System is being progressively implemented across the Magistrate Court of Victoria's jurisdictions. The Case Management System is yet to commence in the Family Violence Division.

## Men's Behaviour Change Programs

26. The Court does not formally capture data from men's behaviour change programs or other community-based support services as there is no statutory or administrative basis for the Court to do so. Providers contracted to provide counselling under CMCOP provide data and reporting to the Court as outlined below.

## Court Mandated Counselling Orders Program

27. Part 5 of the *Family Violence Protection Act 2008* provides the legislative framework for Court Mandated Counselling Order Programs.
28. The collection and sharing of information are governed by the relevant legislation as set out in Paragraph 8 of the Court's Response.
29. Data collected from the Court Mandated Counselling Order Programs is used to track:
  - a. Program completion;
  - b. Service Provider Performance; and
  - c. Inform program evaluations.

## Misidentification

30. There is no legal definition of misidentification. The Court does not have the power to make a formal finding of "misidentification".
31. An application may be struck out or withdrawn when the evidence indicates that the party has been misidentified.
32. There are no significant differences in data collected and shared for self-initiated applications under the *Family Violence Protection Act 2008* and police applications.
33. The Magistrates' Court of Victoria provides regular professional development to judicial officers internally and through the Judicial College of Victoria to assist in understanding the issues associated with a victim survivor being misidentified as the perpetrator of family violence.
34. The fundamental role of the Court is to assess the evidence in order to determine whether an order ought to be made and what conditions to impose in accordance with the law.

## Sharing with Interstate, Federal and Family Courts

35. The **National Strategic Framework for Information Sharing between the Family Law Courts and Family Violence and Child Protection Systems (National Framework)** commenced in May 2024. The *Family Law Amendment (Information Sharing) Act 2023* commenced on 6 May 2024 which operationalised key parts of the Information Sharing Framework.<sup>2</sup>
36. The Magistrates' Court of Victoria registries provide documentation to interstate police to effect personal service of intervention orders on respondents living interstate.
37. The service documentation includes a copy of the application with the allegations of family violence.
38. The Magistrates' Court of Victoria can provide copies of orders to interstate legal services upon request, where they have advised they are representing a party.

## Information from other Courts

39. When compiling a Family Violence Intervention Order file, the Registrar can obtain copies of related court orders, including criminal court orders and intervention orders from the Magistrates' Court of Victoria and Family Court Orders from the Federal Circuit and Family Court of Australia.
40. The Magistrates Court of Victoria's data collection aligns with legislative requirements and privacy principles in order to support the Court's performance of its core functions as set out in previous paragraphs.

## Offending Data

41. Data is provided to the Victorian Crime Statistics Agency and published on an annual basis at <https://www.crimestatistics.vic.gov.au/>.
42. Additional data sharing occurs when requested, for instance for specific projects undertaken by the Sentencing Advisory Council.

## The contribution made by the Magistrates' Court of Victoria through the collection and sharing of data.

43. In 2023, the information sharing team responded to **52,492** requests from Information Sharing Entities in accordance with the objectives of the FVISS to
  - a. Improve safety by facilitating the sharing of relevant information amongst authorised organisations to better protect victims.
  - b. And hold perpetrators accountable and enable a coordinated approach among services to respond effectively to family violence situations.
44. The Magistrates' Court of Victoria responds to requests by external agencies (including government departments, legal organisations, external university or private sector evaluators, Victoria Police) to engage with research and evaluation projects that intersect with the Court's family violence functions.
  - a. The data provided is proportionate, targeted, carefully treated to ensure privacy and adherence to legislative requirements.

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<sup>2</sup> [Family Law Information Sharing | Attorney-General's Department \(ag.gov.au\)](#)

## The Family Violence Co-Ordination Tool

45. The Family Violence Co-ordination tool is an application developed by the Magistrates' Court of Victoria that allows authenticated stakeholders (from the Court, Victoria Police, legal services and The Orange Door) to support case readiness and case coordination in the lead up to and on the day of hearing. This tool allows authenticated stakeholders to view and contribute to a shared snapshot of the status of matters that are 'court-ready' to proceed identifying matters that require further attention before the matter can be called in court on a particular hearing day.



## Questions on notice: Magistrates' Court of Victoria (MCV)

20 September 2024

1. How does MCV collect and record demographic data on people who use family violence (e.g. disability, First Nations or CALD status)?
  - a) Are there opportunities to increase the capture of this information through MCV, for example, through the Early Resolution Service?
  - b) How does MCV collect and record data on interpreters used in family violence matters?
  - c) How is this data shared with other government agencies or community-based support services to ensure data is accurate across the system and contributes to a holistic understanding of people who use violence?
2. How does MCV collect and record intersectional data about people who use family violence, for example, data on factors like 'addiction, unmanaged [or managed] mental health or unsupported disability, [and] unstable housing' as noted in discussion about MCV's approach to therapeutic justice in its 2022-23 Annual Report, as well as factors like truancy or household composition?<sup>1</sup>
  - a) How could improved data collection, sharing and analysis of intersectional factors by MCV lead to a better understanding of the profile of people who use family violence?
  - b) What are the opportunities to improve how MCV accesses and shares data and outcomes of Court processes about people who use family violence with community-based support services?
  - c) What are the benefits of co-locating community-based support services at SFVCs when it comes to data collection and sharing?
3. How has the new court Case Management System, implemented in response to the Royal Commission into Family Violence,<sup>2</sup> enabled MCV to strengthen its 'ability to capture and share appropriate information across the courts and key external parties including Victoria Police, Corrections Victoria and the Department of Health and Human Services'<sup>3</sup> in relation to people who use family violence?
4. What opportunities are there to connect young people's use of family violence to past experiences as victim survivors (as a child or young person) through MCV record or data collection, to form a full understanding of the pathways to using family violence?

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<sup>1</sup> MCV's annual report states 'Therapeutic justice acknowledges that legal problems have a wider context, such as addiction, unmanaged mental health or unsupported disability, unstable housing, family violence and other individual and social issues. It aims to support a person on their journey to managing better in the community, therefore reducing the likelihood of reoffending and improving community safety. MCV's therapeutic justice response acts as a bridge to connect court users to community-based support services and, where appropriate, mainstream court support programs or specialist courts. This holistic, collaborative approach sees judicial officers, court-based support staff, community services, lawyers and prosecutors working together to identify and address the underlying drivers of legal issues and to empower and involve court users in their rehabilitation and recovery.' See, MCV, [Annual Report 2022-23](#), p. 27.

<sup>2</sup> The Victorian Government's website on implementing recommendations from the Victorian Royal Commission into Family Violence states 'A new Case Management System (CMS) is being developed for the Magistrates' Court of Victoria and the Children's Court of Victoria. The CMS will replace the current IT systems including Courtlink to strengthen and share appropriate information across the courts and key external parties including Victoria Police and Corrections.' See <https://www.vic.gov.au/family-violence-recommendations/ensure-family-violence-offences-are-appropriately-flagged>.

<sup>3</sup> <https://courts.vic.gov.au/projects/case-management-system-project>, see also, <https://www.mcv.vic.gov.au/news-and-resources/news/cms-portal-available-civil-courts-and-cases>.

5. How does MCV capture and use data from men's behaviour change programs (MBCPs) or other community-based support services to achieve a full understanding of people who use family violence?
  - a) What barriers prevent MCV sharing, accessing and using data about/from MBCPs?<sup>4</sup>
  - b) What steps can the Victorian Government take to overcome these barriers to help achieve a full understanding of this cohort?
  
6. What data is collected by MCV from Court Mandated Counselling Orders Programs (CMCOPs) about people who use family violence and who is it shared with?
  - a) What opportunities are there to increase the data collected from CMCOPs about people who use family violence and who is it shared with?
  - b) What research or evaluation have MCV conducted to assess the effectiveness of CMCOPs and what data sources were used to inform the research or evaluation?
  - c) What data sources would MCV like to access to inform research or evaluation of CMCOPs to help achieve a full understanding of people who use family violence?
  
7. What steps can the Victorian Government take to address MCV's concerns about linking court data with agencies/service provider data (raised in MCV's submission<sup>5</sup>)?
  
8. To ensure data on people who use family violence is accurately collected and reported, what process does MCV follow when it becomes known that a victim survivor has been misidentified as the predominant aggressor?
  - a) What data is collected by MCV when it becomes known that a victim survivor has been misidentified as the predominant aggressor when a FVIO is withdrawn?
  - b) Are there differences in the process followed by MCV and the data collected and shared for self-initiated FVIO applications compared to police FVIOs?
  - c) What opportunities are there for MCV to contribute to a holistic systems response to addressing misidentification?
  - d) What opportunities are there to strengthen MCV's relationship with Victoria Police to correct misidentification?
  - e) What percentage of misidentification cases progress to court?
  
9. To enable a holistic understanding of people who use family violence:
  - a) How does MCV access and share data on people who use family violence with interstate, federal and family law courts?
  - b) How does MCV access and share interstate police and legal service provider data on people who use family violence?
  - c) How can accessing and sharing data from/with other interstate and federal courts, police and legal services be improved?
  - d) How does MCV access data on people who use family violence from other Victorian courts (e.g. to understand offending holistically, not limited to family violence) and how can this be improved?

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<sup>4</sup> The Centre for Innovative Justice, RMIT University's submission and public hearing transcript for the Inquiry discuss court approaches to MBCPs. See, CIJ, RMIT, [Submission 64](#) p. 9; CIJ, RMIT, public hearing transcript, pp. 8–9.

<sup>5</sup> MCV's submission states 'MCV advises that any consideration regarding the linking of existing court data with data sets held by other agencies and service providers raises significant issues concerning privacy, safety and public interest implications. To that end, any consideration of the manner and purpose of collecting and sharing of family violence related data needs to have regard to the role and function of each organisation with which the information is proposed to be shared.' See MCV, [Submission 50](#), p. 1.

- e) Are there any gaps or missing data points in the information provided to MCV (for example, from Victoria Police or legal services) about people who use family violence that could be improved?
  - f) Does MCV hold data on people who use family violence, not required to be shared under FVISS or CISS, that could be of benefit to understanding trends and patterns?
  - g) What information, if any, does MCV learn about people who use family violence in day-to-day operations that is not currently recorded, but could be?
10. What reoffending data does MCV record, and how does MCV collect and report on reoffending data? What opportunities are there to better use this data to form a fuller understanding of people who use family violence?
11. How does MCV use the data it collects to hold people using family violence accountable and keep them in view to the system?
- a) What opportunities are there for MCV to improve data capture, sharing and analysis to achieve a full understanding of a person using family violence's pattern of behaviour or capacity for change?
12. What data on people using family violence does MCV make available to Victorian Government agencies?
- a) Does MCV provide data on people using family violence to research institutes/ government agencies to support research? If so, please provide some examples.
  - b) What barriers inhibit MCV's provision of data to Victorian Government agencies and research institutes?
  - c) What scope is there for MCV to expand its practices of data sharing to inform research about people who use family violence?
13. Two strategic goals in MCV's 2022-26 strategic plan are to '3.2 Continue to build our evidence base and strengthen our data analytics capabilities to monitor and evaluate court performance, inform priorities and demonstrate our impact' and '4.2 Utilise evidence and data to inform service planning that is tailored to community needs'.<sup>6</sup> How can MCV's strategic plan enable better data collection, sharing and analysis on people who use family violence to inform priorities and service planning?
14. MCV's 2022-23 Annual Report states considerable progress has been made towards delivering: 'A framework for data governance and a function for research and evaluation to embed the use of evidence and data to inform organisational decisions and work.'<sup>7</sup> Does the framework for data governance cover data or information relating to the profile and volume of people who use family violence, and if so, how?
- a) How does the research and evaluation function relate to people who use family violence?
  - b) If applicable, are there opportunities for data collection, sharing and analysis to be improved through the framework?
  - c) If applicable, are there opportunities for the framework and outcomes from the research and evaluation function to be shared publicly or with appropriate stakeholders?

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<sup>6</sup> MCV, [Strategic Plan 2022-2026](#), p. 11.

<sup>7</sup> MCV, [Annual Report 2022-23](#), p. 14.

15. MCV's 2022-23 Annual Report states: 'The Family Violence Coordination Tool is a further demonstration of innovation and connection, not just as a technology platform, but also as a collaborative tool that brings MCV, Victoria Police, Victorian Legal Aid and other community service providers together.'<sup>8</sup> What data on people using family violence does the Coordination Tool hold and how is it being used to form a full understanding of the profile and volume of this cohort?

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<sup>8</sup> MCV, [Annual Report 2022-23](#), p. 4.