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Judicial education for domestic and family violence: State of knowledge paper

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This work is part of the ANROWS Landscapes series. ANROWS Landscapes (State of knowledge papers) are medium length papers that scope current knowledge on an issue related to violence against women and their children. Papers will draw on empirical research, including research produced under ANROWS's research program, and/or practice knowledge.

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Introduction

Preface

This state of knowledge paper examines judicial education in relation to domestic and family violence, including good practices and initiatives, why specific education, professional development and training are needed and the factors influencing judicial officer decision making. It further identifies a range of factors which intersect to contribute to improved judicial officer education in the area of domestic and family violence. Survey research on judicial officers in Australia has been utilised to support this discussion. The strength of this research component was that there was capacity to ask judicial officers directly about the learning and educational formats they find useful. This research may help education providers and course designers when preparing material for this audience.

In this study, 66 judicial officers from Victoria and Queensland participated in a survey which invited their views on domestic and family violence and judicial education for domestic and family violence with almost half of the participants reporting family violence matters as a primary work area. Although the survey research touched on a number of different topics, the focus of this report is on elements relating specifically to judicial officers' views on judicial education in the areas of domestic and family violence. Given this approach, only certain survey questions related to the aims of this paper are considered here. Further research may take into account analyses of the additional questions and information obtained from judicial officers. Participants provided information on their knowledge of perceived risk factors for domestic and family violence and particular issues for victims¹ of domestic and family violence from

¹ The term "victim" is used throughout this paper to recognise individuals who have experienced domestic and family violence. While acknowledging that the term may be disempowering for some individuals, it is this term that is most commonly used in public discourse (Queensland Premier's Special Taskforce on Domestic and Family Violence, 2015).

diverse backgrounds. The issues of risk assessment and experiences of people from diverse backgrounds were mentioned by participants as potential areas of need for specific training. Suggestions for improved support for judicial officers (such as debriefing or professional supervision) were nominated by some participants and a number of participants reported experiencing personal stress following exposure to cases of domestic and family violence. Fifteen participants indicated they had not had any form of education on domestic violence in the previous year, while 11 had one training session and 14 had between two and five sessions. Face-to-face training was favoured by participants as a format for learning.

The study was completed in short timeframes, and a relatively low response rate made it difficult to meaningfully compare information between the two states involved. As a result, analysis has concentrated on overall views of judicial officers regardless of their state of origin.

The focus of this paper is primarily on judicial officers' views and their education. Victims' experiences of court processes and decisions have been canvassed extensively elsewhere (see, for example, Gillis et al., 2006). The significant research and writing concerning victims' experiences of court settings is acknowledged by the authors of this paper and this material informs the overriding concern about the state of judicial knowledge and domestic and family violence.

Domestic and family violence and the need for judicial officer training

Domestic and family violence remains a serious social problem in Australia and globally. Domestic and family violence can cause long lasting psychological and/or physical damage to victims and their children (Epstein, 1999) and has wider systemic impacts including those on the justice, health and social services systems. It can escalate over time and, at its worst, end in homicide (Campbell, 2005). It is estimated that violence against women and their children costs the Australian community \$13.6 billion per annum and that figure is said to increase to \$15.6 billion per annum by 2021-2022 unless there is a significant reduction in its incidence and prevalence (National Council to Reduce Violence Against Women and their Children, 2009).

Between July 2010 and June 2012, there were 187 recorded homicides classified as domestic homicides in Australia. Of these, 109 were classified as intimate partner homicides (Bryant & Cussen, 2015). Women continue to be overrepresented as victims of intimate partner homicides, comprising 76 percent of recorded victims (n=83) (Bryant

and Cussen, 2015). In Victoria, there was a 73 percent increase in reports of family violence incidents to police between 2004/2005 and 2011/2012 (The Sentencing Advisory Council, 2013). Queensland police records also indicate the number of reports of domestic violence to police increased from 58,000 in 2011-12 to 66,000 in 2013-14 (Queensland Premier's Special Taskforce on Domestic and Family Violence, 2015). Furthermore, the 2012 Personal Safety Survey in Australia collected information from men and women regarding their experiences of victimisation from the age of 15 including current and previous partner² violence experiences. The survey reported that 17 percent of all women surveyed (1,479,900 women) and 5.3 percent of all men surveyed (448,000 men) indicated they had experienced violence by a partner since the age of 15. Recorded behaviours included physical and sexual violence as well as threats of violence (Australian Bureau of Statistics, 2012).

This paper focuses on the role of judicial officers in addressing domestic and family violence, with much of the literature referring to the role of magistrates. The Judicial Officers Act 1986 (NSW) defines a 'judicial officer' as: a Judge or Associate Judge of the Supreme Court; a member (including a judicial member) of the Industrial Relations Commission; a Judge of the Land and Environment Court; a Judge of the District Court; a Magistrate or the president of the Administrative Decisions Tribunal (New South Wales Government, 2014). In cases of domestic and family violence, judicial officers can choose to take action against perpetrators of violence in the best interests of protecting victims; an often difficult task influenced by a variety of factors and evidence (Meier, 2003). Consequently, it is vital that judicial officers have a good understanding of the complexity of domestic and family violence and the effects it may have on people experiencing such violence. It is also important to acknowledge that judicial officers operate under heavy workloads and time pressures and are required to adapt to new technology and the increasing diversity of casework entering the court system (Gray, 2008; Mack, Roach Alieu & Wallace, 2011). There may also be budgetary and time constraints that impact on opportunities to facilitate or attend training (Parker, 2014). Self-care of judicial officers and recognition of traumatic effects of exposure to cases of domestic and family violence is increasingly recognised by organisations representing judicial officers. In Australia, for example, the Judicial College of Victoria has included a professional development seminar in its 2015 prospectus on 'balancing the demands of judicial life' which recognises the effects

of busy caseloads and traumatic case content on officers (Judicial College of Victoria, 2015, p.14). Further, judicial officers in Australia operate under domestic and family violence legislation relevant to their state or territory. The joint Australian Law Reform commission (ALRC) and New South Wales Law Reform commission (NSWLRC) report Family violence: A national legal response (ALRC & NSWLRC, 2010) has previously summarised key themes in family violence legislation in Australia and has identified key differences (ALRC & NSWLRC, 2010). It is important to note that the term 'family violence', used by the commissions and reflecting Commonwealth law and policy, is not used consistently across Australian jurisdictions. Thus as the report highlights, there is no standard definition of domestic or family violence either nationally or internationally and that their meanings may also be incongruent with community perspectives and the perspective of people experiencing 'family violence' (ALRC & NSWLRC, 2010). Elsewhere, the similarities and differences in definitions and legislative responses to domestic and family violence among Australian jurisdictions have been discussed in some detail (see NCRVAWC, 2009; Wilcox, 2010).

Given the statistics and the socio-economic cost of domestic and family violence, judicial training and education is necessary to support victims and minimise re-victimisation (Bell, Perez, Goodman & Dutton, 2011). Furthermore given "the number of battered women who come in contact with the court system each year, it is clear that the court system has the potential to make a tremendous impact on victims' recovery from IPV" (Bell, Perez, Goodman, & Dutton, 2011, p. 83). An important consideration in relation to the need for judicial education on domestic and family violence are reports of poor experiences of victims in the court process. For example, Stewart (2005) comments on the experience of victims in the courtroom, suggesting attitudes in the courtroom from the bench, prosecutors and police can be unhelpful and inappropriate. Failure to adequately educate judicial officers about domestic and family violence and its impacts may lead to poor decisions that leave victims unprotected (Czapanskiy, 1993) and, worse, at risk of further and potentially increased violence. Educating judicial officers may also foster confidence in the community that the judiciary have consistent and transparent processes (Parker, 2014).

² The term partner refers to a person the survey respondent lived with at the time of the survey, or had lived with in the past, in a married or de facto relationship.

Judicial education, training programs and initiatives

What is judicial education?

Judicial education processes have been established in Australia and globally to ensure judicial officers are adequately resourced to carry out their role. An Australian Law Reform Commission (ALRC) (No. 89) report *Managing justice: A review of the federal civil justice system* (1999) has previously highlighted the importance of education and training for professionals in the justice system. The review stated “education, training, and accountability play a critical role in shaping ‘legal culture’ - and thus in determining how well the system operates in practice ... while it is of the utmost importance to get the structures right, achieving systemic reform and maintaining high standards of performance rely on the development of a healthy professional culture - one that values lifelong learning and takes ethical concerns seriously” (section 2.3) (ALRC, 1999). Significant changes to legislation, case management practices, court practices and technology are just some of the justifications for judicial education (see ALRC 1999, paragraph 1.153) in addition to the concerns about a lack of awareness of the needs of, and poor attitudes towards, certain groups, including women (Mack, 1994). The ALRC report (1999) also recognised that ongoing judicial education is considered the norm in other countries including the United States, which at the time of the report’s writing had 65 national and state bodies engaging in judicial education.

A variety of organisations are responsible for providing judicial education including the judiciary, judicial colleges, training institutes, law schools and education facilities. Australia and Canada, for example, have dedicated judicial education colleges (see National Judicial College of Australia, 2013; and National Judicial Institute - Canada, 2014). Globally, judicial officers are often also personally responsible for their ongoing learning and development, dependent on the country and system within which they operate (World Bank, 2012). The United Nations Entity for Gender Equality and the Empowerment of Women (the Entity) suggests that careful planning is required in order to “create programmes that are useful and interesting to judges”. It makes a number of suggestions for creating, monitoring and evaluating education programs, including the need to establish an understanding of the current knowledge base through questions and discussions with judicial officers and to identify gender-based violence as an area that requires specific or dedicated training. The Entity also suggests considering that participation in professional development be a requirement for continued judicial licences (United Nations Entity for Gender Equality and the Empowerment of Women, 2012). In Australia, an example of judicial education for domestic and family violence is the *AVERT Family Violence* training developed in consultation with the Family Court of Australia and various other stakeholders including legal practitioners, Indigenous and culturally and linguistically diverse (CaLD) leaders, family dispute resolution practitioners, and legal and social work educators (see *AVERT Facilitators Manual* 2014). This training package is available for judicial officers as well as others working in the family law system such as counsellors, court staff and legal practitioners (Australian Attorney-General’s Department, 2010). Training aims to provide an understanding of domestic and family violence (including its impacts) and strategies to respond as well as encourages multidisciplinary collaboration through an appreciation of the different roles professionals

play within the system. Specific topics in the training include engaging perpetrators of violence, screening, risk assessment and safety planning. Targeted resources are available for judicial officers including training programs, exercises, and learning materials (Australian Attorney-General's Department, 2010).

Australian approaches to judicial education on domestic and family violence

The need for judicial education on domestic and family violence has been highlighted in recent Australian reports. For example, the joint Australian and New South Wales Law Reform Commissions' report *Family violence – A national legal response* (ALRC & NSWLRC, 2010) referred to earlier in this paper, provides a comprehensive review of family violence laws and legal frameworks in Australia with the aim of improving safety for women and their children. Included in the key recommendations is the need for education and professional development for magistrates and other professionals coming into contact with the family court and criminal legal systems. The commissions' report (ALRC & NSWLRC, 2010) has also recommended the need for understanding of how and when domestic and family violence offences should be prosecuted, how to administer protection orders, risk assessment procedures and processes, and the dynamics of sexual assault. The report also states that consideration should be given to an understanding of the dynamics and complexities of sexual assault as a form of domestic and family violence (ALRC & NSWLRC, 2010).

In Victoria, the Judicial College of Victoria's 2015 prospectus includes for instance, a course on 'Magistrates' Court: The intimate terrorism of family violence'. This is a three day workshop covering a range of topics on domestic and family violence including an understanding of patterns of domestic and family violence, generational cycles of domestic and family violence, mental health issues including parental and mental health and the effects of domestic and family

violence on children (Judicial College of Victoria, 2015). In Queensland, the report of the Queensland Premier's Special Taskforce on Domestic and Family Violence (*Not now, not ever*) has recommended that "properly trained and dedicated Magistrates will be able to provide fairer, and safer outcomes for victims" (2015, p.14). Training is said to be needed to ensure magistrates, lawyers and court staff have a better understanding and capacity to address the complex dynamics of domestic and family violence and its impacts on victims. The Taskforce report has also asserted that a lack of knowledge on the dynamics of domestic and family violence on the part of court officials may enable misuse of the justice system by perpetrators and constitute another tool of abuse. The report made several recommendations regarding magistrates' roles including the need for magistrates with specialist expertise in responding to domestic and family and intimate partner sexual violence (see recommendation 97). The report has also stated that there is a need for the development of dedicated domestic and family violence modules in development programs for magistrates in Queensland (see recommendation 104).

In addition to the National Judicial College of Australia, there are other bodies in various states that provide a variety of professional development initiatives for judicial officers. These include the Judicial College of Victoria and the Judicial Commission of New South Wales (National Judicial College of Australia, 2013). There have also been a number of initiatives to improve the response to victims of domestic and family violence including education (Judicial College of Victoria, 2015), specialised domestic and family violence court time (Stewart, 2005) and training initiatives on topics such as risk assessment (Victorian Government, 2010). While domestic and family violence education programs appear on the National Judicial College of Australia website and within the current professional development calendar (National Judicial College of Australia, 2013), further details of the education programs, or any evaluation information were not publicly available at the time of writing this paper.

Domestic and family violence matters can appear in a variety of judicial areas including magistrates' courts, district and supreme courts, children's courts and family courts (ALRC & NSWLRC, 2010). Mack, Anleu and Wallace (2012) suggest that courts in Australia have placed emphasis on judicial officers as 'generalists' who are able to respond to any type of work that appears before the court. Dedicated specialist courts for family violence as well as specialised lists or court days are currently operating within Australia and can exist as divisions of existing courts, specially convened courts or on designated sitting days (Stewart, 2005). These specialised systems are established on the premise that people experiencing domestic violence may have complex needs (Stewart, 2005). The ALRC and NSWLRC report (2010, p.71) has asserted that specialisation within existing court systems can ensure victims are better assisted as they are connected with professionals, such as magistrates, prosecutors, police and support persons, who have the best understanding of domestic and family violence. The report also suggests a smaller number of decision makers may result in improvements in the interpretation and application of laws and promote best practice that drives change (ALRC & NSWLRC, 2010, p.72). Education on domestic and family violence is therefore needed for all judicial officers and there may also be merit in additional or more advanced education within the court system. However, concerns have been raised about specialisation; these include ensuring that proper funding and resources be available for education programs to become established as well as information sharing mechanisms between courts and other support systems (Burton, 2006; ARLC & NSWLRC, 2010). It has also been argued that such a system may be difficult to establish for example in rural or remote areas (ALRC & NSWLRC, 2010).

Established professional development exists for judicial officers and non-judicial court professionals in Australia on various topics including risk assessment for domestic and family violence. In Victoria, for example, a state-wide training program was created for the Victorian Family Violence Risk Assessment and Risk Management Framework which incorporates the Common Risk Assessment Framework (CRAF) (Victorian Government, 2010). The risk assessment process itself combined three elements in the determination of risk including: victims' own assessments of their level of risk, evidence-based risk indicators and the practitioners' professional judgement. Training on the framework was provided to 2,491 participants over

116 training sessions during the 2008-2009 period. Participants targeted for training included those at the first point of contact for victims and more specialist violence professionals. Training participants included professionals in sexual assault services, child protection, counselling and mediation services, and providers of services for Indigenous people (Victorian Government, 2010). Evaluations of the training revealed "dramatic and consistent improvement in participant skills and knowledge of the CRAF" with 68 percent of all participants reporting they were incorporating risk assessment into their work post-training (Victorian Government, 2010). The evaluation recommended that training on the framework be provided for magistrate court registrars but it is unknown whether training on the framework is being undertaken by magistrates in Victoria at the present time.

Approaches to judicial education on domestic and family violence in the United States and Canada

The United States has been at the forefront in providing training professional development for its judicial officers in responding to family violence (United Nations Entity for Gender Equality and the Empowerment of Women, 2012). In the United States, the National Judicial Institute on Domestic Violence (NJIDV) is a partnership between the United States Department of Justice, Office on Violence Against Women, Futures Without Violence and the National Council of Juvenile and Family Court Judges (NCJFCJ). The NJIDV provides interactive skills-based domestic violence workshops for judges and judicial officers (National Judicial Institute on Domestic Violence, 2014). Partnering with the Futures Without Violence Institute (formerly Family Violence Prevention Fund), the NJIDV has provided education to over 3,500 judges since 1999 and currently schedules three workshops each year (Futures Without Violence, 2014). Examples of programs include the Enhancing judicial skills in domestic violence cases (EJS) workshop and the enhancing judicial skills in elder abuse cases workshop.

In addition, assistance for state and regional adaptations of the programs is also provided. The NJIDV also conducts observations in court and provides on-site technical assistance to participant judges seeking help in changing practice in their courts and communities. Through mediums such as practical exercises and peer discussions, these workshops provide education for both junior and more experienced officers and are said to encourage new ideas and techniques for difficult case work. As a consequence of this approach, officers are

said to leave with a better ability to evaluate the impact of the domestic and family violence, describe patterns of “batterer behaviour” and assess the seriousness of behaviour for effective interventions (Futures Without Violence, 2014).

Following discussions with family court judges and experts on child maltreatment and domestic and family violence, the Greenbook, entitled *Effective intervention in domestic violence and child maltreatment cases: Guidelines for policy and practice*, was released in 1999 and is endorsed by the United States Attorney General (Greenbook Initiative, 2008). The Greenbook guidelines aim to provide information to the community on how to provide responses to families experiencing domestic and family violence and child welfare concerns. The guidance focuses on three main areas: child welfare agencies, domestic violence services providers and dependency courts¹ (The Greenbook National Evaluation Team, 2008).

The Greenbook incorporates specific recommendations for court judges in juvenile and family courts. Included in the recommendations is the concept of effective intervention, which involves 24 recommendations for the courts. These are grouped into three areas: improvements to the foundations of juvenile courts; the leadership role that judges must play in initiating and institutionalising changes; and the specific changes needed in daily court and agency practice. For example, within foundational changes, the Greenbook recommends that all participants in the court system be educated about the dynamics of domestic and family violence and the most effective culturally appropriate responses (Greenbook Initiative, 2008, p.3). In a 2008 evaluation of the Greenbook Initiative evaluation, six communities funded by government departments to implement Greenbook recommendations over a five year period were evaluated. The evaluation was based on multiple data collection methods, for example, through local research partners, stakeholder surveys and service worker surveys. The findings of the evaluation have been extensive and a number of points have described the positive impact of judicial education. All of the testing sites were said to have implemented a form of Greenbook training for their judges and associated court staff, which mostly focused on improving staff knowledge and awareness of domestic and family violence and the impact on child protection cases (Greenbook Initiative, 2008, p.47). Interviews with judges provided positive feedback

¹ North American Dependency Courts hear cases involving juveniles who are alleged to have been abused, neglected, or are dependent. They were established to improve the manner in which children manoeuvre the court system and to address the unique challenges of abused, neglected, and/or dependant juvenile’s experiences with court systems.

that helped them understand activities and constraints in other systems (Greenbook Initiative, 2008, p.47). Other findings from the evaluation included that judges at two sites had reported that the Greenbook broadened awareness of ways a perpetrator can undermine a victim’s ability to comply with a service plan.

In Canada, the Canadian Judicial Council has “reinforced its support...for credible, comprehensive social context education for judges by its recognition that credible, indepth and comprehensive social context education must be an ongoing part of judicial education” (Martinson & Jackson, 2012, p. 11). The Council supports what is termed a three dimensional approach to judicial education where substantive content, skill development and social context awareness, are addressed in education programming and development. The Canadian Judicial Council and the National Judicial Institute Board of Governors “also support the notion that while judicial education should be led by judges, it is enhanced by the involvement of lawyers and legal and other academics and by the participation of a wide range of other community members with relevant knowledge” (Martinson & Jackson, 2012, p.11). With respect to education programs in Canada, the National Judicial Institute, an independent body which aims to build better justice through leadership in the education of judges, provides in-person and online courses for judicial officers and expertise on course design for judicial educators (The National Judicial Institute - Canada, 2014). The NJI approached Dr. Linda C Neilson to research and write a bench book for Canadian judges to assist with domestic violence cases. The materials were researched and written by Dr. Neilson with the support of academic and judicial experts who undertook peer review. This first edition included introductory comments by Justice John F. McGarry; the original peer-reviewed bench book (Neilson, 2009) is now in its third edition (Neilson, 2015). The bench book is supported by web links to statistics and academic literature while supplementary information provides more in-depth advice as needed (Neilson & McGarry, 2009).

Approaches to judicial education in the United Kingdom and Europe

In the United Kingdom, the Magistrates’ Association supports and promotes the work of magistrates and provides information and education opportunities to their members (The Magistrates’ Association, 2014). The association aims to support ongoing learning and development of magistrates through promoting quality

training nationally, providing courses and learning materials, and undertaking local branch training. In an attempt to overcome pressures such as budget constraints and limited access to training (see Parker, 2014) the Magistrates' Association is developing e-learning modules for magistrates which can be undertaken in segments and in an order that suits the participant.

Resources connected with the association also promote the development of effective and innovative learning mechanisms for judicial education. For example, the *learning cycle* proposes that effective learning happens over a number of important stages. These stages include having the experience (stage one), reflecting on that experience (stage two), drawing conclusions and formulating ideas about experiences (stage three) and testing out the ideas in new situations (stage four). Participants may feel more comfortable in different stages; however learning is said not to be fully effective unless all stages are completed (Parker, 2014).

Other European nations have their own systems for educating judicial officers. As an example, the French National School for the Judiciary provides initial and ongoing training opportunities. Judges in France are recruited directly from university then subjected to rigorous training involving class room instruction and work in courts and law offices. Ongoing training is provided, with all judges as well as public prosecutors entitled to a minimum of five training days per year (French National School for the Judiciary, 2013). Recently an evaluation of European countries' approaches to judicial education, carried out by the French National School, has revealed the need to develop a European-wide Judicial Education Assessment Toolkit (JEAT) (World Bank, 2012).

The Pacific Judicial Development Programme

Operating since the mid-1990s, the Pacific Judicial Development Programme (PJDP) is implemented by the Federal Court of Australia with funding support from the New Zealand Ministry of Foreign Affairs and Trade. The PJDP aims to strengthen the capacity of courts across Pacific Island countries through the provision

of training for judicial officers who would normally have limited access to development opportunities. Pacific Island Countries (PICs) include: Cook Islands, Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu. Training opportunities through the PJDP propose to enhance the professional competencies of judicial and other associated officers within the court system (Pacific Judicial Development Programme, 2014a).

From 2013, PJDP provided toolkits to support partner court systems to implement local development activities. Toolkits were created to bring the right professionals together to discuss issues of importance such as domestic and family violence and to effect change (Pacific Judicial Development Programme, 2014b). The toolkit for domestic and family violence and youth justice (dated March 2014) aims to improve judicial knowledge, skills and attitudes in relation to family violence and youth issues. A two day workshop is envisaged, where the focus is on family violence, followed by two days dedicated to youth justice, acknowledging that similar people might be in attendance for both workshops. However, workshops can be run separately for either theme and facilitators are encouraged to adapt content to local needs. As an example of this, workshops are expected to cover new legislation, if applicable, or specific skills needed locally. The toolkit also includes resources needed to conduct a workshop, such as materials to use during the workshop and post-workshop evaluation tools to assess learnings and attitudinal shifts. Emphasis is placed on assessing pre-and-post workshop knowledge as well as conducting follow-up meetings with participants to aid in effecting change (Pacific Judicial Development Programme, 2014a). The content for the workshop is flexible but encourages the inclusion of some fundamental areas. The first fundamental area is the definition of domestic and family violence that covers for example, perceived acceptable customary discipline and when discipline becomes abuse. Other areas include changing social norms, gender equality and discrimination against marginalised persons. The second area covers the background and drivers of domestic and family violence relative to the Pacific

region, including what is being done to effect change and how family violence is perceived and managed. Session three covers police philosophy and charging practice, including when the police can be expected to intervene, what types of charges will be laid and how soon a charge will reach a court. Session four examines first appearances in court including safety factors that should be considered for victims. Sessions five, six and seven examine defendant hearings, the guilty plea or finding of guilt after a defended hearing and sentencing. Sessions nine and ten cover the role of the judicial officer and goal setting. Materials in the workshops include background reading, PowerPoint presentations and case scenarios for role plays. Workshop feedback has indicated the need to have a firm commitment by participants to change practice. For example, a workshop in Palau resulted in a Memorandum of Understanding that set out a collaboration template for agencies to work together effectively (Pacific Judicial Development Programme, 2014 b).

Summary of international and Australian good practices in judicial education

From the location-specific information presented there is evidence of a number of good practice initiatives for judicial education on domestic and family violence. As has previously been identified, judicial education, specifically addressing domestic and family violence, varies across countries in terms of approaches and programs. Although the need for education, professional development and training specific to domestic and family violence has been established, the content required and expectations of professional development differ greatly and are evolving. Important topics for consideration on judicial education addressing domestic and family violence and elements that support this education include: improved education content and delivery; evaluation of education practices; effective use of technology and support, through initiatives such as specialised magistrates and court systems and domestic and family violence bench books; and the need for judicial education initiatives to provide awareness of particular issues facing people from diverse cultural backgrounds and the particular impact family violence can have on vulnerable communities.

Epstein's (1999) article *Effective intervention in domestic violence cases: Rethinking the roles of prosecutors, judges, and the court system* has claimed that while training programs exist for judicial officers these have remained insufficient. In addition, she argues that despite legislative reform in relation to domestic and family violence, decision makers including judges, prosecutors and the court system continue to lag behind developments in understanding and addressing such violence. Despite being written some time ago, Epstein's article remains important and comprehensive in this field. An international review of judicial training conducted in 2006 for the Judicial Studies Board found that the majority of judicial education programs offered in the US and Canada include a 'social contexts' element in judicial education (Thomas, 2006). Within this element a number of jurisdictions require intimate partner violence or domestic and family violence education for judicial officers in addition to the range of technical skills (see Thomas, 2006, p.68 and p.69 as an example). In some jurisdictions such as New Jersey in the US, electronic bench books provide information to judges on domestic and family violence and the information provided is regularly reviewed by experts in the field (Thomas, 2006, p.71). Thomas's report has also found that many jurisdictions provide education and training on 'wellness' and understanding the potential impact of complex and traumatic cases on judges' mental health (Thomas, 2006). Thomas has thus concluded from her extensive review that, of the countries surveyed, the United States, Canada and Spain had the most comprehensive generalist judicial education with innovative approaches to curricula and delivery styles (Thomas, 2006).

As previously mentioned, the United Nations Entity for Gender Equality and the Empowerment of Women suggests that gender-based violence should be viewed as a specialised area for judges with appropriate education (United Nations Entity for Gender Equality and the Empowerment of Women, 2012). Improved education content also requires establishing the current base of knowledge and tailoring professional development to suit judicial officers (United Nations Entity for Gender Equality and the Empowerment of Women, 2012). An important element in many training platforms is

ensuring judicial officers have a concrete understanding of dynamics and complexities of domestic and family violence (ALRC & NSWLRC, 2010). Also critically important to judicial education are: an examination of the myths and realities of domestic and family violence (Carpenter & Field, 2003); increasing understanding and empathy towards victims (Meier, 2003); and understanding and evaluating patterns of domestic and family violence behaviour (Futures Without Violence, 2014). The literature also emphasises the role and importance of partnerships that can enhance education. For example, professionals from other justice areas, such as experienced magistrates, can assist where experience is limited (Pacific Judicial Development Programme, 2014a) and other initiatives such as *train-the-trainer* approaches may be beneficial (United Nations Entity for Gender Equality and the Empowerment of Women, 2012) in order to facilitate ongoing access to relevant expertise in the local community. The literature on good practices also suggest that an evaluation framework is necessary to demonstrate effectiveness of judicial education. For example, The Pacific Judicial Development Programme advocates pre-and-post evaluations of training sessions delivered, and ensuring training retains relevancy to the location, local skills requirements and local initiatives (Pacific Judicial Development Programme, 2014 b).

It is increasingly being recognised that judicial education initiatives need to provide awareness of particular issues facing people from diverse cultural backgrounds and with diverse needs. For example, in the United States, within the Greenbook initiative, education materials are provided on 'cultural competence' (Greenbook Initiative, 2008). Education that focuses on issues and needs of victims of culturally and linguistically diverse (CaLD) backgrounds is needed for various reasons. The experience in court of domestic and family violence matters may be particularly difficult for people from vulnerable communities and magistrates have the challenging task of responding to people with various needs. For example, one issue for many migrant women participating in court procedures is the need to have access to interpreters. A lack of proficiency in English language becomes an obstacle when providing evidence in court, communicating, and understanding information

or advice on legal rights, and understanding obligations and consequences (Erez & Hartly, 2002; Schetzer, Mullins, & Buanamano, 2002). To ensure meaningful understanding of legal matters, interpreters may be provided. However, these interpreters may be known to the women and this may lead to women fearing community shame associated with domestic and family violence, which in turn deters them from accessing the legal system (Women's Legal Services Australia, 2014). Accessing the justice system is further made difficult when women of CaLD backgrounds lack knowledge of family law, family violence law and child protection in Australia given that often their countries of origin have significantly different culturally based legislation in these areas (Schetzer et al., 2002; Women's Legal Services Australia, 2014). Lack of awareness of how the Australian legal system works may lead to missed opportunities for CaLD women to participate in the legal process (Schetzer et al., 2002). This is particularly significant if they have been acculturated to intimidation by the legal system in their countries of origin, causing a lack confidence in the Australian legal system or failure to understand the role of police, courts and magistrates in justice system responses to domestic and family violence (Schetzer et al., 2002). The ALRC and NSWLRC (2010) recommend that family violence legislation in Australia refer to the particular impact family violence can have on vulnerable communities², including those from CaLD backgrounds. Research resulting from a survey of Queensland magistrates by Carpenter and Field (2003) suggested that magistrates had a limited understanding of issues of domestic and family violence for Indigenous women.

Specialist court systems now exist globally and can be found in Australia, United States, United Kingdom, Canada and New Zealand (Stewart, 2005). These specialist systems aim to better cater for and understand the needs of people experiencing domestic and family violence by improving victim safety and holding perpetrators accountable for their actions. They also aim to establish connections with prevention programs in the hope of preventing future violence (Burton,

2 Vulnerable communities include: Indigenous persons; people from culturally and linguistically diverse backgrounds; gay, lesbian, bisexual and intersex community members; the elderly; and people with disabilities (ALRC and NSWLRC, 2010).

2006; Stewart, 2005). Bench books or handbooks that provide information for judicial officers on domestic and family violence also have the capacity to support and inform judicial education processes (see Greenbook Initiative, 2008). With advances in technology, new capabilities have opened up for the delivery of judicial officer education. Parker (2014), for example, proposes the effective use of new technology, including internet technology, for sharing information, answering questions and gaining a better understanding of effective learning practices for magistrates. Such technology accommodates self-paced or flexible learning opportunities that better fit with magistrates' schedules (Parker, 2014). Yet how judicial officers view different learning formats and the formats that are most useful and practical is largely unknown. Such knowledge would be particularly beneficial in jurisdictions, such as Queensland, the Northern Territory and Western Australia, where judicial officers are spread across large geographic areas, in rural and remote locations.

Factors influencing judicial responses to domestic and family violence

Improving judicial education requires an understanding of judicial officer perceptions of domestic and family violence and an appreciation of the impact of domestic and family violence cases on officer workloads.

In Australia for example, a survey of Queensland magistrates in 2000 (Carpenter & Field, 2003) found that magistrates estimated the amount of time spent on domestic violence protection orders ranged from 5-40 percent of court time with the majority indicating between 5-10 percent of their court time. This is in comparison to a New South Wales survey where magistrates estimated spending between 5-75 percent of their court time, and over two-thirds indicated they spent between 10-20 percent of their time, on domestic violence orders (Carpenter & Field, 2003). Furthermore, the Magistrate Research Project (Roach Anleu & Mack, 2015) and the Judicial Research Project carried out in Australia has examined everyday work in magistrates' courts as well as magistrates' attitudes through interviews, surveys and observation studies. Mack, Roach Anleu and Wallace (2011) found that the work of magistrates was varied, in that work tended to differ from day to day and included work inside and outside of the courtroom. As an indication of the perceived workload of magistrates, three-quarters of the magistrates surveyed regarded the volume of cases as unrelenting (Mack, Roach Alleu & Wallace, 2011). The great majority of magistrates (92%) reported being satisfied with the overall work, despite their demanding workloads. A 2007 national survey of magistrates also requested magistrates indicate how often they had sat in different types of courts including domestic and family violence courts in the previous year, with 34 percent (total n=243) indicating they 'always', and 43 percent indicating they 'often', sat in this jurisdiction. In comparison, 52 percent of magistrates indicated they 'always' sat in a criminal court in the previous year (Mack, Roach Alleu and Wallace, 2011).

The need for judicial education on domestic and family violence is also influenced by reports of experiences in the courtroom. For example, a study by Ptacek (1999) examined how women were treated by judicial officers in the courtroom environment in Massachusetts in the United States. The study, conducted between 1992 and 1994, included telephone interviews with 40 female victims who had applied for orders from two different court districts, courtroom observations of 18 judges and interviews with eight judges. Two-thirds of victims reported that judges were supportive with about one quarter of judges described as "bureaucratic" and ten percent described as condescending, harsh or demeaning (p.150). Ptacek has suggested that the demeanour of judicial officers such as being "good natured" versus "harsh" or "condescending" could impact whether a victim felt they were heard in court, felt safer for having gone to court or wished to return to court for further assistance. The research also recognised judicial officers were aware of the impact of their own behaviour on victims but were also restricted by limited resources and institutional pressures, for example. Ptacek also contended that judicial responses can be affected by class and race differences of victims and that services may cater poorly for economically and culturally marginalised victims. Ptacek has also developed guidelines for judicial responses said to empower battered women including:

- prioritising women's safety (e.g. training court personnel on battering and making a safe space for women to wait for hearings);
- making the court hospitable to abused women (e.g. providing interpreters and information for women about their legal options);
- encouraging supportive judicial demeanour (e.g. listening to victims, asking questions, looking

victims in the eye and recognising complexity of circumstances and choices);

- connecting women with resources;
- taking violence seriously (e.g. communicating through words and actions that the court will not tolerate battering and encouraging women to return to court if they need to);
- focusing on the needs of children (e.g. recognising effects of battering on children);
- imposing sanctions on violent men (e.g. refusing to joke or bond with violent men) and;
- addressing the economic aspects of battering (e.g. connecting women with community resources around housing and financial assistance) (Ptacek, 1999).

Views of magistrates

A number of research studies in Australia have explored the views of judicial officers regarding their day-to-day work on domestic and family violence. For example in 2000, 96 magistrates and acting magistrates in Queensland were invited to participate in a survey that mirrored a New South Wales (NSW) Judicial Commission's survey of magistrates in 1998; 38 responses were received (Carpenter & Field, 2003). The research found that 71 percent of magistrates surveyed in Queensland believed they were adequately trained to deal with domestic and family violence matters compared to 90 percent of magistrates surveyed in NSW. Issues highlighted in the findings included the belief by magistrates that women use domestic violence proceedings as a tactic in family law matters, with 74 percent of respondents agreeing with the statement. Carpenter and Field (2003) noted a number of points of evidence contrary to this view. Points included for example, that there is, historically, a failure on the part of the family court to recognise, or take domestic violence into account and a reluctance for women to raise these issues in this environment. There may also be concern for women appearing difficult and uncooperative, reducing their perceived credibility as a parent. The tendency to use informal dispute resolution practices may also silence

victims for a number of reasons including that victims may not be able to confidently represent themselves in such processes and may be reluctant to raise issues of concern in favour of resolving the dispute quickly. It is also suggested that the safe participation of victims in these processes is not possible without adequately trained mediators and facilitators (Carpenter & Field, 2003).

The Magistrates Research Project has been undertaken since the year 2000, by researchers at Flinders University Australia in collaboration with the Association of Australian Magistrates and Australian magistrates and local courts (Roach Anleu & Mack, 2015). The research has included a national survey of magistrates in 2002, a national court observation study and a national survey of magistrates in 2007. The Judicial Research Project (Roach Anleu & Mack, 2015) builds on the work of the Magistrates Research project. The research explored attitudes of judicial officers including their commitment to their core judicial values such as impartiality, views about skills and practices for more engaged judging and orientations to the social value of their work. Court-behaviours such as the demeanour of magistrates towards defendants, were examined. This research highlights a need for quality assurance and the quality of the interaction between judicial officers and the people appearing in court. Attention was drawn to the need for professional development regarding the way in which judicial officers communicate with people in court, including listening, empathy, and direct personal engagement (Roach Anleu & Mack, 2015).

Stranger violence versus domestic violence and demeanour of victims and perpetrators

Domestic and family violence cases can be difficult for judicial officers for a number of reasons. For example, systems built on a model of offences against strangers may have difficulty adapting to civil and criminal cases involving intimate partner relationships (Kaye & Knipps, 1999). Unique complexities of domestic and family violence within relationships in comparison

with stranger crimes include possible unwillingness of victims to cooperate in proceedings; victims having difficulty leaving their dangerous situations, or not wanting to leave; exhibition of emotions and behaviours not expected from a victim of violence; and the need to consider any impact the violence is having on children (Kaye & Knipps, 1999).

Gilchrist and Blissett (2002) have previously examined magistrates' sentencing decisions for perpetrators of domestic violence and stranger violence. Sixty-seven magistrates were presented with six vignettes supporting a charge of 'assault occasioning actual bodily harm'. The defendant was described identically in each vignette (regarding history and current order); however, details of the offence, the victim and the circumstances surrounding the offence varied between each vignette. Variations examined included, for example, the effects of domestic violence versus stranger violence, children being in the room, the need for medical attention, domestic violence perpetrated in the public versus the private domain and the presence of alcohol. Findings from the study revealed magistrates had a tendency to consider probation with an appropriate program for domestic and family violence cases and custody for stranger violence, although this was not found to be statistically significant. Other findings revealed evidence that if medical treatment was required or alcohol involved, magistrates tended to recommend more severe sentences. Analysis of qualitative data revealed differences in the way magistrates view domestic and family violence and stranger violence. For example, while children being present in cases of domestic and family violence was seen as important to the seriousness of the cases, it was also seen as a reason to "shift the domestic incident out of the remit of the criminal courts and back into the 'private' domain of the civil courts" (Gilchrist & Blissett, 2002, p. 358).

Also potentially affecting judgement decisions on domestic and family violence cases is the demeanour of perpetrators and victims. In these cases, demeanour of victims and perpetrators can go against common assumptions of behaviour. For example, victims may present as angry and emotional, and perpetrators calm and charming, in court (Meier, 2003). Such behaviour may decrease the perceived credibility of victims

and cause the perpetrator's denial of the violence to become believable (Meier, 2003). Judges and court personnel who are untrained in understanding the complex dynamics of domestic and family violence may misinterpret this behaviour (Epstein, 1999). Meier's (2003) study describes the atypical behavioural patterns of victims as not unusual for a person who has been through trauma, and that they are also likely to exhibit symptoms of post-traumatic stress disorder. Behaviours may include overreacting towards trivial issues or displaying a lack of emotion when discussing violence.

In a more recent report, Przekop (2011) states that not only "... abused mothers, for obvious reasons, may appear angry, distrustful, or emotionally unstable in the presence of their abusers", but also, that "in the courtroom, this might be used to the batterer's advantage" (Przekop, 2011, p.1068). Other scholars have explored how gendered perceptions of motherhood influence how mothers' behaviour is perceived and how mothers' concern for the impact of court processes on their children mean they are likely to accede to the demands of perpetrators (Breger, 2012) to spare the trauma to the children. Some judicial officers may also have limited understanding of the social and psychological dynamics of domestic and family violence and subscribe to the myth that a woman could leave the relationship if she made the choice to do so (Murray, 2008). This belief does not take into account many obstacles faced by women including: fear of retaliation and possible homicide, emotional attachment to the perpetrator, a lack of social or financial support, religious and cultural beliefs preventing them from leaving, and concerns for children and family court matters (Abrahams, 2010; Campbell, 2005; Epstein, 1999; Humphreys & Stanley, 2006).

Protection of children

In Australia, one in four children is said to have witnessed violence against their mother or stepmother and women and children experiencing violence are said to have poorer health and use health services such as mental health service more often (NCRVAWC, 2009, p.3). Domestic and family violence and child abuse are interrelated and often cases of domestic and family violence involve decisions on the protection of children

including, for example, naming children on orders and restricting contact with a parent that may be the perpetrator of the violence. Navigating domestic violence and family court systems has been a longstanding issue in Australia and abroad and is a difficult process for families as well as professionals working in this area (Breger, 2012; Humphreys & Stanley, 2006; Przekop, 2011; Rendell, Rathus & Lynch, 2000). Humphreys et al. (2006), have described how the relationship between a mother and her child is adversely impacted by domestic and family violence and how the behaviour of the perpetrator is frequently aimed at undermining a mother's ability to maintain the integrity of her familial relationships. Children can also find themselves at the centre of the conflict if custody issues arise (Laing, 2000). There has been considerable research identifying the long term health and psychological impact for children experiencing domestic and family violence (Margolin & Vickerman, 2007; Sousa et al., 2011). In the short term, children's routines, social structures and schooling may be interrupted and children may also react differently, emotionally and behaviourally, as a result of the violence (David Mandel & Associates, 2014). Longer term impacts of domestic and family violence (often debated) include children modelling their parents' victim and perpetrator behaviour and becoming victims or abusers themselves (Laing, 2000). Impact on children can also be affected by other factors such as the age of the child, the severity of the violence, the availability of support structures and the protective behaviours of the parents (Laing, 2000). Widom, Spatz, Sally and Ann (2014) have investigated child abuse and neglect and intimate partner violence victimisation and perpetration. Their sample included children (ages 0–11) with histories of physical and sexual abuse and/or neglect ($n = 497$) matched with children without these histories ($n = 395$). Both groups were found to report some form of intimate partner violence in adulthood (over 80 percent reported some victimisation of prevalence, number, and variety of four types of intimate including psychological abuse, physical violence, sexual violence, and injury) and about 75 percent of both groups reported perpetration of intimate partner violence towards their partner. However, individuals subjected to childhood abuse and neglect were found to be at increased risk for being victimised by a partner

via physical injury; and childhood neglect predicted greater likelihood of perpetrating physical injury to a partner (Widom, Czaja, & Dutton, 2014). Furthermore, children may be involved directly in the violence, trying to protect the victim or be harmed accidentally as a result of the violence towards a parent. Indirectly, they may feel the effects of their parents' reduced capacity to care for them (David Mandel & Associates, 2014). The intersection and co-occurrence between domestic and family violence and violence towards children has led to cooperative intervention endeavours to support families (David Mandel & Associates, 2014) and initiatives such as the Greenbook Initiative in the United States, referred to above, thus make specific recommendations for the protection of women and the safety of children (The Greenbook National Evaluation Team, 2008).

Despite the growing body of evidence on the damaging effects of domestic violence on children, cases before the court involving children often attract criticism (Meier, 2003). Issues include lawyers and courts separating the matters of domestic and family violence from custody matters and sometimes excusing this practice within a divorce context or displaying hostility or scepticism towards a battered woman when she seeks to limit the perpetrator's access to the children. Children may be left unprotected if the need for equality of parental involvement does not consider the reality of the violence being experienced (Meier, 2003). Adding further complexity is the view that, rather than focusing on the perpetrator and their accountability for violence, the mother (in majority of cases, the victim), is responsible for the protection of the children and their protection from the violence (Laing, 2000).

Mutual responsibility for violence and gender bias

Meier (2003) describes a tendency for both parties involved in domestic and family violence to be held mutually responsible for the violence. This belief may be exacerbated when there is conflicting evidence of truth presented and a perceived lack of credibility of either person involved. Failing to see violence as a pattern of domination of one person over another may result in a lack of protection for the true victim (Meier,

2003). As well, behaviours identified in the victim such as alcohol and drug abuse or abnormal demeanour may be a result of the violence which contributes to their limited capacity to care for or protect the children (Meier, 2003). Some judicial officers may also have the belief that domestic and family violence does not belong in a criminal court and this could lead to a lack of appreciation for the seriousness of the violence. These views may encourage judges, for example, not to issue protection orders or to issue orders that fail to provide the protection needed for victims (Epstein, 1999).

Judicial officers play an important leadership role in society in terms of preserving/upholding the values of diversity and respect of gender (Armytage, 2003). Judges and lawyers may discriminate on the basis of gender including bias targeted at female lawyers and female victims (Martin, Reynolds & Keith, 2002; Czapanskiy, 1993). Female lawyers may represent battered women more frequently and discrimination against female lawyers may connect with hostility towards battered women, resulting in a lack of access to justice. Such bias may involve judicial officers giving lesser weight and credibility to the arguments of female lawyers in comparison with male lawyers (Czapanskiy, 1993). Studies have also found that males are more likely to blame the victim for domestic violence (Yamawaki, Ochoa-Shipp, Pulsipher, Harlos, & Swindler, 2012). Yamawaki et al. (2012) argue that given the numbers of men in professions related to legal responses to domestic violence including the judiciary, this should be of concern. Continued identification of and education about these issues can help to eliminate such discrimination within the courts (Czapanskiy, 1993).

Research on judicial education for domestic and family violence

The background information provided in the preceding sections of this report gives a context within which the research, reported below, is situated. The next sections move to the methodology and process of investigation of judicial education in relation to judicial officers in practice in the states of Victoria and Queensland.

Study methodology

Survey instrument

A survey was designed to examine judicial officer views in the states of Victoria and Queensland on their perceived knowledge of a) domestic and family violence and b) education for judicial officers on this issue. The material for the survey was developed from questions highlighted in a report on a survey of Queensland magistrates conducted in 2000 (Carpenter & Field, 2003) and a review of literature on judicial education and the judicial role in cases of domestic and family violence. A particular focus for this paper was judicial officers' views on appropriate formats for learning, given new technology being used in other jurisdictions (e.g. Parker, 2014) and the emphasis being placed on materials such as bench books (e.g. Greenbook Initiative, 2008). A more extensive number of questions than presented in the analysis here were included in the survey instrument including those examining judicial officer views on perpetrator programs, however these were beyond the scope of this paper. Questions developed that replicated or modified themes in the Queensland magistrates' survey included, for example, questions regarding a reporting mechanism for the amount of time spent in criminal, civil and family violence matters, whether magistrates feel they are adequately trained to deal with domestic violence issues, dispute resolution outside of the courtroom, perceived workload stress, issues pertaining to people of diverse backgrounds and the impact of the judicial role on victims and perpetrators. The survey questions aimed to cover domestic and family violence education including, for example, whether judicial officers had had recent professional development and the kind of learning formats that were preferable. Questions

on judicial officers' views of domestic and family violence in the court room were also included, such as whether they believed legislation is consistently applied. It was anticipated the study would provide insight for this state of knowledge paper through the inclusion of the judicial officers' perspectives and offer tangible suggestions for improvements to education platforms.

Participants

Following clearance from the Central Queensland University Human Research Ethics Committee, a survey instrument was sent out electronically to an estimated 92 judicial officers in Queensland and 114 in Victoria in February 2015. This resulted in an approximate 26 percent response rate in Queensland and a 33 percent response rate in Victoria (66 responses in total). The majority of participants chose to respond to the survey electronically through a link to the survey. Two participants elected to complete the survey via the telephone and the responses were dictated to a researcher who then entered the responses into the survey software. Participation in the survey was voluntary and completion of the survey was also voluntary - participants could choose not to answer any particular questions and could withdraw their participation at any point. This process resulted in some questions having lower response rates than others. Two participants in addition to the 66 responses, indicated their preference not to participate on the survey instrument. Demographic details of the sample are present in Table 1. Almost half of the participants (48.5%) reported domestic and family violence matters as a primary work area.

Data Analysis

A mixed method approach was used for data gathering. Quantitative components of the survey were typically comprised of Likert 'scale of agreement' questions and yes/no answers to categorical questions. Open questions yielded qualitative data, which were analysed using a semantic thematic approach where words and phrases were clustered according to themes derived from a literature review on judicial education for domestic violence, as well as preliminary discussions with judicial officers in Victoria and Queensland. Braun and Clarke (2006) define the semantic analysis approach as one where "themes are identified within the explicit or surface meanings of the data and the analyst is not looking for anything beyond what a participant has said or what has been written" (Braun & Clarke 2006, p.13), in association with a latent approach which "goes beyond the semantic content of the data, and starts to

Table 1 Demographic details of participant judicial officers (n=66)

Variable	Frequency	Percentage
State		
Victoria	38	58%
Queensland	24	36%
Unknown	4	6%
Primary work area (multiple responses possible)		
Family violence matters	32	48.5%
Criminal matters	57	86%
Civil matters	9	14%
Appointed as a judicial officer		
0-2 years	6	9%
3-5 years	11	16.5%
6-10 years	20	30%
11-15 years	13	20%
16 years and over	13	20%
Unknown	3	4.5%

identify or examine the underlying ideas, assumptions, and conceptualisations – and ideologies" (Braun & Clarke 2006, p.13). The information obtained from the survey was examined under set analysis areas which included covering judicial officers' perceptions of domestic and family violence and specific questions for judicial officer training. A discussion of research findings follows.

Summary of results

Judicial officer perceptions of domestic and family violence

Table 2 includes questions relating to judicial officers' views, knowledge and understanding of domestic and family violence. The majority of participants who responded (47 in total) agreed (agreed or strongly agreed) that they understood the dynamics of domestic and family violence (96% of respondents to the question).

Participants who responded (47 in total) tended to agree (77%) that they understood the impact of domestic and family violence for people from different cultures. A follow up question asked the participants what they thought were some of the major issues for victims of domestic violence from diverse backgrounds. Responses included a variety of different issues facing victims. A frequently mentioned issue was linguistic barriers which included responses such as "lack of availability of interpreters, particularly for emerging communities" and "the lack of competence in English will be a problem for some people." An equally frequent theme was a victim's lack of awareness of the resources or legal options available to them and lack of understanding of the law and what constitutes domestic violence. Responses included for example, "in some cases, there is a lack of awareness of the law here and not knowing who to turn to" and "they do not understand the many different behaviours inflicted upon them that satisfy the definition of domestic violence". Further issues identified by participants included a lack of family

or community support, family or cultural views that normalise or tolerate domestic and family violence, social isolation, religious or cultural pressures to remain in the relationship, financial isolation, a fear of the courts or legal system and general lack of support.

As demonstrated in Table 2, the majority of participants who responded (47 in total) agreed that they were confident their decisions in court help make children safer (72%). The majority who responded also agreed they were confident they were able to engage and convey key messages to perpetrators in their courtrooms (74.5%) and that perpetrator programs can reduce the risk of domestic and family violence (70%).

Questions were asked about participant views on different dynamics of domestic and family violence, some of which are presented in Table 3. There was, for the majority, agreement (out of a total of 44 responses) that the main priority in assessing domestic and family violence orders/applications is concern for the safety of women and children (86%). Responses to the

remaining questions were mixed. For example, when asked whether many cases of domestic and family violence could be dealt with outside the court system, through mechanisms such as mediation, just over half who responded (40 in total) disagreed (52.5%); however, approximately one-third (32.5%) agreed.

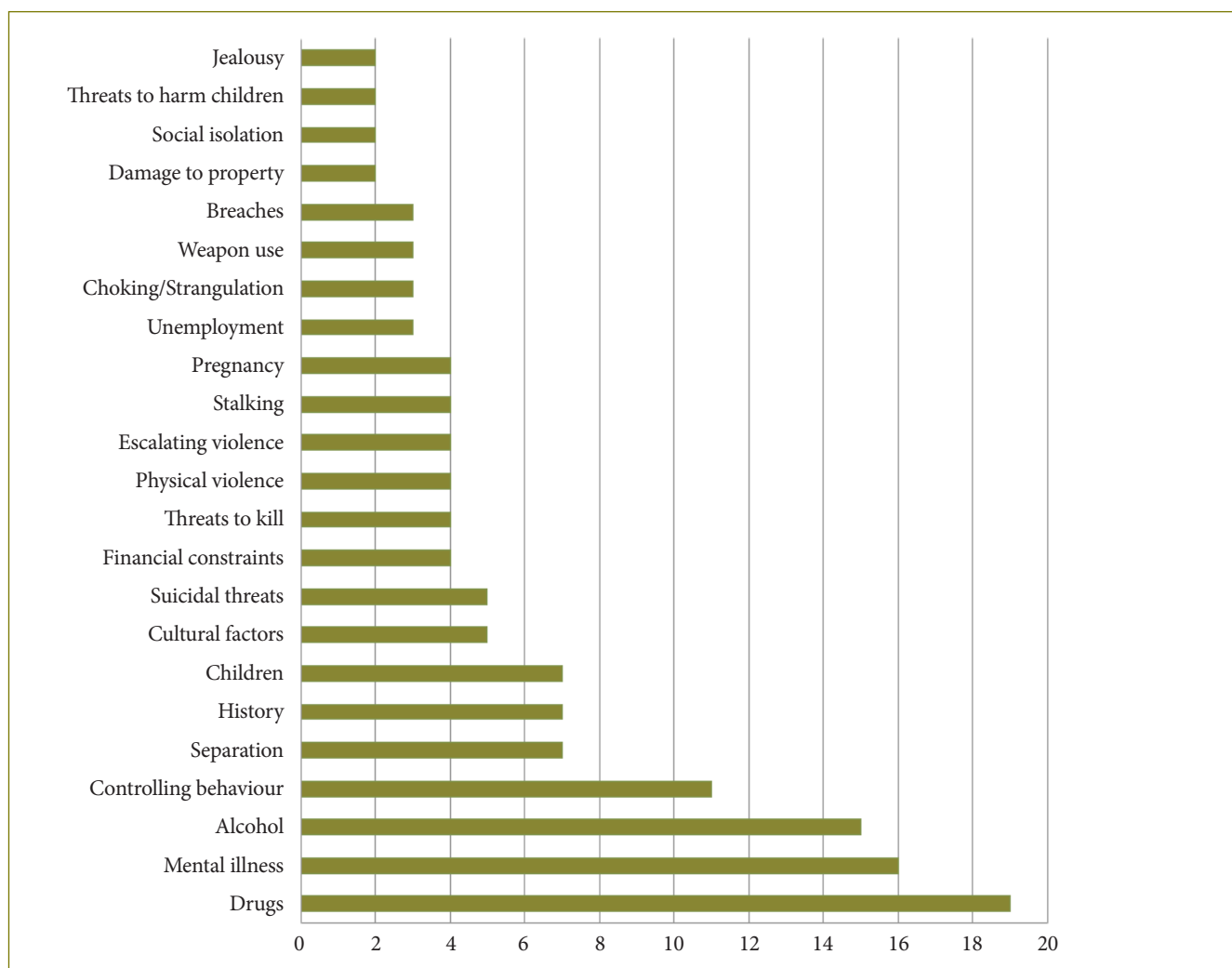
Survey participants were also asked what they considered were the major risk factors for serious domestic violence harm (41 responses received). The 20 most frequently mentioned risk factors in the responses are presented in Figure 1. Use of drugs was the most frequently mentioned risk factor, followed by mental illness, alcohol use and controlling behaviour.

Table 2 Judicial officers' views on their knowledge and understanding of domestic and family violence (n=47 responses for each question)

	Strongly agree	Disagree	Neither agree nor disagree	Agree	Strongly agree
I understand the dynamics of domestic and family violence					
<i>n</i>	0	0	2	23	22
Frequency (%)	0	0	4	49	47
I understand the impact of domestic and family violence for people from different cultures					
<i>n</i>	0	0	11	27	9
Frequency (%)	0	0	23	57	19
I am confident that my decisions in court help make children safer					
<i>n</i>	0	2	11	22	12
Frequency (%)	0	4	23	47	25.5
I am confident that I am able to engage and convey key messages to perpetrators in my courtroom					
<i>n</i>	0	1	11	20	15
Frequency (%)	0	2.	23	42.5	32

Table 3 Judicial officers' views on the dynamics of domestic and family violence

	Strongly agree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Total responses
The main priority in assessing domestic and family violence order/applications is concern for the safety of women and children						
<i>n</i>	0	0	6	12	26	44
Frequency (%)	0	0	14	27	59	
Magistrates' communication in court with perpetrators of domestic violence (regarding the seriousness of their behaviour) can help to reduce future domestic and family violence						
<i>n</i>	0	0	15	14	11	
Frequency (%)	0	0	37.5	35	27.5	40
Many cases of domestic and family violence could be dealt with outside the court system, through mechanisms such as mediation						
<i>n</i>	5	16	6	10	3	
Frequency (%)	12.5	40	15	25	7.5	40

Figure 1 Major risk factors for serious domestic violence harm as identified by judicial officers

Self-care for judicial officers exposed to domestic and family violence

Thirty-five judicial officers responded when asked “how do you practise self-care following exposure to cases of domestic violence?” An analysis of themes revealed four main areas: 1) choosing not to or not having the capacity to practise self-care; 2) utilising friends and family for support; 3); using peers for support; and 4) engaging in leisure activities such as exercise or fishing. There were 24 judicial officers who agreed they had “experienced personal stress following exposure to cases of domestic and family violence.” Of the sample, 22 participants agreed that they “would like improved support for magistrates following exposure to domestic and family violence cases”; six disagreed with the statement; 25 (37.9%) chose not to respond.

Participants were also asked how they thought judicial officers could be better supported. Seven participants advocated for system changes such as improvements to administrative forms and improved support for magistrates through, for example, having experienced clerks. Six participants proposed the need to have debriefing and/or professional supervision available and a further four suggested the need for access to professional support. Four participants mentioned improved access to professional development and information regarding domestic violence. Three participants suggested more peer-to-peer discussions and support would be beneficial and two participants reported that no further support is needed for judicial officers.

Table 4 Judicial officers’ views on participating in domestic and family training

Question	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Total responses
Magistrates in my state receive sufficient training in domestic and family violence to make informed decisions						
<i>n</i>	5	10	12	9	4	40
Frequency (%)	12.5	25	30	22.5	10	
Time constraints prevent me from participating in domestic and family violence training						
<i>n</i>	4	18	6	10	1	
Frequency (%)	10	46	15	26	2.5	39
Location constraints prevent me from participating in domestic and family violence training						
<i>n</i>	6	16	8	7	2	
Frequency (%)	15	41	20.5	18	5	39

Judicial officer training, professional development and education

Views on domestic and family violence training

Participants were asked questions relating to their views on the domestic and family violence training they received and would like to receive (see Table 4). When asked if they believed judicial officers in their state received sufficient training in domestic and family violence to make informed decisions mixed responses were received. Of the 40 responses to this question, 13 participants agreed judicial officers in their state received sufficient training; 15 disagreed and a further 12 neither agreed nor disagreed with the statement; 26 participants did not respond. When asked whether time constraints prevented them from participating in domestic and family violence training 22 participants disagreed while 11 agreed with the statement. Similarly,

22 participants disagreed that location constraints prevented them from participating in domestic and family violence training while nine agreed.

Survey participants were asked how often they had received dedicated domestic and family violence training in the past year (responses presented in Figure 2). Of the 40 who responded, 15 indicated they had received no training while 25 indicated they had participated in some form of training.

Figure 3 represents participant views on the number of hours which should be dedicated to domestic and family violence training for judicial officers (33 responses). The largest group represented were those that believed 5-10 hours are sufficient for dedicated training.



Figure 2

Number of occasions judicial officers received dedicated domestic violence training in the past year

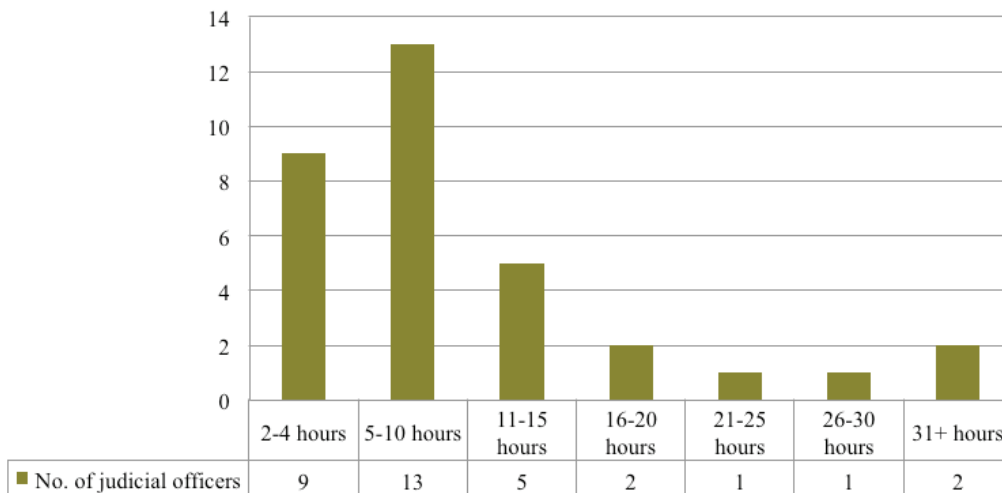


Figure 3

Judicial officers' views on number of hours needed each year for dedicated domestic violence training

Formats for learning

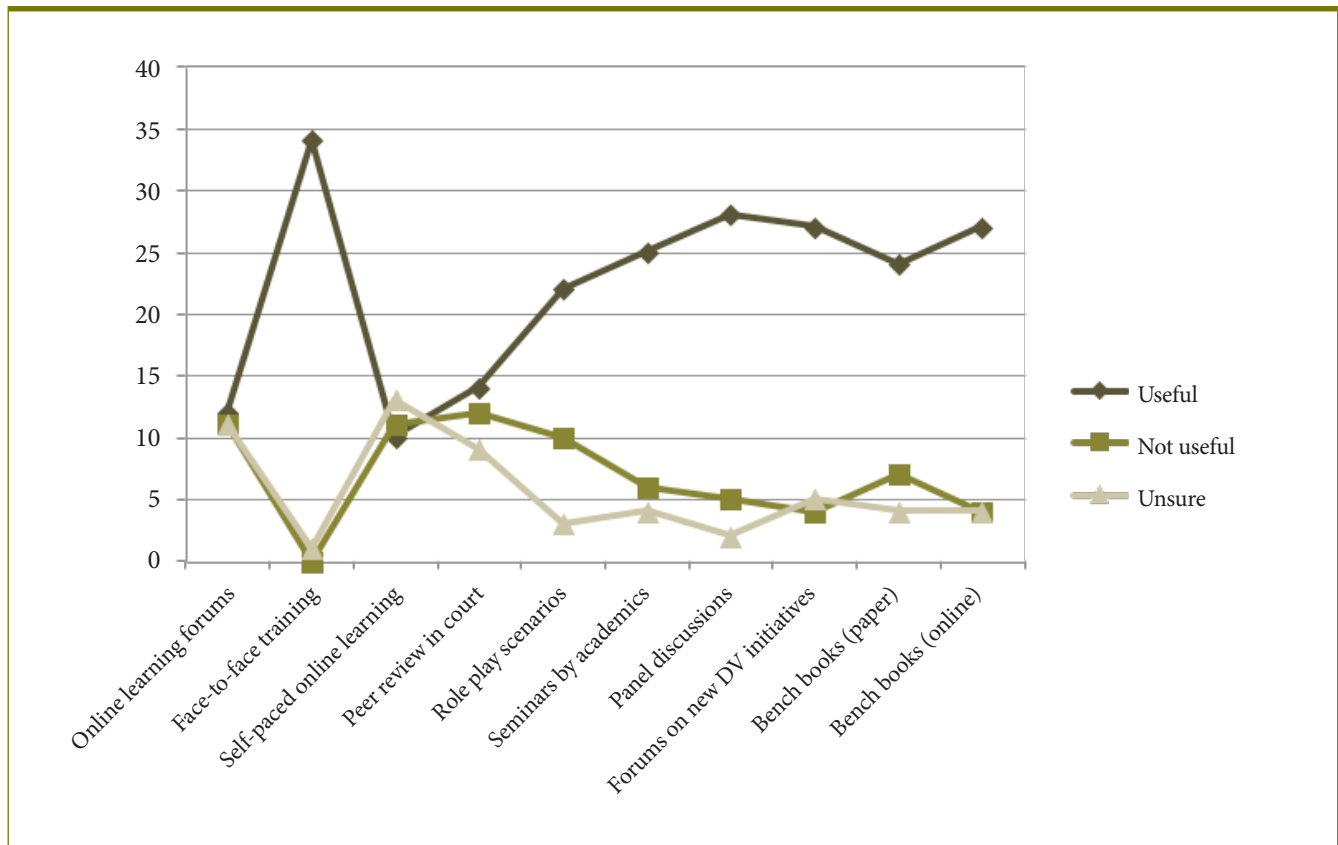
The survey asked participants to describe the content and format of the last domestic and family violence session they had participated in and twenty-three participants provided responses. From the responses provided, six participants indicated that training had covered legislation or changes to legislation. Single responses were given on other content of training including the social context of domestic violence and issues for CaLD communities. Regarding format of prior learning, participants reported that this had involved scenario-based training; group discussions; experts and speakers, including academics; and was delivered through conferences, seminars, professional development days or judicial college training. The duration of the training reported ranged from one hour to two days training.

An open-ended question was used to elicit the views of participants on the topics they would like covered under domestic and family violence education and how they would like it to be delivered. Given the small number of responses (n=27), some of the following themes are

based on the views of a single officer. Responses for training topics included:

- addressing perpetrator issues;
- risk factors for domestic and family violence;
- communication in court, (particularly communicating with respondents);
- issues for culturally diverse people;
- protecting children, and the effects of domestic violence on children;
- survivor stories (e.g. what helped them in coping after moving out of a domestic violence environment);
- court listing practices;
- advice on identifying genuine applicants;
- legal training (e.g. legislation and judicial powers);
- follow up statistics on cases and;
- prevention strategies and bias in court.

Figure 4 Judicial officers' views on usefulness of learning formats for domestic violence training

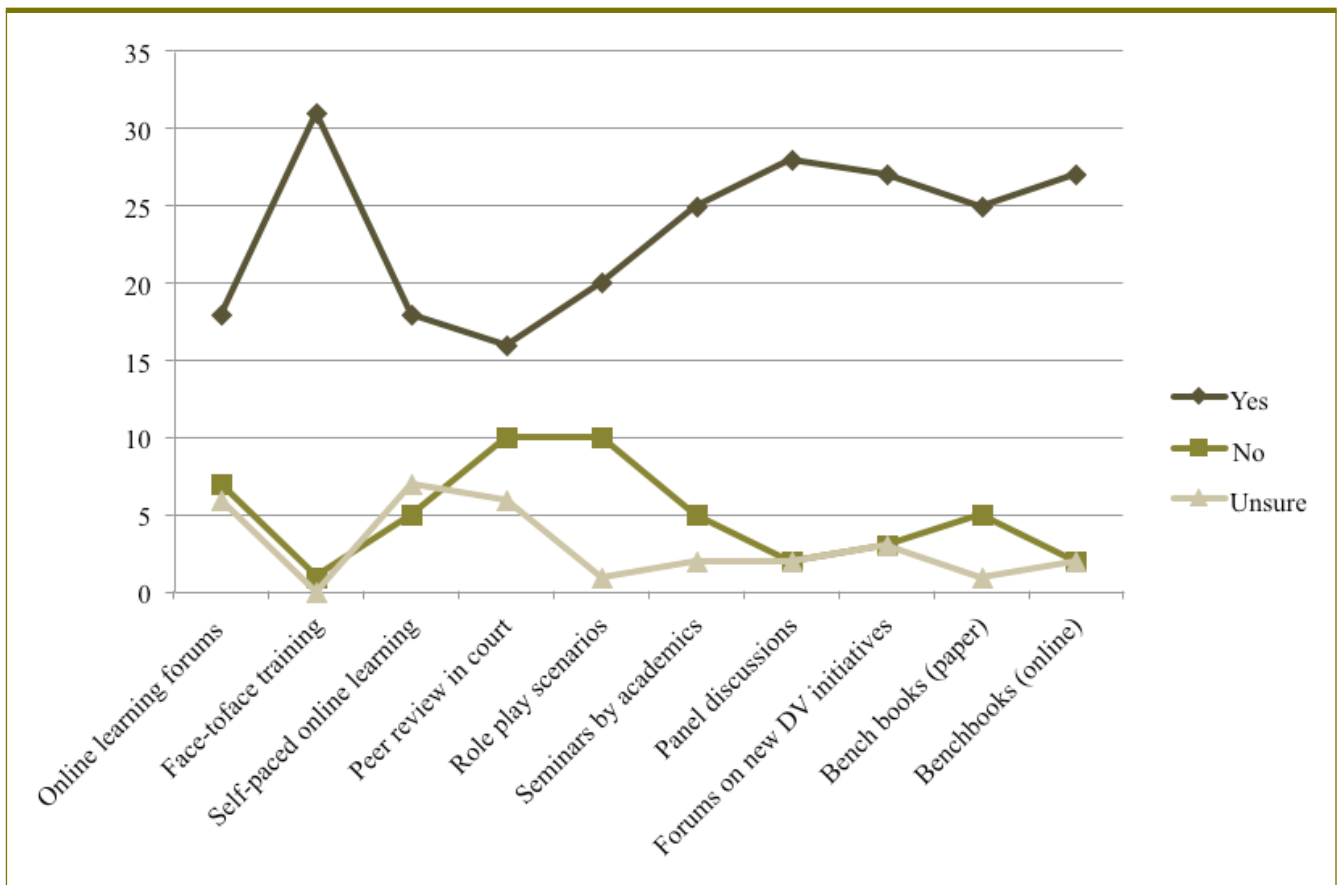


As an example of inconsistencies in approach to risk factors one response included “the nuances of economic and emotional abuse, controlling behaviours and the like... I fear there is a vast difference in approaches to these forms of FV [*family violence*] amongst the judiciary”. With regards to training on experience of peoples from CaLD backgrounds, one response included “more information about the cultural aspects of family life in immigrant communities would be helpful”. Responses also highlighted preferred formats for training, which included a preference for face-to-face training; identifying competencies of judicial officers and applying training to suit; having expert presenters/lectures; case scenarios; role plays; panel of family violence magistrates; having online or written resources available for magistrates; peer-to-peer reviews and group discussions. For example, when discussing identifying competencies of judicial officers, one response included “I would like ‘competencies’ to be developed against which magistrates could self-assess and then modules of training available to fill the gaps in knowledge, so that people can design their own

training rather than just treating everyone as the same. Magistrates are all at different levels and it’s annoying to do the same training over and over again”.

When asked to rate whether a number of formats were *useful* for learning (Figure 4), ‘face-to-face training’ was rated as useful by the largest number of participants while ‘peer review in court’, ‘self-paced online learning’ and ‘online learning forums’ were rated as useful. Participants were also asked whether they would be willing to participate in the learning formats mentioned (Figure 5). Although all learning formats received a ‘yes’ response, with 16 of more participants indicating willingness to participate in each, a somewhat similar pattern of results to the question on *useful* for learning revealed the most preferred format was ‘face-to-face’ training (Figure 4 and Figure 5, information is based on the responses of 37 participants).

Figure 5 Judicial officers’ views on willingness to participate in learning formats



Concluding discussion

This state of knowledge paper has identified that a range of factors intersect to contribute to improved judicial officer understanding and education in the area of domestic and family violence. Improving judicial education requires an understanding of judicial officer perceptions of domestic and family violence and an appreciation of the impact of domestic and family violence cases on officer workloads.

Current education and experiences of domestic and family violence education for judicial officers

The main focus for this research was the investigation of judicial officers' views on judicial education for domestic and family violence. Although small in sample size, participants were varied. Years of experience, for example, ranged from less than two years' experience to more than 16 years' experience. Of the 66 officers in Victoria and Queensland who undertook the survey, 45 (of 47 responses to the statement) agreed they understood the dynamics of domestic and family violence. However, participants reported mixed responses regarding their belief that judicial officers in their state received sufficient training in domestic and family violence to make informed decisions. These responses can be compared to the survey previously conducted in 1998, where 71 percent of magistrates in Queensland and 90 percent of magistrates in New South Wales believed they were adequately trained to deal with domestic violence matters (Carpenter & Field, 2003). Indeed, almost a quarter of all participants in our research reported they had not had any form of domestic violence training in the previous year, while 11 had one training session and 14 had between two and five sessions.

It is important that education for judicial officers acknowledges and utilises the knowledge and experiences of judicial officers participating in their programs (United Nations Entity for Gender Equality and the Empowerment of Women, 2012). The skills and

expertise of judicial officers with extensive experience and interest in domestic and family violence can be harnessed to facilitate training and advise others as suggested by the Pacific Judicial Development Programme (PJDP) (2014a). Besides delivery issues, there are content matters to be considered when identifying what constitutes effective training. A participant in this research, for example, highlighted the importance of evaluating the current knowledge of judicial officers in order to provide more targeted and useful training to match varied experience levels. It is also critical that education and training retain relevancy to the location, local skills requirements and local initiatives (Pacific Judicial Development Programme, 2014b), as this may help uptake of, and sustain interest in, the programs.

Domestic and family violence knowledge and understanding

Reports to police indicate an increase in cases of domestic and family violence in many communities (Queensland Premier's Special Taskforce on Domestic and Family Violence, 2015; The Sentencing Advisory Council, 2013). Enhancing judicial education in this area both supports judicial officers in their roles and improves responses to, and outcomes for, people experiencing domestic and family violence. This is supported by research indicating that judicial officers'

communication and understanding of domestic and family violence informs decisions that protect victims and their families (e.g. Ptacek, 1999). Therefore, it is critically important that judicial officers understand the complexities of domestic and family violence, including the particular difficulties encountered by vulnerable individuals (Epstein, 1999; Gilchrist & Blissett, 2002).

The existing literature demonstrates, for instance, that children and other population groups such as those from diverse backgrounds, may have unique challenges, experiences and impacts of domestic and family violence (e.g. Abrahams, 2010; Erez & Hartly, 2002; Humphreys & Stanley, 2006; Laing, 2000). Continued education for judicial officers offers promise in helping to overcome any prejudices or misinformed views towards the diversity of victims of domestic and family violence. As noted in this paper, training could explore topics such as gender bias and expected demeanours of victims and perpetrators. Conversely, research such as the study by Ptacek (1999) may also help inform judicial officers of the impact of their communication and behaviour, within the courtroom and other related settings, on people affected by domestic violence. With regard to perpetrators, the majority of participants in this research study agreed they were confident in their ability to engage with and convey key messages to them, and that perpetrator programs can reduce the risk of domestic and family violence. Survey participants also reported that two areas of interest for further education were perpetrator issues and communicating with respondents to applications for court orders. This research also gleaned insights relating to the risk factors predictive of serious domestic and family violence generally, and the risk factors particular to victims from diverse communities. Participants revealed a range of, and at times robust, knowledge in these areas and proposed topics relating to risk factors and risk assessment was proposed as potential area for further training. Information on risk informs awareness of the knowledge base of judicial officers as well as recognising the risks experienced by victims appearing in court. This notion of 'risk' could be canvassed in training programs such as that undertaken in Victoria through risk framework training (Victorian Government, 2010). This training in Victoria also underscores the

fact that judicial officers operate within a system and it is important that other people, such as support workers, in that system also have access to education to enable the best support and understanding for people experiencing domestic and family violence. Similarly, the United Nations Entity for Gender Equality and the Empowerment of Women (2012) report also recommends expanding training to non-judicial court staff as an important initiative.

Enhancing education

The existing literature tells us that judicial officers need support- not only through training, but also in recognising that exposure to traumatic cases of domestic and family violence, high pressure work environments and large caseloads may also impact on their capacity (Epstein, 1999; Gray, 2008; Thomas, 2006). This was reflected in the attitudes of this research study's participants, which suggested debriefing or professional supervision may help to support officers in their role following exposure to domestic and family violence cases.

Although published research proposes that budget constraints and a paucity of time to participate may be barriers to the provision and uptake of training for judicial officers (Parker, 2014) about half of this study's participants who responded to location and budget questions posited that location and time factors do not impede access to training opportunities. It is suggested that further examination of location and budget constraints on officers may provide a more nuanced understanding of these factors. This research also received mixed responses on the number of hours that should be dedicated to domestic and family violence training. Many of the judicial officers survey indicated there should be time dedicated training and appeared to have specific views about their preferred method of study delivery. Indeed, participants in the survey indicated presentations by academics, panel discussions and forums on new domestic violence initiatives would be useful ways to learn. A further influence on the uptake of training opportunities, and outcomes of such training, is the format used for learning. It is unlikely a 'one size fits all' approach will be useful for training delivery: what works in one area of the country may not be useful in

others, and training needs vary. For example, face-to-face training was seen as a useful form of learning by the majority of participants in this survey, but this is less likely to be viable in rural or remote communities where video or web-based delivery may be the only practical option. While online packages may be an efficient alternative to face-to-face training, such approaches will not be effective if perceived by judicial officers as an undesirable learning format, despite the fact that there is recognition that new technologies will enhance the opportunities for training through online platforms (e.g. supporting self-paced learning) (Parker, 2014).

Future research

This paper has drawn from multiple sources that indicate that it is imperative that judicial officers receive training that is specific to domestic and family violence or gender-based violence (Queensland Premier's Special Taskforce on Domestic and Family Violence, 2015; United Nations Entity for Gender Equality and the Empowerment of Women, 2012). While research has established the need for such education, there are knowledge gaps in terms of what constitutes 'best practice' in this domain, for this audience. Future research will benefit from better access to the education programs currently being delivered to judicial officers across Australia and greater participation by judicial officers to facilitate comparisons between states as the basis for a comprehensive assessment. Trialling and evaluating specific learning formats, testing knowledge of judicial officers and working with judicial bodies to develop effective learning practices are other research activities which will contribute to a richer knowledge base. The development of judicial education will benefit from the engagement of experts and well as contemporary research and understandings on domestic and family violence. It is also important to pilot education programs that build upon the previous knowledge and experience of officers utilising and evaluating new learning formats such as on-line learning packages (see Pacific Judicial Development Programme, 2014a, Pacific Judicial Development Programme, 2014a; Parker, 2014; United Nations Entity for Gender Equality and the Empowerment of Women, 2012). Such investigations should ascertain the

appropriateness and acceptability of these modalities to judicial officers.

The need is clear: judicial education specific to domestic violence is necessary to support victims and minimise re-victimisation (Bell et al., 2011) through ensuring positive experiences and outcomes in the courtroom. This state of knowledge paper provides insight into such judicial education and proposes suggestions for enriching current training approaches. It is hoped that this information will be useful for researchers and practitioners in further developing initiatives to enhance judicial education on domestic and family violence, and ultimately contribute to improved outcomes for victims and their families.

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