



The PIPA project:

Positive Interventions for Perpetrators of Adolescent violence in the home (AVITH)

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Acknowledgement of Country

ANROWS acknowledges the Traditional Owners of the land across Australia on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander Elders past, present, and future, and we value Aboriginal and Torres Strait Islander histories, cultures, and knowledge. We are committed to standing and working with Aboriginal and Torres Strait Islander peoples, honouring the truths set out in the Warawarni-gu Guma Statement.

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The PIPA project: Positive Interventions for Perpetrators of Adolescent violence in the home (AVITH)

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ANROWS acknowledges the lives and experiences of the women and children affected by domestic, family and sexual violence who are represented in this report. We recognise the individual stories of courage, hope and resilience that form the basis of ANROWS research.

Caution: Some people may find parts of this content confronting or distressing. Recommended support services include: 1800 RESPECT - 1800 737 732 and Lifeline - 13 11 14.

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Acronyms

ADHD	Attention deficit hyperactivity disorder
AFM	Affected family member
AFVP	Adolescent family violence program
AOD	Alcohol and other drugs
ASD	Autism spectrum disorder
ASW	Applicant support worker
AVITH	Adolescent violence in the home
CALD	Culturally and linguistically diverse
CHEAN	College Human Ethics Advisory Network
CIJ	Centre for Innovative Justice
CRARM	Common Risk Assessment and Risk Management
FASD	Fetal alcohol spectrum disorder
FVIO	Family Violence Intervention Order (Vic)
FVPA	Family Violence Protection Act 2008 (Vic)
FVRO	Family Violence Restraining Order (WA)
FVSN	Family Violence Safety Notice (Vic)
HSB	Harmful sexual behaviour
LAWA	Legal Aid Western Australia
MARAM	Multi-Agency Risk Assessment and Management Framework (Vic)
NDIS	National Disability Insurance Scheme
PIPA	Positive Interventions for Perpetrators of Adolescent violence in the home
PSB	Problematic sexual behaviour
PTSD	Post-traumatic stress disorder
RCFV	Royal Commission into Family Violence (Vic)
RO	Restraint Order (Tasmania)
ROA	Restraining Orders Act 1997 (WA)
RSW	Respondent support worker
SAB	Sexually abusive behaviour
TTO	Therapeutic Treatment Order (Vic)
VLA	Victoria Legal Aid (Vic)
VRO	Violence Restraining Order (WA)
YRO	Youth Resource Officer (Vic)
WA	Western Australia

Glossary

By consent without admissions	Consent given to the court making a family violence protection order and the conditions set out in the application without the respondent admitting to the allegations made and the court making a finding as to whether the behaviour alleged in the application occurred. An order made by consent without admission allows for a protection order to be imposed without the matter being set down for a formal hearing and protects the respondent's legal rights in relation to subsequent criminal charges arising from the incident.
Diversion	Informal: a mechanism whereby young people suspected of committing minor criminal offences are diverted from the criminal justice system via informal means, for example, by way of police warning or caution. Practice may vary across jurisdictions and regions. Statutory: a criminal diversion mechanism enshrined in statute whereby young people suspected of committing minor criminal offences are diverted from the criminal justice system. In some cases this involves a formal requirement to complete a program or plan, where failure to do so may allow for reinstatement of formal prosecution. Legislative schemes vary across jurisdictions.
Exclusion order	A family violence order that contains a condition that excludes the violent party from the place where the protected party is living.
Family violence	For the purposes of this report, family violence comprises patterns of behaviour that may include physical, sexual, psychological, emotional, financial, coercive or other forms of abuse that leave the person experiencing it feeling dominated, controlled and in fear for their safety and wellbeing, or for the safety and wellbeing of another member of the family.
Family Violence Intervention Order (Vic)	A civil court order to protect a person, their children and their property from a family member (including a partner or ex-partner) who is using family violence, available under the <i>Family Violence Protection Act 2008</i> (Vic). Criminal sanctions may attach to breaches of an order.
Family Violence Safety Notice (Vic)	A short-term family violence protection order issued by the police under the <i>Family Violence Protection Act 2008</i> (Vic) against a respondent who is 18 years of age or older. The safety notice can protect the affected family members before an intervention order application is heard in court and can be made without the consent of the protected person.
Full order (or final order)	An order made by a magistrate that takes effect for a defined period or indefinitely and which concludes proceedings for a family violence protection order.
In-person application	An application for a protection order made by the person seeking protection (the applicant), attending court, as opposed to an application made on their behalf by a police officer, lawyer or other person, or making the application online.

Interim order	A temporary or short-term court order that is in effect for a stipulated period or until a further order is made. Interim orders may be made where the court is not ready or able to make final orders, or the parties are not ready to reach agreement. They are sometimes required in urgent circumstances.
Limited safe contact order	An order made under state family violence protection legislation that does not aim to physically separate the parties by imposing conditions regarding where the respondent must live. An example of a limited safe contact order is where the parties can continue to live together but a condition is imposed on one party that they are not to consume alcohol while residing at the address.
Police application	An application for a family violence protection order made by the police on behalf of another person. See Family Violence Safety Notice (Vic) above.
Police Family Violence Order (Tas)	A short-term family violence protection order issued by the police under the <i>Family Violence Act 2004</i> (Tas) against a respondent. Police Family Violence Orders generally operate for 12 months from the date the order is served on the respondent.
Police Family Violence Order (WA)	A short-term family violence protection order issued by the police under the <i>Restraining Orders Act 1997</i> (WA) against an adult respondent. The Police Family Violence Order can protect the affected family members for up to 72 hours after the notice is served on the respondent.
Problem(atic), inappropriate or concerning sexual behaviours	<p>Terms used by the Royal Commission into Institutional Responses to Child Sexual Abuse to describe behaviours by a child under the age of 10 that are:</p> <p>generally considered to be those without overt victimisation, but which may cause the victim to experience distress or to reject the child exhibiting the behaviours. They include behaviours such as persistent self-stimulation or use of sexual language. They may include behaviours such as touching other children’s genitals or using sexual language, where an intent to cause harm to the other child is lacking. (Commonwealth of Australia, 2017c, p. 220)</p>
Protection order	A generic description of a court order available under civil law (state or Commonwealth) that imposes conditions to prevent a person from committing family violence against another person, their children or their property and for which criminal sanctions may be imposed for breach. A protection order may be known as a Family Violence Intervention Order (FVIO), a domestic violence order (DVO), intervention order (IVO), protection order, family violence order (FVO) or a violence restraining order (VRO) in other states and territories.
Restraint Order (Tas)	A civil court order available under the <i>Family Violence Act 2004</i> (Tas) to protect a person, their children and their property from a family member (including a partner or ex-partner) who is using family violence. Criminal sanctions may attach to breaches of an order.

Sexually abusive behaviour	<p>Term used by the Royal Commission into Institutional Responses to Child Sexual Abuse to describe:</p> <p>behaviours exhibited by children over the age of criminal responsibility. In Australia, it applies to those aged 10-17 years. Sexually abusive behaviours involve non-consensual, coercive, manipulative or predatory elements and are often characterised by power imbalances related to age, size or status. They are likely to involve behaviours that would be classified as sexual offences in legislation. (Commonwealth of Australia, 2017c, p. 220)</p>
Sexually harmful behaviours or harmful sexual behaviours	<p>Terms used by the Royal Commission into Institutional Responses to Child Sexual Abuse to describe any sexual behaviour by a child “that is developmentally inappropriate, may be harmful towards one’s self or others, or may be abusive towards another child, young person or adult” (Commonwealth of Australia, 2017c, p. 220).</p>
Undertaking	<p>A verbal or formal written promise made by a respondent to the court in family violence proceedings, and in some states to the person seeking protection, to comply with certain conditions. Proceeding by way of undertaking is only available when the person seeking protection agrees. Contravention of an undertaking does not carry criminal penalties but may constitute contempt of court.</p>
Violence Restraining Order (WA)	<p>A civil court order available under the <i>Restraining Orders Act 1997 (WA)</i> to protect a person, their children and their property from a family member (including a partner or ex-partner) who is using family violence. Criminal sanctions may attach to breaches of an order.</p>
Youth justice conferencing	<p>A pre-sentence process that exists in various forms in different jurisdictions. It generally involves a young person who is the defendant in a criminal matter being given the opportunity to acknowledge and take responsibility for the harm caused by the offending. The conference may involve participation from police, prosecutors, youth justice personnel, community members responsible for the young person or impacted by their offending and, if appropriate, the victim/survivor (Daly & Nancarrow, 2010). This may be conducted pursuant to a legislative regime as a court-mandated procedure to be carried out prior to sentencing following acceptance of responsibility for the offence charged. It may also be incorporated into a diversion process whereby charges are no longer pursued after the conference. The process may formally be facilitated by the relevant state Youth Justice agency, as occurs in Victoria, or it may be organised by other relevant stakeholders, such as police, as occurs with “community conferences” in Tasmania.</p>

Executive summary

Background to the PIPA project

This report builds on previous work by the Centre for Innovative Justice (CIJ) that examined the perpetration of family violence more broadly (Centre for Innovative Justice [CIJ], 2015). This earlier work identified that adolescent family violence—or adolescent violence in the home (AVITH), as it has often been known in Australian literature and policy settings (Howard, 2011, 2015)¹—was a particular concern to practitioners and stakeholders alike, but lacked a considered response or an opportunity to craft one (CIJ, 2015). In its chapter dedicated to AVITH, the Victorian Royal Commission into Family Violence (RCFV) also noted that AVITH was poorly identified and had no considered systemic response, which brought the subject into the remit of the mainstream family violence policy landscape (State of Victoria, 2016a).² Indications from practice and research colleagues of the CIJ then signalled that this was a strong area of interest in other jurisdictions as well, albeit in varying practice, policy and legislative contexts (Moulds, Day, Mayshak, Mildred, & Miller, 2018).

As such, the Positive Interventions for Perpetrators of Adolescent violence in the home project (the PIPA project) seeks to contribute to understanding and developing a considered systemic response to AVITH. It does so by examining current responses that occur towards the earlier entry points to legal system interventions, and the implications that these and emerging interventions have for conceptualisations of AVITH, as well as for the lives of adolescents and their families. While a study across all Australian jurisdictions remains desirable, project constraints demanded a targeted approach. Accordingly, the PIPA project examines legal and service interventions across three jurisdictions at very different stages of legislative, policy and definitional development—Victoria, Western Australia (WA) and Tasmania. The PIPA team believes that these offer a useful comparison upon which we hope other jurisdictions may draw.

1 AVITH is the term used in this report, although "adolescent family violence" is now just as commonly used.

2 The RCFV made a number of specific recommendations which are described in this report.

What is AVITH?

Although no consensus definition exists at a national or international level (Moulds et al., 2018), existing studies describe AVITH as a pattern (not an isolated incident) of violent or abusive behaviour used by an adolescent within their family, mostly against parents or other caregivers and siblings (Howard & Abbott, 2013; State of Victoria, 2016b). This behaviour, like other forms of family violence, may involve property damage; financial, psychological and emotional abuse; physical intimidation; and assaults, including sexual assaults.³ Accounts from qualitative studies involving families that have experienced AVITH describe family members as "walking on eggshells" in the home (Howard & Rottem, 2008, p. 18) or "living in a warzone" (Fitz-Gibbon, Elliot, & Maher, 2018, p. 23). As this report explores, however, the above description of AVITH may not adequately capture the variation and sheer complexity of scenarios in which adolescents experience a legal response when they come into contact with legal systems as a direct (or indirect) result of this behaviour.

Project aims and methodology

The overarching aim of the PIPA project was to address a gap in knowledge concerning AVITH, specifically the initial legal response that adolescents and their families receive when their use of AVITH comes to the attention of the legal system. In this context the project further aimed to:

- interrogate how (and whether) AVITH was being met with a legal response in legislative and service settings across the different jurisdictions (Victoria, WA and Tasmania)
- explore overall awareness of AVITH across varied service and legal constellations
- explore the narrative behind AVITH, which included examining what had occurred in the lives of adolescents before, and at the time, they had experienced a legal response, and examining what this response had meant for adolescents and their families once intervention had occurred
- contribute to the evidence base regarding the prevalence

3 The debate about sibling sexual abuse/assault within definitions of AVITH is discussed in Chapter 4.

of AVITH, as well as the demographics of adolescents using violence in the home. However, as discussed in this report, what we found during the course of the project tended to complicate, rather than clarify, existing evidence and assumptions around prevalence.

Importantly, the research did not aim to identify “typologies” of AVITH or certain kinds of behaviour. While this report discusses the challenges presented by the complexity and diversity encountered across the research findings, ultimately the PIPA team concluded that attempting to develop typologies of AVITH or to conceptualise adolescents using family violence in this way would not prove useful. Moreover, it may pull against the other aims of the project, most important of which is understanding the ways in which behaviour was conceived by legal or service system interventions as impacting the kind of responses that adolescents and their families received.

Broadly, the research questions for the PIPA project were:

- What is the context in which practitioners from a wide range of service and legal settings encounter AVITH? What are the co-occurring issues, backgrounds and narratives in the lives of the adolescents and families with whom practitioners work?
- What responses do adolescents and families receive? How are these responses initiated and are they effective? Do any have a positive impact? In what circumstances?
- What are the challenges in working with adolescents using AVITH and their families? What are the barriers and links to interventions, including dedicated AVITH programs?
- What is required for a legal system intervention to be a positive one and to address the needs of adolescents and their families?

This research was conducted from mid-2017 to the end of 2018 through a mixed methods approach involving a number of strands. The first strand involved focus groups and interviews across the three participating jurisdictions, during which the PIPA team spoke with 157 practitioners (150 via 25 focus groups and seven via interviews). The spread of participants included 82 practitioners from Victoria, 57 practitioners

from WA and 18 practitioners from Tasmania, all from a wide range of:

- specialist family violence (including adolescent-specific) services
- social and statutory services such as family, child protection, alcohol and other drugs (AOD), mental health, disability, education, youth, culturally and linguistically diverse (CALD) and Aboriginal community-controlled organisations
- legal practitioners, court staff, police and other practitioners working in the justice field.

Questions explored during the focus groups and interviews broadly concerned the extent to which practitioners encountered AVITH in their day-to-day work; the co-occurring issues with which families experiencing AVITH presented; and the legal system interventions that families experienced and the consequences of these; as well as any examples in which this intervention from the legal system had garnered positive results. The 25 focus groups and seven interviews were followed by workshops in each jurisdiction to test and further inform the project’s findings. Workshops were held to present the interim findings and themes identified by the researchers and to provide an opportunity to “reality test” and reflect further on them with practitioners, as well as to test the accuracy of the researchers’ overall understanding of how different systems—legal, welfare, youth services etc.—were intersecting (or not intersecting) in response to AVITH.

Complementing this qualitative approach were de-identified data from Victoria Legal Aid (VLA) involving 4965 services provided to 905 adolescents, either in civil protection order matters or protection order breach matters. The VLA administrative data were provided separately by VLA and provide descriptive statistics about the nature of the cohort with AVITH-related legal cases in Victoria. A separate mixed methods review of 385 court and legal case files from across the participating jurisdictions was also undertaken. This review included files from each Legal Aid body in the relevant states, as well as the Children’s Court of Victoria, a Community Legal Centre servicing children and young people in Victoria, and the Magistrates Court of Tasmania. A detailed file audit template was developed and adapted to the legal context of each jurisdiction with the help of project partners.

Case studies based on the file reviews and practitioner focus group and interview data were then developed and feature throughout this report. The composite case studies do not reproduce the “story” of any one individual’s case but are constructed by amalgamating different features that were observed across multiple cases by practitioner participants, with careful attention paid to avoiding possible risk of re-identification.

A significant limitation of the research was that it did not include the voices of adolescents or families with lived experiences of AVITH. This was in part due to the project constraints and because the PIPA team first wanted to explore the system response from a policy and practitioner perspective. The lead organisation, the CIJ, has flagged further work to explore the experiences of adolescents and young people, as well as the merits of potential reform.

Key findings and the relevance of legislative and policy contexts

The PIPA team found that adolescents were experiencing an initial legal response in relation to their use of family violence in a range of very different ways. For example, in Tasmania AVITH is not formally identified in the context of family violence policy, given that relevant legislation only recognises intimate partner violence committed by those aged 16 and over. Despite this behaviour missing from the legislative definition, however, we found that adolescents in Tasmania were experiencing a civil legal response for their use of violence against family members via generic civil restraint orders. This included being excluded from the home by police and being propelled a step closer towards criminal justice system involvement as a result. These children and the responses they were receiving were therefore invisible to family violence policy settings and any accompanying service support or risk assessments simply because their behaviours were not responded to in a specific family violence frame.

In WA, AVITH was captured within legislative definitions, which had recently been expanded at the time of data collection (mid-2017). It appeared to be somewhat invisible to the legal system however, because broader offending behaviour seemed

more likely to be the focus. In WA, therefore, the PIPA team found that adolescents were experiencing a short-term police response and/or being subjected to criminal charges that did not, on face value, relate specifically to their use of family violence. A review of case file narratives, however, revealed that family violence—both used and experienced by the child—was a significant feature of some of these children’s lives and had likely contributed to or fuelled their criminal justice system involvement. These children, therefore, were also invisible in terms of policy response and our understandings of prevalence.

In Victoria, where the issue of AVITH has been identified and recognised in legislation for some time, case file audits suggested that perhaps the opposite scenario had been occurring. There we found and heard about cases being brought before a court, and children being made the respondents to protection orders, in circumstances that would arguably not fit the legislative definition of family violence.

In 47.4 percent (n=66) of the Victorian case files reviewed, the researchers found evidence of the adolescent having a diagnosis that, in combination with social or environmental barriers, would equate to psychosocial or cognitive disability. The researchers found that in 23 percent (n=32) of the Victorian cases, the disability or combination of disabilities was likely to be significant enough, in combination with other factors such as age, to impact the adolescent’s capacity to comprehend or comply with the condition of protection orders. A note of caution is necessary in reporting this figure, recalling that the researchers’ analysis is based on case narratives that are mostly provided by police applicants and, in turn, informed by details predominantly provided by the victim/survivor, who is known as the affected family member (AFM).

For example, in some cases, the AFM would overtly state that they believed that the adolescent respondent’s behaviour was amplified by a disability and the primary driver of the incident was perceived as lack of support or treatment. In other cases, the use of violence may have appeared to have been addressed upon the adolescent receiving mental health treatment during an adjournment period, suggesting that

mental health issues were indicated, while in others again, the police may have expressed their own view that the young person had difficulty regulating their own behaviour due to disability but with no further information on file. It is likely that this information would be reported in the Family Violence Intervention Order (FVIO) application to the extent that it was perceived as relevant to the application. This means that, in some cases, the impact of disability might even have been overstated or emphasised by a party for various reasons, while in other cases, the extent and impact of disability may have been wholly unacknowledged.

Nevertheless, it is clear that some adolescents who may not have the capacity to comprehend or comply with orders were being made respondents to protection order applications. Further to this, some files featured adolescents who were the victims/survivors not only of previous but of *ongoing* family violence in their current home environments. In a handful of cases we found that the system was being used as a tool to perpetuate the abuse—and therefore the system was inadvertently colluding in, rather than addressing, risk to children. While Victorian criminal justice data for more than a decade have pointed to a consistent rate of adolescents being identified as perpetrators of family violence—either through police reports or as respondents to protection order applications—these findings indicate that justice statistics may only signal who is experiencing a family violence *legal response*, not who is using or experiencing family violence.

More broadly, the PIPA research indicated a wide diversity of co-occurring issues and scenarios in the lives of adolescents experiencing legal responses for their use of AVITH. Unsurprisingly, given that the PIPA research involved review of legal case files, physical assault was a substantial feature, with particularly severe levels of violence present in the case files in Tasmania. This perhaps indicated that matters reached high levels of severity and that families experienced very little support before their situations came to the attention of the legal system.

The PIPA team's findings also confirmed what other studies regarding AVITH indicate—that the gender breakdown of AVITH perpetration is slightly less gendered than in the profile of adult intimate partner violence. Equally, they indicate that AVITH remains highly gendered in terms of

victimisation, with the vast majority of victims/survivors in the case files being female. Some case file audits, however, revealed cases of girls experiencing legal responses for the use of quite significant physical violence. Practitioners in turn told us that this was likely to be related to childhood trauma and girls' prior experiences of severe violence themselves, and that girls may be more likely to experience a legal response for the use of *any* violence than boys, whose violent behaviour may be more likely to be dismissed.

Case files revealed the presence of alcohol and substance abuse, as well as mental illness, in a substantial minority of cases. This included children being taken by police to a mental health facility in a hospital emergency department. This emerged in a variety of contexts, however, including as a source of conflict, rather than a direct contributor to the use of violence itself. Further, case files and practitioner observations suggested that in some instances parents were nominating their suspicions of alcohol and substance abuse, or mental illness, as reasons for their children's behaviours when they may have been more likely related to trauma. For this reason, the PIPA team did not make specific findings in relation to issues of alcohol and substance abuse, or mental illness.

Practitioners and case files did indicate a strong link between AVITH and school disengagement—an issue that functioned as both a signal of AVITH, as well as a contributing and compounding factor. Further, and as mentioned above in relation to the Victorian case files, the presence of neurodevelopmental and cognitive impairment featured significantly across the case files and practitioner observations in all jurisdictions. To this end, families often experienced adolescent use of violence in isolation, including for fear that reporting violence would risk criminalising their adolescents or having other children removed by child protection.

A significant finding of this research, therefore, is that child protection regimes in all three jurisdictions do not have a frame through which to address the use of family violence by adolescents. The PIPA team heard in all three jurisdictions that child protection authorities were not equipped to respond to the needs of children in adolescence. Authorities were also more likely to remove younger siblings in situations where adolescents were using family violence than to respond

to the adolescent's behaviour and put appropriate services in place to keep the whole family safe. This was, unsurprisingly, a particular concern in Aboriginal and Torres Strait Islander communities, for whom the involvement of statutory child protection authorities, and legal system agents more broadly, carried an additional layer of compounded trauma and fear. To this end, the PIPA team heard that Aboriginal and Torres Strait Islander families were especially unlikely to seek legal system intervention for an adolescent's use of violence at home. As such, practitioners described an acute need for community-led and whole-of-family support earlier in children's lives to avoid the intervention of legal and child protection agencies at a later stage.

In CALD communities, the PIPA team heard that AVITH was also very unlikely to be reported and was not widely recognised as a concept. The case file audits did not enable us to make specific findings about prevalence or particular patterns in CALD communities. We were therefore reluctant to make findings that homogenised families from CALD communities when, on legal files, information was not available to indicate whether they were from established, newly arrived or refugee populations. Rather, we heard that a range of factors—including trauma from the migrant or refugee experience—may be far more relevant to the perpetration of AVITH than particular cultural factors.

To this end, an overarching finding of this research is that an adverse childhood event—or, as the PIPA team and participating practitioners referred to such events, trauma (including intergenerational trauma)—was one of the single biggest contributors to the use of AVITH by adolescents in all three jurisdictions. This included “social learning” by virtue of being exposed to intimate partner violence perpetrated by one parent—usually a father—against another; an adolescent may then assume the perpetrator's role once the parents are separated, as existing literature describes. It also included a strong theme of trauma impacting children's ability to learn, communicate and regulate emotions and behaviour—as well as their ability to understand or comply with legal orders. Here practitioners described (and case files indicated) a failure to respond to the presence of family violence early in children's lives, with trauma then contributing to a range of challenges as these children grew into adolescence.

More broadly, the PIPA team's findings indicated that, across all three jurisdictions, families were experiencing AVITH and co-occurring issues with very little service support. In fact, the palpable need that practitioners described among families with whom they worked spanned lifetime—and sometimes intergenerational—trajectories, rather than being limited to when behaviour that might be described as AVITH became visible to the legal system.

Accordingly, our findings indicate that much earlier intervention is required in the lives of children experiencing family violence, with practitioners across all three jurisdictions telling us that any intervention that responds specifically to AVITH is “coming 10 years too late”.

Where interventions are directed specifically towards adolescents, however, our findings also point to the need for a substantial shift in the way that services are delivered—with services needing to emphasise approaches that build trust and engagement over the long term, that work on an outreach (rather than a compliance-based) model and that offer whole-of-family support.

Given that contact with the legal system should be a last resort, improvement in these broader service systems, including efforts to prevent school disengagement, will likely reduce families' needs for legal intervention. Where intervention by police and courts does occur, the project findings indicate that much more work is needed to increase flexibility and the use of discretion by police. The PIPA team heard that police “carry the risk” when called to an incident of AVITH, but often feel that they have no options or framework within which to respond. For example, in Victoria almost a third of adolescent respondents to protection orders were excluded from the home on an interim order. With an almost complete lack of crisis or alternative accommodation for adolescents perpetrating AVITH, however, case files indicated that police appeared to have no option but to place adolescents with a grandmother, a separated father, or a girlfriend—in turn, shifting, dispersing or displacing risk rather than addressing it. Further, the PIPA team heard that, where adolescents were placed in crisis accommodation or residential care in relation to their use of violence at home, they were often swiftly excluded from the crisis accommodation for their use of violence against other residents or staff.

Similar to themes found across service responses, the PIPA project's findings signal a need for much closer interrogation of the circumstances of adolescents and families when a protection order application reaches court. Case files reviewed showed that adolescents were often respondents to applications in which they were not legally represented, and in which they often did not attend court themselves. Despite this, protection orders were being imposed on children without any legislative requirement for assessment of their capacity to understand or comply with the order, or any assessment of the risk that they or their family may face. In some circumstances, contact with the legal system and, in particular, a duty lawyer at court offered the only opportunity a child had felt able and safe to disclose their own experiences of violence—with lawyers then constrained from revealing this information if it was contrary to the instructions of their young clients.

In some situations, however, this opportunity to disclose their experiences—and to have their voices heard—functioned as a positive intervention in adolescents' lives, with interaction with the legal system then connecting adolescents and their families with much-needed services and support. Rather than being the norm, however, the PIPA team found this to be the exception. Emerging examples of promising practice and innovation therefore feature towards the conclusion of this report as a signal of the approaches that service and legal responses to AVITH may adopt in the future.

Implications and directions for policy-makers

This report makes recommendations to support improvement across three varied legislative and service contexts. Specific recommendations are made in relation to each participating jurisdiction (but could be relevant to other Australian jurisdictions). In summary, implications for policy-makers include the need for state, territory or, where relevant, federal governments to:

- Invest in the development of expertise in AVITH across family violence and other relevant service sectors, such as disability and mental health, and incorporate capacity to respond to AVITH in common risk assessment and management frameworks.
- Make public legal assistance available to child respondents to civil protection orders.
- Ensure that considerations regarding the capacity of child respondents are taken into account in civil protection order applications, including through legislative reform.
- Ensure that whole-of-family risk assessments occur at the point of contact with police in relation to AVITH, as well as courts and other service intervention.
- Conduct a comprehensive audit of civil order protection court files to determine the extent to which AVITH is apparent but has been slipping under the legal system's radar.
- Consider the use of therapeutic treatment orders to respond to AVITH in cases featuring adolescents with complex needs and increase the availability of ecological approaches that work with whole families and respond to families' needs outside of business hours.
- Develop police and child protection frameworks that set out distinct considerations in relation to AVITH, as compared with adult-perpetrated intimate partner violence.
- Support the development of strengths-based and community-led interventions that respond appropriately to AVITH in Aboriginal and Torres Strait Islander communities, as well as CALD communities.
- Develop evidence-based and trauma-informed AVITH-specific interventions that include capacity for outreach, case management and restorative engagement and that work with children individually where conversational group work is not appropriate.
- Invest in crisis and long-term accommodation options specifically related to AVITH and linked to therapeutic supports.
- Support schools to develop policies that prevent school disengagement.
- Invest significant policy attention and inquiry into the disproportionate rates of children with neurodevelopmental and cognitive impairment in criminal justice system settings, including universal screening for neurodevelopmental and cognitive impairment, as well as recognition for the purpose of eligibility for the National Disability Insurance Scheme.

Recommendations across all jurisdictions for greater recognition of disability and trauma among children who come into contact with legal systems recognise the false economy of failing to support children and families earlier in life, only to incur increasing cost later. The PIPA team acknowledges that implications for policy-makers in this regard are substantial but involve a shift designed to prevent harm and ultimately save resources.

Implications and guidance for practitioners and service providers

Along similar lines, implications for practitioners and service providers involve efforts to increase understanding of AVITH across all human service practice areas and, in summary, include:

- greater focus on the importance of recognising AVITH and its complexities—including the potential presence of undiagnosed trauma and disability—within mainstream family violence sectors
- increased awareness of family violence within the disability sector (rather than providing services in silos or leaving families to grapple with their experiences in isolation);
- greater focus on, and capacity building for, whole-of-family service provision
- development of capacity and capability for long-term, outreach-based engagement with adolescents, rather than service provision within constrained timeframes and compliance-based models
- improved links with schools and other service interventions, including publicly funded legal services, as well as community-led responses in CALD and Aboriginal and Torres Strait Islander communities
- improved local networks that develop shared understanding and referral pathways between legal, child protection and community service interventions
- increased focus on early intervention in childhood experience of trauma and violence.

Uptake of these recommendations will require a significant shift in the way practitioners and service providers approach their work with families across the spectrum of human service settings. Again, however, they are likely to have a tangible impact on the demand that these service settings ultimately face over the longer term.

Conclusion

Across all three jurisdictions, the PIPA team found that legal responses may not be addressing the objective of reducing risk to families; rather, they may be shifting, dispersing or displacing it. In particular, we heard that the primary driver of the current legal response in Victoria may be management of risk to the *system*, rather than risk to those experiencing harm.

The complexity and challenges revealed throughout the project indicated that, while families experiencing AVITH continue to need appropriate recognition and support, policy-makers may be further from understanding the prevalence and nature of this problem than we had thought. Meanwhile, the nature of legal responses may be deterring families from reporting—and therefore limiting our capacity to understand the problem’s true scale.

Equally, the variation and complexity apparent in the PIPA research does not mean that AVITH should not be receiving a strong and supported response, or that we should abandon the objective of young people taking responsibility for their behaviour. Rather, our response should acknowledge that a blunt response designed to address adult intimate partner violence—which potentially then leads to responses in youth justice settings—is unlikely to be useful in the context of such complexity, and in the context of families’ needs for holistic support.

The PIPA team hopes that its findings and analysis can contribute to a more nuanced understanding of this very complex issue—as well as to the development of a considered legal response, rather than one which is, currently, highly simplistic. Rather than a blunt, “one-size-fits-all” approach,

families experiencing AVITH in *any* of its diverse and complex manifestations require a response that links them with necessary support and, as a result, functions as a positive intervention that can ultimately increase safety and reduce risk for all family members, including adolescents who may be using and experiencing family violence. Just as importantly, adolescents using violence—as well as families who are experiencing it—require a policy landscape that not only holds them to account for their behaviour, but also holds the *legal and service system to account* for the response that is ultimately imposed.

Introduction

Background to the PIPA project

The PIPA project had its inception in earlier work, conducted by the CIJ, which examined the perpetration of family violence more broadly (CIJ, 2015). Focusing on opportunities for earlier intervention through the mechanisms of the legal system, the work occurred prior to the Victorian RCFV and at a time when legal, community and specialist family violence practitioners reported that AVITH was an area of real concern but that it lacked a considered legal response or an opportunity to craft one (CIJ, 2015).

A finding from this earlier work was that further research was needed in order to contribute to the development of a considered legal response. This call was echoed in a report by the RCFV during 2016 in a chapter dedicated to AVITH, which brought the subject firmly into the remit of the mainstream family violence policy landscape (State of Victoria, 2016a). Indications from practice and research colleagues from interstate then signalled that this was also a strong area of interest in other jurisdictions, albeit in very different practice, policy and legislative contexts (Moulds et al., 2018), with no settled definition or policy approach. This variation, as well as an evolving evidence base, means that a nationwide study remains highly desirable. Pragmatic considerations relating to project timeframes and budget, however, meant that the PIPA research needed to focus on conducting a closer examination of a targeted sample of jurisdictions. This included harnessing those initial indications of interest, as well as capturing the variation across jurisdictions to the most useful and illustrative extent.

Accordingly, practice and research partners from very different legislative and policy settings were sought to assist in understanding these varied environments. The work was led by the CIJ but informed by researchers and practitioners with experience in these contexts (the PIPA team). The PIPA project's focus on Victoria, WA and Tasmania is therefore about understanding how contrasting settings can influence the way in which AVITH is made visible, as well as the legal and associated service response that it receives.

It is important to note that, from the outset, pragmatic considerations also meant that the project needed to focus on areas that had received less attention in the existing research and that responded to the initial objective identified in the CIJ's earlier work (CIJ, 2015). Viewing the research as the first step in an ongoing line of inquiry, the PIPA project therefore sought to understand how practitioners across a wide range of service and legal settings were encountering AVITH as it came in and out of contact with the legal system, or was at risk of doing so. The project then sought to complement this through a comprehensive review of legal and court case files that could interrogate more deeply what happened when this legal system contact did occur. The objective was that this would provide the foundation for further and crucial research (which the CIJ is preparing to conduct in the near future) with adolescents and young people who have experienced this legal system contact. The intention is that the findings of the PIPA project can ultimately be tested with those whom the legal system response most directly affects.

The implications of conceptualisations

As noted above, AVITH has been an under-examined area of family violence policy until relatively recently (State of Victoria, 2016a). Moulds et al. (2018) have identified that no settled definition of AVITH exists and that service and legal responses vary across Australian and international contexts. Importantly, however, various service responses have operated across the Australian landscape, both in community-based and youth justice settings, and are contributing to the still emerging evidence base concerning effective interventions (Moulds, Malvaso, Hackett, & Francis, 2019).

Available evidence regarding the Australia-wide prevalence of AVITH (Moulds et al., 2018; State of Victoria, 2016a) signals the need for greater investment and intervention overall. Arguably, however, the lack of considered responses is particularly surprising in Victoria, where a broad legislative definition, accompanied by consistent police data over several years, has indicated that around 10 percent of respondents to police family violence callouts are young people aged 19 years or younger (State of Victoria, 2016d, p. 150) and that

7 percent are children aged 17 years or younger (Crime Statistics Agency [CSA], 2018a).⁴ Further, for a number of years, children 17 years or younger have represented around 4 percent of respondents in intervention order applications across the Children’s Court and Magistrates’ Court of Victoria overall (CSA, 2018b; State of Victoria, 2016d, p. 151), though such applications appear to make up three-quarters of intervention order applications in the Children’s Court of Victoria alone (Crime Statistics Agency, 2018b).⁵

Arguably, therefore, these figures have been pointing to the need for a specific response to the use of family violence by young people for some time. This is particularly the case when collectively we know that so much family violence of *any* kind remains unreported (Australian Bureau of Statistics [ABS], 2016; Boxall, Rosevear, & Payne, 2015a; McPhedran & Baker, 2012). The way in which these figures have been reported in the media (and understood in policy circles) has perhaps deflected recognition of this need—sometimes conceiving the young people concerned as akin to adult perpetrators of family violence or, on occasion, as akin to generalised violent offenders (Mills, 2017). This has potentially been influenced and compounded by community and media anxiety around perceptions that “youth justice” issues are posing an increased risk in Victoria (Bucci, 2016) as much as it has been influenced by broader attempts to understand the complexity and prevalence of family violence overall. Either way, this has arguably resulted in tension in the policy objectives concerning AVITH, with little deeper inquiry into whether the current activity of the system will achieve these aims. For example, the RCFV noted that current practice reflects “the legal status of children and young people as minors” (State of Victoria, 2016a, p. 158). As such, it observed that police cannot issue an immediate police order (known in Victoria as a Family Violence Safety Notice, or FVSN) against children (as they can against adults), but must instead apply to a court for an FVIO. It also noted that the Victoria Police Code of Conduct recognises that adolescents using family violence may be especially vulnerable (State of Victoria,

2016a), as does the more recently revised Multi-Agency Risk Assessment and Management framework (the MARAM) (Family Safety Victoria, 2018). This framework requires prescribed organisations to align their policies and practices to the framework and recognises adolescent family violence as a distinct form of family violence (Family Safety Victoria, 2018).⁶

The RCFV did not have the opportunity to explore the fact that the Code of Conduct does not describe how police *practice* should therefore differ in the face of adolescent vulnerability. Nor did it interrogate the fact that, once an application for an FVIO has been made by police to a court, the implications of the order—and the extent to which police will seek one—are essentially the same as they are when adult respondents are involved. This means that while some caveats or qualifications do exist in relation to the use of family violence by adolescents, the broad definition of family violence in Victorian legislation ensures that the one-size-fits-all *response* to violence has remained. As the PIPA project’s findings signal, this may mean that children and young people are being captured by this response in ways that do not reflect the policy expectation that their vulnerability will be recognised and taken into account.

In WA, by comparison, the definition of family violence and the accompanying legislative response was expanded at a comparatively later time, with reforms coming into operation in mid-2017. As the majority of the PIPA project’s data collection in WA occurred shortly after the middle of 2017, this meant that the data examined in this jurisdiction involved cases occurring under the previous legislative framework. Nevertheless, the research revealed that children were being caught up in a legal response—including, in this context, via immediate police notices, as well as civil Violence Restraining Orders (VROs) and criminal justice responses. However, the research suggests that civil mechanisms are not used to the same extent and are far less driven by police than in Victoria.

4 This is the PIPA researchers’ basic calculations based on the figures that are published in the Crime Statistics Agency (CSA) data sheet 7 (CSA, 2018a) from 1 July 2013–30 June 2018. The CSA data sheets are not data collected by the PIPA researchers themselves.

5 Based on the PIPA researchers’ analysis drawn from data sheet 17 (CSA, 2018a).

6 The MARAM defines an adolescent who uses family violence as “a young person who chooses to use coercive and controlling techniques and violence against family members, including intimate partners” (Family Safety Victoria, 2018, p. 54). The framework also acknowledges the co-occurrence of previous family violence victimisation and the importance of therapeutic responses (Family Safety Victoria, 2018, p. 54).

In Tasmania, where the definition of family violence only recognises intimate partner violence committed by those aged 16 and over, the PIPA team expected to find few similarities with the Victorian response. During the course of this research, we uncovered a cohort of children experiencing an equivalent legal response as a result of their use of violence in the home. However, this was responded to in the context of a generic civil restraint order response (sometimes also combined with a youth justice response, such as a prosecution or diversion), rather than being identified as family violence by the legal and service system infrastructure.

Across all three participating jurisdictions, therefore, a legal response primarily designed to address adult intimate partner violence—or, in the case of generic restraint orders, other adult disputes—is being imposed on children. This presents a tension even when these responses are administered by youth or Children’s Courts, including Magistrates Courts sitting in the youth jurisdiction, particularly in the civil context where fewer protections exist. Further, the PIPA project identifies how the imposition of a legal response—including a civil one—may become an end in itself, used for the purposes of averting risk posed to the *system* and for formally “holding someone to account”, rather than a means towards genuinely improving safety and reducing risk. This distinction is important. Across interventions in family violence more broadly, researchers and policy-makers are coming to understand that referral to a program or the imposition of a legal sanction does not, on its own, automatically equate to “perpetrator accountability” or victim/survivor safety (CIJ, 2016; Spencer, 2017). In some cases, in fact, the implications of a rigid response without surrounding supports and scrutiny can *escalate*, rather than address, risk (CIJ, 2016). This means that the focus of legal and service responses needs to shift from system activity to system *effectiveness*—debunking assumptions that intervention for intervention’s sake will improve the safety of family members and reduce risk of further, or escalated, use of violence by the adolescent or, potentially, other family members.

Challenging assumptions and identifying paradoxes

The PIPA research has encountered many challenges and, in turn, challenged many of the PIPA team’s assumptions. That we could build on existing data to improve knowledge about the prevalence of the use of family violence by adolescents was one such assumption, particularly when—as Chapter 1 of this report discusses—there is such variation in justice, clinical and social science samples. The expectation that the simple recognition (in relevant legislative definitions) of the use of family violence by adolescents was the first step towards best practice was another debunked assumption, as this report explores in depth.

A further challenge that the PIPA team encountered was how to reflect and report on this diversity without displacing a focus on gender. This is because AVITH remains a highly gendered issue, particularly in terms of who experiences it, as well as (but to a lesser extent) who perpetrates it. Certainly, as the current state of evidence indicates and as this research confirms, the vast majority of victims of AVITH are women—either as mothers (often sole parents) or as siblings of the perpetrator (Routt & Anderson, 2011). As this research also confirms, the majority of perpetrators of AVITH are male, although the gender breakdown is less stark than in adult perpetration (Condry & Miles, 2014; Holt, 2016b; Howard, 2015; Routt & Anderson, 2011).

Just as importantly, AVITH is also highly *structurally* gendered in terms of the policy attention it has historically received. This is in part because most “parenting” labour in many families is still undertaken by women and because the relationships affected by an adolescent’s use of violence are therefore more likely to involve women as caregiver victims/survivors, as well as protective parents in relation to other siblings. The issue is also structurally gendered in terms of the burden that has been placed on those experiencing it to manage and police it, as well as the shame, stigma and isolation that so many of them feel (Moulds, Day, Mildred, Miller, & Casey, 2016; Howard & Abbott, 2013; Fitz-Gibbon et al., 2018).

In many ways, therefore, the profile of who experiences and who uses AVITH, as well as the structural factors that surround it, echoes the profile of adult family violence. This does not mean, however, that our response to the use of family violence by adolescents should be the same as the response to adult perpetration. As existing research and the RCFV (State of Victoria, 2016a) recognise, this is because important distinctions exist between adolescent and adult perpetration. These distinctions include the vulnerability of adolescents as compared with adults who perpetrate family violence, as well as the fact that the victim/survivor of their violence is often, although not always, legally responsible for them simultaneous to their victimisation, as discussed further below (Howard & Abbott, 2013). It is also because the dichotomy of victim/survivor and perpetrator for which our adult response is designed is likely to be significantly more blurred in the case of adolescents who use family violence. This is recognised in current evidence, which explores the better understood narrative about adolescents replicating behaviour learned from a parent (usually a father), which can be used as a mechanism to control family members and can leave parents and siblings in considerable fear (Fitz-Gibbon et al., 2018; Howard, 2015; Howard & Abbott, 2013; Howard & Rottem, 2008). This scenario can include children whose fathers are no longer in their lives or, alternatively, as the research team heard, children whose fathers are “coaching” children from the sidelines to undermine the mother-child bond and the mother’s authority in the child’s eyes (Douglas & Walsh, 2018).

As the PIPA research also indicates, however, use of violence may be a result of a response to childhood trauma, which an increasing body of evidence shows can lead to developmental delays and challenges with emotional and behavioural regulation (Anda et al., 2006). It may be a result of living with intergenerational chaos in which violence is the language that children have grown to understand (Douglas & Walsh, 2018). As our research additionally found, it may be the result of a child’s resistance or response to neglect or emotional abuse that is *still* occurring in the home, but which may be unseen by the service and justice system.

Alternatively, violence in the home may be perpetrated by children with significant disabilities or complex needs (Fitz-

Gibbon et al., 2018; Douglas & Walsh, 2018; Pereira et al., 2017). This may co-occur with a child’s victimisation in some cases, but in others it may not. In either situation, this does not diminish the child’s vulnerability. Furthermore, while the use of violence may be directly related to a child’s lack of capacity to regulate their actions, or a heightened response to external stimuli, this does not diminish the way in which families experience this violence. What it *may* do, however, is make these families even more reluctant to call the police. This means that, for example, a mother experiencing controlling behaviour from her 16-year-old son who has autism spectrum disorder (ASD) may be just as isolated from service assistance as a mother whose 16-year-old son is replaying his father’s violence. In either case, mothers may feel stigmatised by the service system, while fathers may remain less visible either because they are not the primary caregiver (and therefore not bearing the brunt of an adolescent’s behaviour), because they do not live with the adolescent or because they do not interact as frequently with the service system (Fitz-Gibbon et al., 2018).

By replicating the power enacted upon victims/survivors of family violence by another perpetrator, a response to gendered violence can inadvertently render the needs of victims/survivors invisible. In some cases, it also imposes the only tools at the system’s disposal on a *child*, while an adult perpetrator remains out of sight. In situations where the abuse of a former partner is replicated by an adolescent child, for example, this response by the justice system may compound the existing trauma of a victim/survivor of intimate partner violence or collude in the victim/survivor’s isolation. In cases where a family is grappling with violence from an adolescent living with complex needs, the imposition of an inflexible legal response on a child who cannot possibly hope to understand an order, let alone comply with it, tells this family—like so many experiencing family violence before them—that this experience does not matter.

Further, when mandatory reporting to child protection authorities only leaves either the adolescent or, as the PIPA team heard, the family’s other children vulnerable to removal, families are even less inclined to seek service system help (Fitz-Gibbon et al., 2018). Finally, situations where, as the PIPA team found, children are “held to account” by the legal

system for their resistance to continuing violence from a parent are the ultimate form of collusion in an adult perpetrator's abuse, and potentially leave vulnerable children at greater risk as a result of state intervention.

In many ways, the legal and service response to AVITH represents a policy paradox. This is due in part to the fact that, where a child is identified as using violence, our various legal and service system processes expect the person who may often be most directly impacted by the violence (or protecting other family members from this violence as well) to be responsible for the child's behaviour, for the child's welfare and for the child's capacity to comply with any orders that have been imposed or services that have been offered (Cottrell & Monk, 2004; Howard, 2011; Howard & Abbott, 2013; Howard & Rottem, 2008). In other words, it expects victims/survivors to help to hold their young perpetrators to account.

This paradox also involves the fact that, while many children who use family violence are victims/survivors themselves, service and legal systems are designed to deal with people either as victims/survivors *or* as perpetrators, but rarely as both. The PIPA team heard that this means that, once a child attracts the label of "perpetrator", they can potentially be precluded from supports that might assist in relation to their own experience of violence or other co-occurring issues. Equally, in some contexts, they may be turned away from crisis accommodation or out-of-home care because of their use of violence against others, or from respite care despite their family's urgent need.

For all these reasons, the PIPA team uses the word "perpetrator" with caution throughout this report, cognisant of the implications of imposing this label on children and their families alike. In the majority of cases, therefore, expressions such as "adolescent using family violence" are preferred. This is not to detract from the very real fear of those experiencing AVITH, but to acknowledge the vulnerability and to meet the policy expectation in other contexts, and from the RCFV, that children will be treated as minors.

Structure of the report

Chapter 1 of this report scans the current state of knowledge concerning AVITH, including the development of different definitions and how these are relevant to the context in which they are used. It also discusses how the samples from which data are drawn may be having a significant impact on the way in which current understanding around AVITH functions, including understanding around prevalence. Finally, it describes the limited but promising evidence concerning current therapeutic responses to AVITH in the community.

Chapter 2 outlines the methodology used. This was ultimately a mixed methods, iterative approach in which purely qualitative research (focus groups and individual interviews) with 157 practitioners who come into contact with AVITH in their work was combined with administrative data from VLA relating to services provided to 905 adolescents, as well as a quantitative and qualitative review of 385 court and legal files to develop a richer understanding of cases involving children experiencing a legal response for their use of family violence, as well as how this legal response unfolded.

Chapter 3 describes the diverse legislative and service provision landscape in the participating jurisdictions, being Victoria, WA and Tasmania. This includes an outline of the relevant RCFV recommendations specifically directed at AVITH, and a discussion regarding their progress in terms of implementation at the time of writing.

Chapter 4 explores the diversity of scenarios and complexity that emerged from the research—particularly in relation to the case file audits—which prompted the PIPA team to challenge some of our previous assumptions about what we were going to find, as well as what we were likely to conclude from the project. Accordingly, this chapter notes that this variation in cases initially prompted the PIPA team to categorise cases according to their most significant feature. Given the intersecting issues involved in each case—as well as potentially incomplete data on case files—the PIPA team ultimately decided that categories or typologies of cases were not helpful in terms of understanding or responding in a context of such complexity.

Chapter 5 explores one of the themes that arose especially prominently throughout the research, being the prevalence of children with psychosocial disability who were experiencing a family violence legal response. This chapter discusses the findings of the case file audits in this particular regard, complemented by focus group discussions and analysed in the context of consideration about the implications of deficit, as opposed to strengths-based, approaches. This chapter also reflects on the implications of legal responses for children with disabilities and the impact that these can have on their families' capacity to report or seek help.

Chapter 6 discusses perhaps the most prominent theme that emerged from the research, at least in the context of focus groups discussions. While not as prominent in the case file audit findings because of the nature of the information recorded on court and legal files, the experience and resulting impacts of trauma on children was raised almost universally by practitioners in the three participating jurisdictions and was sometimes starkly signalled in the case file narratives. This topic—and the extent to which practitioners believed that the vast majority of the clients with whom they worked had experienced family violence or other trauma—was then contradicted in part by some practitioners spontaneously raising the concept of children's "entitlement". The chapter notes the tension between this concept and what practitioners considered to be the reality of most of their client base, highlighting again the relevance of samples from justice contexts rather than clinical or community sources.

Chapter 7 highlights the impact of service and legal responses on specific communities, identifying the way in which service availability, as well as issues of distance and resourcing, can impact on a response. The relevance of AVITH conceptualisations to CALD, as well as Aboriginal and Torres Strait Islander, communities is also discussed—highlighting that community-led and developed responses are essential, and that assumptions should not be made about use of responses developed in one context but implemented in another.

Chapter 8 explores wider service system support and availability more generally. In doing so it does not seek to interrogate the value or otherwise of existing AVITH-focused

interventions, but instead highlights how the operation of certain service responses can not only impact on the reporting of an issue but on the effectiveness of any legal or related service intervention. In particular, it discusses the intersection of child protection responses and the failure thus far of these authorities to identify the issue of AVITH and develop an appropriate or nuanced response (Appendix A provides a high-level overview of statutory child protection responses). It also discusses the way in which time-limited, compliance-based service responses are ineffective in the context of working with children and young people who are only likely to respond to relationship-based outreach support that can be offered over an extended period of time. This is particularly relevant where trauma is such a prominent feature of children's lives, as noted in Chapter 6, and where attachment and trust are therefore likely to present significant challenges for the clients with whom services are working.

Chapter 9 moves to a discussion of police responses to AVITH and highlights the way in which current risk-averse and non-discretionary approaches may be entrenching harm to adolescents and their families, rather than addressing it. This includes the challenge faced by police when they are presented with an immediate risk to family members but have nowhere to place an adolescent where the placement does not simply disperse or displace the risk for a period of time, if not escalate it further. Reinforcing the findings from Chapter 8 regarding relationship and outreach-based approaches, this chapter also discusses the value of proactive and youth-focused policing responses in this context.

Chapter 10 explores the impacts of court responses, including the implications of interim orders that formalise the exclusion of an adolescent from the home. The chapter also considers the capacity of children to understand and comply with civil orders and compares and contrasts this with requirements to consider children's capacity in criminal justice contexts. Here the PIPA team has also endeavoured to highlight promising indications of approaches that can make a positive difference. This includes an example of promising practice and innovation concerning the implementation of a specific recommendation from the RCFV, as well as an informal example of good practice that was reported to us during the course of the project.

Chapter 11 offers further discussion of the themes and findings from the research, as well as reflections on the reasoning behind the project recommendations that follow. This includes flagging where certain areas have either not been the subject of specific recommendations, or where the recommendations have remained at a fairly high level, given the underdeveloped context of some service and legal system landscapes.

Current state of knowledge and challenging understandings

Chapter 1 scans the current state of knowledge concerning AVITH, including the development of different definitions and how these are relevant to the context in which they are used.

It also discusses how the samples from which data are drawn may be having a significant impact on the way in which current understanding around AVITH functions, including understanding around prevalence. Finally, it describes and discusses the relatively limited evidence regarding the more commonly used service responses to AVITH, noting their limitations in some contexts. By way of contrast, it also describes an evidence-based model that has conventionally been used to respond to other forms of interpersonal offending by children and young people. This chapter focuses on the current state of knowledge in relation to AVITH specifically, while other chapters feature current evidence regarding associated issues.

This chapter explores what existing research and literature reveal about AVITH. An initial narrative literature review, aimed at assisting the researchers to describe and discuss the state of knowledge regarding AVITH (Baumeister & Leary, 1997), was conducted in early 2017 and concluded on 26 April 2017, prior to data collection commencing. In taking a topical approach, the narrative literature review informed the development of the focus group topic guide and initial research questions and themes.

Search strategy

The state of knowledge review was produced by conducting searches of the following databases:

- Attorney-General's Information Service (AGIS Plus Text)
- Australian Criminology Database (CINCH)
- Australian Criminology Database—Aboriginal and Torres Strait Islander Subset (CINCH—ATSIS)
- Health Issues in Criminal Justice (CINCH-Health)
- Australian Public Affairs Full Text (APAFI)
- Australian Public Affairs Information Service—Aboriginal and Torres Strait Islander Subset (APAIS-ATSIS)
- Australian Family & Society Abstracts Database (FAMILY)
- Australian Family & Society Abstracts Database—Aboriginal and Torres Strait Islander Subset (FAMILY-ATSIS)
- Families & Society Collection.

Boolean logic⁷ was used to connect and combine multiple key terms, including adolescen*, child, juvenile, parent, violence, family violence, domestic violence, abuse, perpetrator* and intervention*. No limit was placed on dates and non-English publications were not reviewed. The studies that were returned that related to child sexual abuse, adult intimate partner violence, disability and general youth offending were not included in this initial search as the objective of the narrative literature review, prior to data collection, was to identify, describe and understand literature specifically regarding the perpetration of family violence by adolescents, as well as specific service responses to this phenomenon. This included some consideration and description of the quality of each study reviewed.

Over the life of the project, however, many relevant references were ultimately identified outside this initial search via a snowball approach, which entailed following references in key texts, and through further reading recommended by PIPA project partners, experienced practitioners, active scholars in the field of family violence research, and members of the PIPA project steering committee. This snowball approach responded, in particular, to the complexity and diversity of circumstances that were emerging from the research findings.

The field of research into AVITH, as well as justice responses to family violence and perpetrator accountability more generally, continues to grow. Policy and practice have also

⁷ A means of linking search terms with the words "or", "and" and "not" in order to target and refine search results.

evolved during the life of the project. Therefore, a number of references are also made to material published subsequent to the initial literature review. In particular, the examination of legal case files—and therefore narratives about adolescents who have come into contact with the legal system as a result of their use of family violence—provides an additional perspective to what is known from the bulk of existing literature, as it explores the experience of a certain cohort of young people who do not generally feature in the bulk of previous research. As such, the PIPA project seeks to complement existing research, or to add a further chapter to the emerging AVITH story.

What is AVITH?

When considering conceptualisations of AVITH and any resulting implications for the responses that it receives, it is important to acknowledge that there is currently no consensus definition of the phenomenon, either at a national or international level (Moulds et al., 2018). This is due in part to variation or difficulty in clearly delineating the behaviour, the type of family relationships and the age group covered by “adolescence” when researching AVITH, sometimes referred to also as adolescent family violence or child-to-parent violence (Condry & Miles, 2014; Fitz-Gibbon et al., 2018; Simmons, McEwan, Purcell, & Ogloff, 2018). The absence of an agreed definition in turn has implications for the way in which prevalence, demographics and risk factors are understood. This section of the report briefly discusses the issues relevant to these debates. It then highlights the definitions that the PIPA team considers most relevant to this research and, in particular, the contrast between definitions of the phenomenon and the adolescents and behaviour to which legal systems appear to be responding.

To date, existing studies explain that AVITH usually involves a pattern (not an isolated incident) of violent or abusive behaviour used by an adolescent within their family, mostly against parents or other caregivers and siblings (Howard & Abbott, 2013; State of Victoria, 2016b). AVITH captures a non-exhaustive range of familial or carer relationships within the context of which violence may occur. This arguably makes AVITH a more overarching concept, encompassing but extending beyond specific descriptions like “child-to-parent”

or “adolescent-to-parent” violence, which are often favoured in international commentary and around which a distinct research literature exists (Agnew & Huguley, 1989; Condry & Miles, 2014; Cottrell, 2001; Cottrell & Monk, 2004; Holt, 2013; Kennair & Mellor, 2007; Miles & Condry, 2016; Simmons et al., 2018; Walsh & Krienert, 2007).

Violence towards siblings often accompanies child-to-parent violence, and children in the home can be significantly impacted by violence, even if it is not directed at them specifically. The impact upon siblings, however, has received less focused attention from researchers (Howard & Rottem, 2008; Stewart, Wilkes, Jackson & Mannix, 2006).⁸ Importantly, the concept of AVITH does not generally incorporate “dating violence” or intimate partner violence between adolescents, although connections are highlighted in this report (Izaguirre & Calvete, 2017).

For the purpose of the PIPA project, we restricted the definition of adolescence to children aged 10–17 years old. We acknowledge that some consider adolescence to extend beyond this point—especially from the perspective of neurological development (Bobic, 2004; Stewart et al., 2006). However, our definition reflects the fact that the data gathered in this research are drawn from a justice system context, in which 18 is the age of adult criminal responsibility. This age marks a shift to the adult jurisdiction, an area on which the PIPA research has not focused. Hence, because of this legal focus, the terms “adolescents” and “children” are used interchangeably in some cases throughout the report. This is because the researchers considered it important to highlight that, while family violence service system responses may focus on an individual perpetrator as an “adolescent” in terms of their physical size and chronological age, the law still regards that individual as a child.

That said, many of the findings and recommendations in this report could equally apply to young adults being dealt with in the adult criminal justice system. They may also be relevant for responses to violence used in early childhood, through to adult child-to-parent or elder abuse, which can appear on the continuum along which AVITH appears (Condry & Miles, 2014).

⁸ However, see Fitz-Gibbon et al. (2018) for a recent exploration of impacts upon siblings.

While AVITH is connected to these other forms of violence, however, it reflects particular features of adolescence, as well as the nature of relationships that adolescents have to family members. It marks a period of time when challenging behaviour, which may have previously been manageable or more readily overlooked, becomes frightening and uncontrollable as the adolescent becomes larger and stronger, perhaps disrupting an earlier power dynamic with previously all-powerful parents (Condry & Miles, 2014; Douglas & Walsh, 2018).

The behaviour denoted by AVITH, like other forms of family violence, may involve property damage, financial abuse, psychological and emotional abuse, physical intimidation and assaults (including sexual assaults).⁹ Powerful accounts from qualitative studies involving family members who have experienced AVITH describe constantly “walking on eggshells” in the home (Howard & Rottem, 2008, p. 18) or “living in a warzone” (Fitz-Gibbon et al., 2018, p. 23). The experiences of victim/survivor family members and the extent to which they must often adapt their lives to manage, limit or hide a child’s behaviour can be profound. This includes parents leaving their employment, avoiding inviting others to the house and prioritising the violent child over other children in an attempt to maintain safety—experiences described throughout existing literature (Cottrell & Monk, 2004; Fitz-Gibbon et al., 2018; Howard & Abbott, 2013; Howard & Rottem, 2008; Jackson, 2003).

The different manifestations of this violence are united under the definition used by Howard and Rottem (2008, p. 11), who cite Cottrell (2001, p. 3):

An abuse of power perpetrated by adolescents against their parents, carers and/or other relatives including siblings. It occurs when an adolescent attempts to physically or psychologically dominate, coerce and control others in their family.

A more recently developed definition (Pereira et al., 2017, p. 220) builds on this and signals an emerging consensus as to

the kinds of situations and behaviours that ought to be excluded:

Repeated behavior of physical, psychological (verbal or nonverbal) or economic violence, directed toward the parents or the people who occupy their place. Excluded are one-off aggressions that occur in a state of diminished consciousness which disappear when upon recovery (intoxications, withdrawal syndromes, delirious states or hallucinations), those caused by (transient or stable) psychological disorders (autism and severe mental deficiency) and parricide without history of previous aggressions.

Interestingly, elsewhere Pereira (2016, p. 81) has described the behaviour that *would* be included under the restricted definition above as “*new filio-parental violence*”. From Pereira’s (2016) perspective, this is an emerging phenomenon to be distinguished from “old” filio-parental violence that was broader and more likely to be inclusive of behaviour associated with impairment and co-occurring issues experienced by the child and family. As discussed in Chapter 5, it is important to note that Pereira et al.’s (2017) definition sits in tension with the diversity of adolescents who are currently attracting a legal response—and in Victoria an explicitly family violence-focused civil response—for their use of violence.

“Justice samples” and the problem of describing and defining AVITH

The above definition used by Howard and Rottem (2008)—similar to that used by Cottrell (2001) and commonly cited by others—has placed AVITH squarely at the heart of family violence policy and within contemporary understandings centred on the use of coercion and control. Certainly, it is the description of behaviour that the PIPA team expected to find in the samples of data drawn from court and legal files in cases that involved adolescents aged 10–17 who were either being subjected to or breaching some form of civil protection order. Sampling strategy and specifications are discussed in more detail in Chapter 2.

⁹ The debate concerning whether sibling sexual abuse/assault should be considered within definitions of AVITH is discussed in Chapter 4.

However, the PIPA research into the narratives of adolescents who came into contact with the legal system as a result of using family violence revealed a complexity that may not always fit within the most commonly used definitions of AVITH in Australian contexts, including the one relied upon by the RCFV (State of Victoria, 2016a). In fact, what we found was that these “justice samples” reflected a dramatically diverse range of behaviour that was attracting a justice response within a family violence legislative framework. By “justice samples”, we mean samples of data drawn from a justice system context—in this instance, legal case files and legal service administrative data. In certain cases, the behaviour was being processed and receiving legal sanction as if it were family violence, or AVITH, yet much of the violence did not seem to fit into an “abuse of power” or “coercive control” framework. Conversely, it *did* include behaviour explicitly excluded in Pereira et al.’s (2017) definition.

It is useful to note that the PIPA team saw more complexity and diversity of circumstances and behaviour in the AVITH we encountered in the case file analysis and heard about from legal and generalist service providers than in the conduct described by specialist AVITH practitioners. This may be explained by the fact that specialist AVITH practitioners are likely to have based much of their past practice experience and writing on work with families in which the parents may be actively finding or being referred for specialist help (Gallagher, 2016). Additionally—and for very sound reasons—these practitioners may only admit to their programs adolescents who are demonstrably the primary or only perpetrator within the family (Correll, Cusworth Walker, & Edwards, 2017; Routt & Anderson, 2011).

Similarly, further differences might be expected to exist between our justice sample data and the accounts of families who have experienced abuse from adolescent children, but who have never called police or attended court, which, as other research suggests, might be a significant proportion (Fitz-Gibbon et al., 2018). For example, families experiencing legal system intervention may not have otherwise identified the behaviour they were experiencing as AVITH, while in much of the crucial qualitative research with families experiencing AVITH, participants have been recruited through the AVITH-specific services they had already

accessed, or have otherwise perhaps been able to identify that what they have experienced fits in some way the broader definitions of the behaviour (Bobic, 2004; Cottrell & Monk, 2004; Fitz-Gibbon et al., 2018; Gallagher, 2016; Howard & Rottem, 2008). To this end, Simmons et al. (2018) have distinguished between justice, clinical and community samples and the role that these sampling differences have played in confounding researchers’ attempts to elicit a clear and consistent account of the nature and prevalence of child-to-parent violence, a sub-type of the broader AVITH conceptualisation. Holt (2013) similarly notes that data drawn from justice and clinical samples are likely to have distinct features from collection tools like random community surveys.

Given the relatively confined but important range of existing studies of AVITH in the justice context (Armstrong, Cain, Wylie, Muftić, & Bouffard, 2018; Contreras & Cano, 2014a, 2014b, 2015; Douglas & Walsh, 2018; Miles & Condry, 2016;¹⁰ Moulds & Day, 2017; Moulds et al., 2016; Moulds et al., 2019; Purcell, Baksheev, & Mullen, 2014), the PIPA research further confirms the importance of fully understanding the implications of how a sample is sourced and then investigated. This is because, while participating practitioners included a wide range of personnel working across justice, specialist and community spheres, the case file audits are likely to have included matters in which family members did not call the police or identify what they were experiencing as AVITH, but where the issue came to the attention of the justice system for other reasons. Similarly, it involved cases in which families were involved with the criminal justice system as the result of multiple different factors. Further, as described in the next chapter, information on legal case files is of a particular nature and therefore those limitations need to be kept in mind.

Much of the behaviour that appeared in the narratives of the

¹⁰ This study, in particular, specifically involved reviewing a large sample of intervention order files from the Children’s Court of Victoria, albeit under the legislation that predated the *Family Violence Protection Act 2008* (Vic). It involved gathering quantitative demographic data and information about the parties and the content/subject matter of cases. The results of the study across many demographic factors were often broadly consistent with the PIPA results, but in the PIPA research the same kind of case data were analysed within the broader knowledge co-production approach taken, and in conjunction with analysing the qualitative observations of practitioner participants.

case files reviewed appeared to be what some researchers in this area have termed “reactive” (Daly & Wade, 2016) rather than goal oriented or controlling. This characterisation was echoed by practitioners across the three jurisdictions, although the PIPA team saw and heard about some examples of coercive control as well (Howard, 2015). We also reviewed cases in which multiple parties were subject to cross orders and applications, and where the situation was more chaotic and complex than what has classically been described by researchers and practitioners in “clinical” samples of families who are identified through accessing expert professional help with AVITH (Simmons et al., 2018).

In addition to a diversity of family circumstances and manifestations of behaviour, a number of cases appeared to involve intellectual and psychosocial disability as significant features of the factual circumstances in the case and a factor influencing outcomes (Coogan, 2014), while practitioners further reported that trauma and victimisation was the most significant feature they saw in the children with whom they worked (Douglas & Walsh, 2018; McKenna, O’Connor, & Verco, 2010; Moulds et al., 2016). The scale of this variation shifted the foundations of our research and is the focus of much of this report. This complexity also led us to consider whether we needed to apply a broader definition that encompasses all violence, abusive behaviour and physical aggression against family members in the home, with a more restricted category then incorporated within what we referred to during the research process as “classic AVITH”. We applied the term “classic AVITH” to the behaviour described in many of the studies reviewed in the initial narrative literature review conducted prior to data collection, and which accords more closely with the specific behaviour delineated by Howard and Rottem (2008) and Pereira et al. (2017). This is behaviour seen to involve coercive controlling behaviour towards the victim/survivor, hence warranting a legal response, rather than behaviours explicitly excluded from Pereira et al.’s (2017) definition.

Ultimately, however, the PIPA team opted to retain a broad interpretation of the overall term “AVITH”, unless specified for other reasons. This encompasses all behaviour that is potentially within the more specific definition proposed by Howard and Rottem (2008) and used by the RCFV (2016a), but which may also fall into the exclusions proposed by

Pereira et al. (2017) when the context is examined more closely. This is because the PIPA study was exploring consequences in relation to behaviour receiving a legal system response in the context of family violence, rather than meeting a specific and consistent pattern. As such, scenarios being captured within these legal system responses included coercive and controlling behaviour (Howard, 2015), reactive behaviour (Daly & Wade, 2016), behaviour that may potentially combine both coercive and controlling behaviour and reactive behaviour in the context of disability, or even behaviour that was the result of resistance to ongoing violence being experienced by the adolescent.

The appropriate definition or way to define AVITH was not a conundrum that the PIPA team was able to resolve finally or neatly in the course of the research, and it continues to be an issue interrogated throughout this report as we describe and explain our analysis of the data. The unsettled ambiguity around what we mean when we talk about AVITH, “adolescent family violence” or “adolescents using family violence” continues to bring to the forefront a key overarching finding from the PIPA project, which is the complexity of the features and driving factors underlying AVITH, and the implications that this has for what is currently a very blunt justice system response.

Just as importantly, this ambiguity also supports a further finding of the PIPA project, that the way in which we conceptualise and define a problem or policy issue can contribute to the development, perpetuation and imposition of this response. In turn, this response can dictate service delivery, as well as the data that may be available to assess the problem in the first place. One of the questions that the PIPA project poses therefore, is whether this one-size-fits-all justice system response to AVITH would continue to be imposed if we better understood the complexity and diversity of those using and experiencing it.

Prevalence and limitations of current research and understandings

Regardless of definition, it is particularly difficult to estimate the prevalence of AVITH at a population level. As noted

above, researchers and organisations that collect data use different methodologies, sample sources and definitions—either of “adolescence” or of “violence”—and may document quite different forms of behaviour that happen to fall under the formal AVITH umbrella (Holt, 2013; Howard & Abbott, 2013; Moulds et al., 2016; Routt & Anderson, 2011).

For example, some research focuses predominantly on child-to-parent violence and involves small-scale qualitative studies based on interviews with parents and practitioners or on clinical case file audits (Condry & Miles, 2014; Howard & Abbott, 2013; Payton & Robinson, 2015; Stewart et al., 2006). Routt and Anderson (2011) cite a range of studies, suggesting that most reported estimates percent fall between 7–13 percent of teens who perpetrate violence against parents. Cottrell and Monk (2004) cite a range of large-scale quantitative studies that suggest a range of approximately 9–14 percent of parents having been at some point physically assaulted by their adolescent children. Less is known about the prevalence of violence against siblings and other family members.

Studies also involve varying definitions of adolescence. The definition chosen, of course, is likely to be the most relevant to the particular study. For example, the World Health Organization (2001) describes “adolescence” as falling between the ages of 10–19 years of age and “youth” as the 15–24 year age group, so that “young people” covers the age range 10–24 years, which recognises the variable transition in neurodevelopment from childhood to young adulthood (Bobic, 2004; Moon, Meyer, & Grau, 1999; Stewart et al., 2006). Studies using justice samples—and informing recommendations for justice reform, as the PIPA project does—will more likely use the age bracket in which juvenile legal responsibility lies in that jurisdiction.

Estimates of prevalence drawn from large-scale criminal justice data sets of police family incident reports involving young people (Condry & Miles, 2014; Miles & Condry, 2016; Walsh & Krienert, 2007) may not clarify the question of prevalence to a useful extent either. This is because these data sets may only reflect reported incidents of behaviour that attract a criminal charge, rather than the broader range captured in statistics specific to family violence more widely.

This includes a focus on behaviour that can be classified as an incident of family violence, rather than behaviour that fits a pattern of violence more broadly. Conversely, data sets may only capture a subset of behaviour where relevant legislation does not include children under a certain age (Miles & Condry, 2016). Where AVITH *is* counted in family violence statistics—either in terms of adolescents as respondents to police call outs or as protection order applications—the complexity revealed in the PIPA data suggests that the figures collected for and relied upon (e.g. by the RCFV) may not be as useful as originally assumed. In other words, while these figures tell us that a consistent number of children are experiencing a justice system response within a broader family violence framework, they do not necessarily tell us about the numbers of adolescents exhibiting behaviour that fits commonly used AVITH definitions. Certainly, as this report explores, our findings suggest that there are likely to be some adolescents within this figure who are at ongoing risk from an adult perpetrator, or who are living with a significant disability or complex needs.

Beyond the complexity that may be behind figures representing matters that *are* reported, of course, is the broader reality that a significant proportion of family violence perpetration continues to go unreported, as noted above. In particular, there are many reasons why it is unlikely for use of family violence by adolescents to be reported to authorities (Miles & Condry, 2016). These include parents, most often mothers, feeling shame, stigma, a sense of blame for the behaviour or a sense that it is their job to manage alone and protect their child above all (Howard & Abbott, 2013; Daly & Nancarrow, 2010).

Equally, parents may not view their child’s behaviour as violence but accept it as “normal” or developmentally appropriate for an adolescent to “act out” or to have trouble regulating emotion. Further, they may fear reporting to police and risk criminalising their child, and may also fear that reporting will attract the intervention of state child protection services. Sibling-on-sibling violence, in particular, may be normalised and involve complex barriers to help seeking (Krienert & Walsh, 2011). The current state of evidence therefore indicates that there are many reasons to believe that AVITH is likely to be significantly underreported (Condry

& Miles, 2014; Miles & Condry, 2015; Fitz-Gibbon et al., 2018; Howard, 2011).

Key distinctions and implications for response

As well as the barriers to reporting identified above, AVITH can be distinguished from other forms of family violence for a variety of reasons. This includes, as alluded to in the introduction, the lack of independence of the adolescent concerned. This may include being dependent on the victim/survivor of their violence, or on other caregivers, including staff in residential care where legislative definitions identify this relationship as family violence. Unlike adult perpetrators—many of whom are increasingly being excluded from the home by police or protection orders—adolescents require the care of adults who are also responsible for providing them safe accommodation (McKenna et al., 2010). Moreover, the adults experiencing an adolescent’s violence will usually be legally responsible for that adolescent’s welfare.

An important further distinction is that, in cases of AVITH, there is usually a strong desire by the perpetrator and victim/survivor of this violence to continue and repair the relationship (Daly & Nancarrow, 2010; Howard, 2015; Routt & Anderson, 2011). This may also be the case in relation to adult intimate partner violence, but in these cases the victim/survivor is not legally responsible for the perpetrator’s welfare. If those affected can be supported to repair their relationship and to live together safely, this is ultimately a protective factor against future offending for the young person. This includes family violence-related offending, as well as broader juvenile offending, and means that interventions should prioritise this protective goal where possible.¹¹

In most cases, separation of an adolescent perpetrator from the victim/survivor is not realistic, nor even “safe” for everyone involved. If young people are excluded from the home for

the safety of others in that home, they still need somewhere safe to stay. If there is no safe adult in their life, or alternatively if there is no adult who is not vulnerable to risk themselves, then there is no safe option for the adolescent and the overall risk is likely to escalate (Howard & Abbott, 2013). This suggests that *greater but supported* intervention is needed than in adult intimate partner violence, in order to improve safety and reduce risk.

Further, a young person’s use of force needs to be viewed in the context of that person having little or no other social and economic power, including in relation to their parents or within their family structure more broadly. This may mean that the behaviour could be a direct expression of their broader powerlessness in real terms, including in relation to the adults in their household (or even older siblings). As Downey (1997), cited in Condry and Miles (2014, p. 271), has observed:

Adolescent to parent violence inverts the ways in which we understand power in family violence and our expectation that a perpetrator will be physically and socially more resourced and a victim physically and socially more vulnerable.

While many adult perpetrators may also experience powerlessness in a range of life realms, this scenario obviously differs from the conception of family violence for which most relevant mechanisms were designed (i.e. involving an adult, white, cisgender male perpetrator).

Adverse childhood experiences may also influence perpetration of family violence by adults. However, there are still distinctions in this influence in relation to adolescent use of family violence in that adolescent perpetrators are often using this violence in the same home environment in which they may have learned it (McKenna et al., 2010; Moulds & Day, 2017; Nowakowski-Sims & Rowe, 2017). In other words, an adolescent may come to the attention of the legal system for their use of violence but may be living in a violence-supportive environment at home. In some cases this may include using violence against the same people who have victimised or are continuing to victimise them. The question in these cases is, therefore, where does the label of “perpetrator” really lie?

¹¹ There is an emerging view among some researchers and policy-makers that targeted individual programs to address general youth violence and youth offending are unlikely to meet the needs of young people for holistic intervention that addresses key risk/protective factors like the quality of family relationships (Armytage & Ogloff, 2017). There is also, more generally, a lack of high quality evidence for effectiveness of existing individual interventions (Armytage & Ogloff, 2017; Cox et al., 2016).

Evidence on effective interventions

As indicated at the outset, lack of recognition and awareness of the existence of AVITH means that the development of appropriate interventions is relatively slow when compared with interventions with adult perpetrators of intimate partner violence in mainstream populations.

AVITH-specific programs

Some evidence does exist around a number of programs that operate around Australia and internationally (Correll et al., 2017; Haw, 2010; McKenna & O'Connor, 2012; Moulds et al., 2019; O'Leary, Boddy, Venables & Young, 2019; Routt & Anderson, 2016). This includes a range of programs that work solely with parents, and with parents and adolescents together, although an absence of studies of programs that work with siblings as well appears to signal a service gap in this regard. Benefits of programs that work with parents have been described as giving parents the opportunity to share their experiences with others and thereby reduce some of the stigma and isolation that they feel, as well as teaching them strategies to reduce tensions in the home (Haw, 2010; McKenna & O'Connor, 2012). An example of such a program is the ReNew program in Queensland, which is a therapeutic program directed at working with mothers and their adolescent sons who have used violence towards them. As at June 2019, this was in the process of being evaluated by Griffith University and, though due for release later in 2019, was not publicly available at the time of writing. The findings of an interim evaluation report made available to the PIPA team, however, indicate the benefits to mothers and sons where they were able to maintain their attendance at the program, with the need for additional wraparound support likely to be a key recommendation (O'Leary et al., 2019). That said, the shared trauma of violence experienced by both mother and son from an adult perpetrator, and the impact that this continued to have on their lives, was identified as a significant barrier to participation (O'Leary et al., 2019). Also of note is the recently published review of South Australia's KIND (Kinship, Improve relationships, No violence, Developing skills) program, a Youth Justice-operated pilot program addressing both adolescent dating violence and adolescent family violence,

with promising early results in relation to a group of eight participants (Moulds et al., 2019).

It should be noted here that Moulds et al.'s (2019) recent Australian publication stands broadly within what appears to be an emerging body of AVITH-related literature that draws samples of data from the so-called "back end" (Armstrong et al., 2018) of justice system involvement. This refers to information about the cases and young people who have progressed far beyond the "front end" arrest phase of justice system interaction into extensive involvement in youth justice systems, such as court-mandated supervision and program participation, as well as juvenile detention.

Distinctions are useful here, as there are likely to be further differences in the factual circumstances in cases, as well as in the characteristics of respondents at the civil protection order phase, as opposed to criminal prosecution. These differences will also depend on where the civil protection scheme sits in relation to family violence policy settings, use of prosecutions within the scheme, and first responder policy and procedures (see further discussion of this in Chapters 4 and 9). For example, in Victoria, the civil protection order phase often operates almost as a pre-arrest pseudo-diversionary alternative (see Chapter 9) and, as such, is even further towards what Armstrong et al. (2018) called the "front end" of justice involvement than arrest.¹²

Beyond these distinctions, perhaps the most well-known intervention is a United States-based program called Step-Up. This brings together threads of programs that work with adult perpetrators of family violence in terms of encouraging accountability and responsibility on the part of the adolescent, and underpins these elements with more reparative and restorative goals and practices. These goals reflect the fact

12 Interestingly, Armstrong et al. (2018) found consistencies between the risk factor profiles of "front end" and "back end" justice samples of child-to-parent cases in the United States, but we do not know whether, or how, this would apply for even further "front end" phases such as civil family violence orders where there has been no arrest or prosecution. Differing risk factor profiles may in and of themselves signal reasons why a civil option may have been pursued to the exclusion of a criminal arrest or prosecution in some cases. The fact that 100 percent of detained juveniles in the Northern Territory are Aboriginal and Torres Strait Islander (Allam, 2019) indicates that there are also highly specific local factors, which mean that caution is required in seeking to draw on the conclusions of overseas research.

that parents and children usually wish to maintain and improve their relationship.¹³ Figure 1 provides an overview of Step-Up, which is highlighted in some detail, not because it is favoured over any other program by the PIPA team, but because it is the foundation for the majority of programs used in Victoria, as well as for some of the interventions we heard about in WA, while also informing the recent development of a program in Tasmania. Accordingly, it has particular relevance for the context of the PIPA research.

It is important to note that Step-Up originated in a criminal justice context, and therefore has had more levers at its disposal than are available in the civil context. This means that adolescents can be *mandated* to attend the program by a court and are supported in this to a certain extent by criminal justice system infrastructure. That said, a recent evaluation indicates that referrals are now coming through community sources (Correll et al., 2017). In contrast, Australian programs that are based on Step-Up operate solely in the community sector and remain voluntary. In Victoria, in particular, three programs have been funded by government and have operated for several years, while others have been established by community service providers independent of dedicated government funding.¹⁴ A recent evaluation of the three government-funded programs (unpublished but provided to the PIPA team) demonstrated the benefits of these programs (Australian Institute of Criminology [AIC], 2017). Benefits were reported to include reduced stigma and improved confidence to report among parents, as well as increased skills in reducing conflict among parents and the adolescent participants who engaged in the program. The proposed expansion of the programs across Victoria by the state

government—as yet unfunded but recommended by the RCFV—will rely on this evaluation.

As noted above, reported benefits of the Victorian group-based AFVPs, which have been operating in Frankston, Geelong and Ballarat (and are predominantly based on the Step-Up program), include, in particular, parents meeting other parents with similar experiences and having these experiences acknowledged without stigma, as well as learning new skills in order to respond to their children's behaviour. Where adolescents are able to be engaged, reported benefits also include young people being able to voice their experiences and learn ways to understand and regulate their emotions and behaviour. Further, the programs are reported to have improved participants' connections to other services (AIC, 2017). Even so, the Australian Institute of Criminology evaluation also identifies challenges involving the programs' capacity to engage young people effectively and consistently. These include current eligibility criteria, which essentially require that participants are residing together and can attend the program together. The evaluation identifies additional challenges in engaging and providing culturally safe and appropriate services for particular target cohorts (AIC, 2017).

As they are currently funded, most programs also lack sufficient capacity to provide adequate levels of assertive outreach, although the PIPA team heard during the research process that programs are increasingly attempting to provide outreach within the remit of their existing funding. The PIPA team is also aware that the Victorian Government is in the process of building capacity and greater flexibility in the current AFVP model.

Regardless, these requirements appear to be designed to respond to the classic construction of AVITH described in the current state of evidence, rather than to the more diverse and often “chaotic”¹⁵ lives of many of the young people coming into contact with the legal system as a result of their use of family violence. This points to a need to develop a greater range of responses to use of violence by adolescents, including in the civil and the youth justice context, as well as to support existing service providers to provide a wider range of supports.

13 There are few publicly available evaluations. The King County Step-Up program was reportedly positively evaluated in 2005 (Rouff & Anderson, 2011). The Anglicare program Breaking the Cycle, which primarily involves parent-only group work for parents experiencing adolescent family violence, has made an internal outcomes evaluation publicly available (Wilks & Wise, 2012). The evaluation showed a positive impact on reduction in the incidence of adolescent-to-parent abuse, but complexity in outcomes for the teen-parent relationship, which the authors found confirms the need for broader follow-up family support.

14 Programs funded by the Victorian Government are formally referred to collectively as the “adolescent family violence program” although the providers delivering this service have used various descriptions of the service at different times since their inception. Specific service names are not listed here so as to avoid identification of participants.

15 “Chaotic” was a term frequently used by practitioners in the research to describe the extent of complexity in their clients' lives.

Figure 1 Overview of Step-Up program

What is Step-Up?

Step-Up is an AVITH group-based intervention program designed to address youth violence towards family members. Developed by family violence practitioners Lily Anderson and Gregory Routt in 1997, Step-Up was a specific government-funded program in King County, Washington, in the United States, predominantly used as a court-mandated diversion program in juvenile justice matters. The program was positively evaluated in the US context for its impact in ending adolescents' use of violence and supporting families to repair and restore relationships (Correll et al., 2017; King County, 2014). The curriculum developed by Anderson and Routt has since been drawn upon heavily in the development of AVITH programs in the three participating jurisdictions in the PIPA project, as noted above.

The Step-Up curriculum and criteria for inclusion

The Step-Up curriculum was designed to involve approximately 20 consecutive weekly sessions. This includes some sessions with parents only, others with young people only and others bringing family members together. The curriculum is informed by a range of approaches, with an emphasis on evidence-based best practice, all underpinned by principles of restorative practice. Cognitive-behavioural learning and skills development is reported as supporting the ability to conduct restorative work (Routt & Anderson, 2016). The curriculum modifies and adapts some approaches also commonly used in adult intimate partner violence perpetrator interventions. For example, the Duluth Model Power and Control Wheel tool for accountability has been adapted for use in Step-Up and renamed as the Abuse/Disrespect and Mutual Respect Wheels (Correll et al., 2017). Prerequisites for inclusion in Step-Up are that:

- the young person is the primary perpetrator of violence in the family
- the young person's violence is not a response to abuse
- the young person is not currently being abused
- the young person has not been abused by the targeted parent(s) (Routt & Anderson, 2016).

Other criteria include that family members with any mental health or substance misuse issues are engaged in treatment and are not using; and are capable of engaging in the group, of "comprehending", and of "learning new skills". Routt and Anderson (2016) do not explicitly discuss cognitive or neurodevelopmental impairments but these clearly could have eligibility implications. While Step-Up is intended to be suitable for a diverse range of clients, it does present eligibility hurdles for more complex cases, which the PIPA findings suggest may constitute a larger proportion of police-reported AVITH cases than might be expected.

Adolescent family violence programs and Step-Up in Australia

In 2014 the State of Victoria introduced a government-funded pilot adolescent family violence program (AFVP) as “part of the integrated family violence service network and delivery platform” (State of Victoria, 2014, p. 8). The program’s service model comprised a combination of intensive family case management and group work, underpinned by “a recognition that behavioural change can only occur through individual support delivered within the broader family and community context” (State of Victoria, 2014, p. 5). The service model therefore distinguished the program “from a men’s behaviour change program model that utilises a framework of gender inequality to understand and change men’s violent and controlling behaviours” (State of Victoria, 2014, p. 5). The Victorian AFVP stands out as the first example of a state or territory government actively seeking to develop a particular service system response to AVITH, distinct from responses to adult-perpetrated intimate partner violence, but still locating AVITH firmly within family violence policy and services. This program has now been funded on an ongoing basis at the existing locations.

The group work aspect of the Victorian program was developed independently by the provider organisations conducting the pilot at three locations, but all were strongly influenced by the Step-Up model and curriculum. Data collected from PIPA practitioner focus groups, consistent with the recent unpublished evaluation, suggested that a greater emphasis upon the family case management aspect, involving the use of assertive outreach, may have been needed than was originally anticipated, given the barriers to Step-Up style group work.

Other AFVPs are being developed across other jurisdictions in Australia, and many to varying degrees continue to adopt the Step-Up curriculum and approach. Several profess to be influenced by Step-Up but vary in terms of how much emphasis is put on particular aspects, such as restorative practice, cognitive skills development and parenting skills. In Tasmania, the state’s first ever state-government funded AVITH program is being developed by youth support agency Colony 47 (Tasmanian Government, 2018). In WA, Peel Youth Services conducts a group work-based AVITH program influenced by Step-Up. In Victoria, a variety of existing programs outside the AFVP pilot also target AVITH with group programs of widely varying length and fidelity to the Step-Up model. Some group programs focus almost exclusively on parenting skills and work closely with active help-seeking parents, without necessarily having the full suite of resources in place to engage the adolescents.

Therapeutic approaches to other forms of abusive behaviour

A contrasting area of intervention, which is perhaps more fully developed in relation to abuse towards family members by adolescents, concerns programs directly responding to harmful sexual behaviour (HSB). HSB is an overarching term used by the Royal Commission into Institutional Responses to Child Sexual Abuse and encompasses problematic sexual behaviour (PSB) and sexually abusive behaviour (SAB).¹⁶ Although contentious, as discussed further in Chapter 4, the PIPA team considers that sibling sexual abuse or sexual assault against family members (which is more likely to correspond to SAB than to the broader spectrum of HSB or to PSB) does fall within the scope of family violence, and therefore within AVITH. This is because sexual assault is included within definitions of family violence used in adult contexts and because sexual assault within families frequently occurs in a context of broader family violence perpetration (State of Victoria, 2016a, 2016b). Current evidence also suggests that children exhibiting SAB or PSB may have experienced family violence from adult perpetrators (Blackley & Bartels, 2018), similar to the experiences of children using AVITH, which further draws SAB and PSB into relationship with other forms of family violence more broadly.

The PIPA team has therefore broadly categorised HSBs (SABs in particular, including adolescent-to-parent sexual assault and sibling sexual abuse) as a form of family violence. While we have argued that they should be included in definitions of AVITH, however, we acknowledge that HSBs have distinctive characteristics and dynamics, and have traditionally received a distinct legal, social and clinical response in most jurisdictions. For example, SAB cases have historically corresponded to some of the most serious criminal offences with significant maximum penalties of imprisonment attached. Simultaneously, they have exhibited the need for highly specialised therapeutic interventions, particularly when

children are the ones causing harm. Certainly, some innovative practices are occurring in terms of evolving forms of treatment, as well as in terms of legal responses that can best facilitate and promote engagement with evidence-based treatments (Blackley & Bartels, 2018; El-Murr, 2017).

Emerging treatments that have been positively evaluated are those focusing on an ecological approach to PSB and SAB among adolescents. One example, multisystemic therapy, is an evidence-based and ecological approach that researchers believe shows promise in this area (El-Murr, 2017). Multisystemic therapy is also applied more generally in relation to antisocial behaviour that includes violence and aggression in the home, as well as more generalised criminal offending, often for children and families already engaged with a child and adolescent mental health service. A Western Australian multisystemic therapy program delivered for children engaged with a child and adolescent mental health service, and addressing behaviours like violence and aggression in the home, was recently trialled and positively evaluated for the first time in Australia (Porter & Nuntavisit, 2016).¹⁷

Approaches such as multisystemic therapy work with the child and family at home, school and the child's wider community where relevant, on the understanding that children's behaviour and range of choices about their behaviour are strongly influenced by their experiences, environment and relationships.¹⁸ Significantly, the Western Australian multisystemic therapy program provides for 24-hour access to specialist advice and support for enrolled clients.¹⁹ Victoria announced in 2018 that it will pilot multisystemic therapy "to better protect children and keep them out of the child

¹⁶ The final report of the Royal Commission into Institutional Responses to Child Sexual Abuse (Commonwealth of Australia, 2017c) included discussion of the characteristics of children who engage in HSB, though the context for this discussion was institutional responses to child sexual abuse rather than family violence. The RCFV report used the terminology SAB and PSB, as does other recent criminological literature (Blackley & Bartels, 2018; El-Murr, 2017), but HSB appears to be inclusive of both.

¹⁷ Although the authors acknowledged methodological limitations such as lack of a control group, this evaluation is significant because criticism of the evidence base for multisystemic therapy from an Australian perspective has included (but is not limited to) its United States origins and questions over transferability. See Armytage and Ogloff (2017, pp. 62-67).

¹⁸ Importantly, many of the positive aspects mentioned here would equally be found in an expanded therapeutic AFVP that focuses on working with all members of the family to improve relationships and support the wellbeing and safety of all, with enhanced accessibility promoted through the increased use of flexible engagement and assertive outreach.

¹⁹ There is further discussion of practitioners' observations regarding accessibility of the Perth multisystemic therapy program in Chapter 8 regarding service system gaps.

protection system” (State of Victoria, 2018a). This will address a range of issues, including violence in the home, rather than being targeted at SABs.

Ecological approaches are consistent with, and able to be actively facilitated by, legal responses that emphasise the importance of protecting and safeguarding vulnerable children within the family, while also responding to a child’s PSB or SAB in a holistic and therapeutic manner. For example, Victoria’s Therapeutic Treatment Order regime²⁰ is available for those up to 18 years of age²¹ who have engaged in PSB or SAB where the behaviour might otherwise constitute a criminal offence. In eligible cases, this regime provides a civil order that aims to refer, facilitate and monitor engagement in appropriate treatment as an alternative to criminal prosecution. In Victoria, this is known as the Sexually Abusive Behaviours Treatment Services and is delivered by specialists at the Centres Against Sexual Assault (El-Murr, 2017). The PIPA team also learned of similar therapeutic interventions being applied on a smaller scale in Tasmania. Legal responses such as therapeutic treatment orders are able to respond seriously to the offending behaviour and take steps to make everyone in the family safe, but also recognise the child status of the offending child and their vulnerability. As evidence is beginning to establish, this includes the likelihood that these children may have been exposed to abuse, neglect and/or family violence themselves, including sexual abuse (Rich, 2010).

This suggests that policy-makers need to borrow from some of the nuanced approaches to SAB in children in responses to AVITH—both legal and clinical—that hold systems accountable for preventing further harm, rather than focusing solely on making individuals responsible for their actions. That said, the PIPA team notes that service system responses to SAB rely on access to a highly specialised and quite specific service system response, the equivalent of which must be developed on a much larger scale for service systems to respond in any adequate way to AVITH.

²⁰ See *Children, Youth and Families Act 2005* (Vic), Part 4.8.

²¹ From 29 March 2019, per section 5, *Justice Legislation Amendment (Family Violence Protection and Other Matters) Act 2018* (Vic).

CHAPTER 2

The PIPA project's methodology

Chapter 2 outlines the methodology used in the PIPA project. Focus groups and interviews were conducted with 157 practitioners who were identified as responding to and encountering AVITH and legal responses to it in their work.

The focus groups and interviews were subject to qualitative content analysis, with an attentiveness to participant interactions and the co-production of knowledge about responses to young people using violence in the home.

We also analysed administrative data relating to 4965 services provided to 905 adolescents, either in civil protection order matters or protection order breach matters and conducted a case file audit of 385 court and legal files drawn from six different samples, which involved a mixed methods analysis. This case file audit was conducted to develop a richer understanding of the range of circumstances of children experiencing legal responses for their use of family violence. The audit also provided an indication of legal responses and frequencies of particular responses and pathways.

In this chapter we outline the different sampling specifications and strategies necessitated by differing legal landscapes across the three jurisdictions of Tasmania, WA and Victoria. The chapter begins with an overview of the research methodology, including ethical considerations, followed by the specific approaches to sampling, data collection and analysis.

Research design

The methodology for the PIPA project was broadly informed by critical theory (Fraser, 1985; Wellmer, 2014) in so far as the researchers maintained a constant interrogation of our choices of terminology and our own assumptions at the inception of and throughout the research, as well as the conceptualisations of, or assumptions about, AVITH to which legal and service systems were attempting to respond and which may or may not be further isolating victims/survivors. The methodology also involved elements of knowledge co-production (Coutts, 2019; Martin, 2010)²² with practitioners and evolved throughout the project, particularly as the researchers and practice partners worked collaboratively to identify pragmatic means of, and tools for, extracting data from case files.

In some instances, close collaboration and direct involvement of practice partners in gathering and de-identifying data was necessary, given the limits of court and legal service data recording. This included staff from practice partners generating random file lists, as well as locating and accessing files. In some cases, it involved the practice partners engaging an additional member of staff who had not been involved in generating the file lists or identifying files, nor in providing services to the client, who was then allocated to complete the case file audit tool for each file in the sample, before providing the final non-identifiable extracted data to the researchers. Other than this, practice partners also participated in designing the case file audit tool across each jurisdiction to ensure that it was able to capture the types of data recorded on case files, as well as providing critical and reflexive feedback on themes, findings and recommendations.

The design of practitioner focus groups was also intended to facilitate a form of evidence co-production, seeking to draw a broader pool of participants into an active exchange of experiences and reflections to map how the legal system is responding to AVITH, often with multiple-participant exchanges building a narrative about what practitioners see

²² Co-production of evidence with practitioners was fundamental to the research design as it aligns with the CIJ's objective of producing research with impact that is highly translatable and relevant to contemporary policy and practice. A co-production approach also signals the importance of the PIPA team's shared commitment to "ensuring that the research results are translated into improved services and practices" (National Health and Medical Research Council [NHMRC], 2007, p. 36) for adolescents and families affected by justice responses to AVITH. This is reflected in the fact that this report only represents a fraction of the knowledge translation and practice reform work involved in the PIPA project and which is expected to continue after the research's publication.

occurring. The PIPA team suggests that this research sits in the middle range of the spectrum of co-produced research proposed by Martin (2010), balancing a level of close cooperation with practice partners against a robustly independent and critical secondary data analysis process, as well as use of diverse data sources such as focus groups and interviews, which were not facilitated by practice partners.

Martin (2010) developed a spectrum-like grid showing different examples of co-produced knowledge. These range from the most practical, but with limited academic independence, right through to research with the greatest level of academic independence and control over all aspects of the research, but with little utility or ease of translatability for practice. Each end of the grid, or spectrum, has its own advantages and disadvantages, with research that is intended to have a significant impact on practice being most likely to involve the middle range of this spectrum.

The original expectation and proposal for the PIPA project was that a primarily qualitative inquiry based on data derived from practitioner focus groups and interviews would be complemented by a scan of administrative data on case files, which would likely be conducted internally by participating agencies. This scan would yield quantitative data about broad features of the relevant case file samples. During the early stages of data collection, however, the PIPA team negotiated a more comprehensive audit of relevant case files and obtained ethics approval to undertake it. This was designed to elicit additional, more in-depth qualitative data and case studies so as to deepen, triangulate and expand upon the “diverse and trustworthy forms of [practitioner] knowledge” (Breckenridge & Hamer, 2014, p. 1) being shared in focus groups and interviews. This second and, ultimately, vital tier to the research was developed while focus groups were already underway. This was done collaboratively with a specific subgroup of our practice-based project partners and stakeholders—the Children’s Court of Victoria, Youthlaw, VLA, Legal Aid Western Australia (LAWA), Legal Aid Tasmania and the Magistrates Court of Tasmania.

A file audit tool was collaboratively designed by the PIPA researchers and the practitioner partners and was adapted for different jurisdictions. The tool was designed to extract

a data set of de-identified and non-re-identifiable case narratives, which were then imported into NVivo qualitative research software (Version 12). These were thematically analysed with line-by-line coding following a directed content analysis approach (Hsieh & Shannon, 2005), which was also used to analyse focus group and interview transcripts.

Initially, the PIPA team had only envisaged being able to review case files in Victoria and WA, given that AVITH was not included in the legislative definition of family violence in Tasmania. It was therefore not clear at the outset how or where AVITH might be receiving a legal system response in that jurisdiction. During the process of conducting focus groups and interviews in Tasmania, however—and after the follow-up workshop testing the findings from these discussions—practitioners confirmed that there may indeed be case files to review, as they reported that a proportion of young people were in crisis accommodation as a result of being made respondents on general (i.e. non-family violence-specific) civil Restraint Orders (ROs) because of their use of family violence.

Importantly, the conduct of the PIPA research and, in particular, its implications and connections with the implementation of relevant RCFV recommendations in Victoria (described in the next chapter) was overseen throughout by a high level steering committee comprising senior representatives from courts, police, government and relevant service providers. This ensured that the data continued to be reviewed with contemporary practice understandings in mind, and that interim findings could start to inform policy development during the life of the project.

Case file audits and practitioner focus groups and interviews were conducted in a patchwork sequence, meaning they were not completed one after the other, but each in incremental stages that were punctuated by the other. This was a pragmatic strategy to manage the competing demands of project timelines, the availability of researchers and participants and the resources of practitioner partners facilitating access to case file data.

This process supported an approach to data analysis and integration which ultimately meant that, from the earliest

stages of data collection, the two main researchers responsible for coding engaged in regular thematic analysis meetings. These were designed to address and compare the different data sources to review and refine the coding themes, as well as to theorise links and themes across different data sets, to identify limitations in the data and to refine the methodology. This approach is ultimately reflected in the interwoven, rather than separate, reporting of the findings in this report, which are organised according to themes, rather than according to data types.²³

A key refinement that was adopted as a result of this approach (following an amendment to existing ethics approval) was to add a series of practitioner feedback workshops in each jurisdiction to the project design. In these workshops, interim findings and approaches to integrating the case file audit, focus group and interview data were presented to practitioners who had already participated in the research for the purpose of seeking feedback. The purpose was encapsulated and communicated to practitioners as seeking to produce an accurate system map of jurisdiction-specific responses to AVITH, with a surrounding set of themes describing how this worked in reality.²⁴

To support the research process, the PIPA team also arranged public forums in each participating jurisdiction during the process of the research. The first was in Victoria in April 2017, the second in WA in October 2017 and the third in Tasmania in April 2018. These forums included a panel discussion comprising panel members from AVITH practice where relevant, lawyers, judicial officers, police and, on each occasion, a parent with direct experience of AVITH.

Although these public forums sat outside the formal research process in terms of the inclusion of any data in the ultimate findings, the intent behind them was to promote public awareness of both the research itself and its subject matter.

23 Bazeley (2016) identifies this approach to reporting as a first step in moving towards fruitful integration of qualitative and quantitative data.

24 The PIPA team was influenced by applied policy research methodologies in settling on producing system maps as a visual aid in practitioner feedback workshops as a strategy for integrating and presenting findings (see Ritchie & Spencer, 2002). Feedback on our visual system maps and explanation of themes was derived through face-to-face discussion during the workshops, as well as anonymous surveys collected afterwards.

The aim was therefore for the forums to help lay the foundation for practice reform and improvement to occur. The forums also represented a further opportunity for the researchers to reflect on the emerging themes in the research, as well as to test these themes with practitioners and senior stakeholders who either worked in the existing field, or who may ultimately be responsible for implementing future reform.²⁵ Attendees at these forums included personnel from legal services, police, courts, specialist family violence services, adolescent family violence-specific services where relevant, universal service provider organisations, government policy-makers, some government ministers and academics, as well as interested members of the public.

Participants in panel discussions at the forums were identified with the assistance of the research team, including practice partners. Invitations to attend the forums were distributed via the research team and practice partners. The forums were also advertised on the website of the lead organisation, the CIJ.

Scope and limitations

As described in this report's introduction, the initial parameters and timeframe of the PIPA project meant that detailed inquiry into certain aspects of AVITH was out of scope from the outset. For example, because the focus of the project was on the legal and policy response to AVITH, rather than on the experience and use of AVITH itself—and because much of the existing research focuses on this experience, while research using justice data sets is relatively scarce²⁶—the project design prioritised eliciting the views and observations of practitioners, rather than adolescents or families themselves.

However, the absence of lived experience perspectives remains a significant limitation. In particular, we note that, while

25 Given the relatively high awareness of the issue in Victoria at the outset, to lend weight to the discussion in other jurisdictions, podcasts of each forum were made available on the website of the lead organisation, the CIJ at RMIT University, and distributed to interested organisations.

26 With some notable exceptions (see Condry & Miles, 2014). See also Moulds et al., 2018 and Douglas and Walsh, 2018, both of which focus on policing and legal responses and were published during the latter stages of the PIPA research.

qualitative studies have elicited observations from parents and young people affected by or using AVITH, there remains a lack of in-depth exploration of young people's voices in relation to their lived experiences with AVITH, but also with the legal system and justice responses to them more generally. The PIPA team notes that young people who are receiving a legal system response are a subset of young people who may be using violence in the home who are likely to have distinct lived experiences. Ultimately, therefore, while case file audits provide data about the young people in this cohort, the "story" is told from a practitioner perspective, with its focus being upon practitioner actions and formal outcomes. Exploring the perspective of young people on their experiences of legal responses to AVITH has been identified as an area requiring further research and is reflected in the recommendations (Chapter 11).

Similarly, although the CIJ resourced a range of additional activities throughout the research, the critical mass did not exist in the PIPA team to conduct court observations, which would have contributed further depth to understandings about what happens to adolescents when they experience a legal response as a result of their use of violence. For similar reasons, therefore, the PIPA team intends to conduct a further project focusing specifically on the conduct of cases and the experiences of adolescents when they reach court.

Additional limitations included the extent to which the PIPA team could reach a sample of practitioners through focus groups in each jurisdiction covering the breadth of system players and professions that might be regularly involved in responding to AVITH. This was ameliorated to some extent by the conduct of some supplementary interviews and focus groups by phone. Further restrictions included the capacity to reach a consistent sample of practitioners from every service type invited to participate across each focus group. While the PIPA team invited a broad range of practitioners from a wide range of service types, as is the case with any research of this kind, ultimately some organisations were either unable to participate at the time of the research or did not respond to the invitation. This was especially the case where organisations were experiencing especially high demand or where workforces were in flux. Participation from service types therefore differed slightly at each focus group,

albeit with a consistent attendance from some sectors across most groups—in particular lawyers, youth workers and police members.

As discussed in Chapter 5, a gap that the PIPA team also noted was the fairly minimal participation in the research by disability practitioners. Given that the PIPA project was designed as an inquiry into responses to family violence, rather than research concerned directly with the intersection of violence and disability, the PIPA team believes that specific research needs to be conducted into the use of violence by adolescents with disability in the near future. This should include a comprehensive review of the existing clinical literature concerning the use of violence in the context of disability where this is not necessarily recognised as family violence and should seek partnership with disability advocates and organisations controlled by people with disability.

A further limitation in relation to the case file audit data is that the samples are not necessarily representative, comprehensive or of a statistically significant sample size. In some cases, our statistical conclusions differed from, though were not broadly inconsistent with, those of larger or comprehensive data sets that were more likely to be representative. This is despite the fact that we strove, wherever possible, to obtain random samples or samples of all existing files of the relevant type. Varying sample sizes and strategies were ultimately data driven, given the capacity of practitioners to identify and access them and to fit the research team's capacity and project timeline. Each file was primarily qualitatively analysed, although some descriptive quantitative data were captured in some instances. The case types and sizes are explored in further detail in Table 2.

Finally, an important limitation to note is that the PIPA team did not aim or attempt to identify typologies of AVITH or certain kinds of behaviour. While this report discusses the challenges presented by the complexity and diversity encountered across the research findings, as noted in the Executive summary, ultimately the PIPA team concluded that attempting to develop typologies of AVITH or to conceptualise adolescents using family violence in this way would not prove useful. Moreover, it may work against the

other aims of the project, most important of which is to understand the ways in which the legal or service system's conception of behaviour was impacting the kind of response that adolescents and their families received.

Ethical considerations

Ethics approval was obtained from RMIT University's College Human Ethics Advisory Network (CHEAN), which assessed and approved the research as low risk.²⁷ All subsequent amendments to the project methodology were also approved by this ethical review body. A number of other organisational research ethics review bodies subsequently also provided approval for the research, specifically in relation to recruiting their employees as participants in interviews and focus groups. This was primarily in relation to access to participants. The full list of these approvals is not listed here, as they would identify the specific organisations (sometimes involved in operating small programs with few personnel) from which some participants were recruited.²⁸

In relation to the case file audit, a waiver of the requirement to obtain informed consent was provided by the RMIT CHEAN, in accordance with the relevant guidelines of the National Statement on Ethical Conduct in Human Research (NHMRC, 2007) and the *Privacy Act 1988* (Cth). A detailed protocol was developed to protect the privacy of individuals and maintain confidentiality, which also met the legal and professional obligations of the practitioner partners facilitating access to data. This protocol included the use of confidentiality agreements binding individual researchers, as well as procedures to prevent recording or exporting of identifiable or reasonably re-identifiable data.

The case file audit tool (Appendix C) was specifically designed to capture case narratives in a non-identifiable form. Case studies included in this report are therefore illustrative, constructed by the researchers and informed by the results of the case file audit, as well as focus group and interview

participant observations. This process involved choosing and piecing together different case features, such as parties' relationships, dispute subject matter, type of violence involved, how police or the court became involved, what the court did and the ultimate outcome. This process involved choosing case features that were found frequently across the case file audits and then creating a composite narrative.

Importantly, this means that the case studies do not represent any individual person's story, but instead are intended to illustrate some of the more common features seen across cases. The researchers were legally bound to have all case studies checked by the practice partners to ensure that privacy and confidentiality were adequately protected. Composite case studies are intended to illustrate the themes identified by the researchers, firmly grounded in the data, but not to reproduce one particular individual's story, so as to eliminate the risk of identification.

As noted above, this project was initially designed primarily as a qualitative inquiry among practitioners in the youth justice, family violence, and youth and family services sectors to elicit their views and experiences around responding to AVITH. This was done through a series of practitioner focus groups and interviews (in total, 25 focus groups were held with 150 participants, as well as seven individual interviews) across Victoria, WA and Tasmania, and was intended to use practitioners' perspectives and experiences to help describe how those jurisdictions currently respond when AVITH is reported, including identifying the perceived gaps and flaws in that response. The PIPA team also used the focus groups to elicit a description of common features, characteristics and experiences of adolescents and families experiencing or exposed to AVITH from the perspective of the practitioners involved.

For participants taking part in focus groups or interviews, participant information and consent forms (Appendix D) were used to obtain informed consent. Participants in this context were practitioners discussing observations made in the context of professional practice, and their participation in the research was considered low risk. Questions to practitioners were thematic and concerned their observations of overarching structures, systems and trends observed in

²⁷ RMIT project approval reference number 000020795.

²⁸ External committees and bodies were given access to the same documentation relied upon in the RMIT CHEAN application and relevant amendments.

their practice. Practitioners were bound by their own professional standards to protect the privacy of individual clients while responding to these questions, a duty that was reinforced by the researchers.

Participant recruitment, participant categories and sample specifications

Focus groups comprised practitioners from a mix of service types. The composition of participant samples varied significantly between the jurisdictions, however, and was profoundly impacted by the different legal and policy settings with respect to AVITH, as well as the localised funding and practice landscapes. For example, Victorian focus groups benefited from extensive participation by service providers working within programs and services specifically designed as AVITH interventions, while these were much less present in WA and Tasmanian focus groups. That said, many participants from Victorian organisations were experiencing unprecedented demands on their time, given the concurrent consultation and co-design processes associated with the implementation of the RCFV recommendations, which accordingly had implications for participant availability.

The PIPA team worked to identify and recruit participants from three main categories to achieve a mixture of practitioners within each focus group, wherever possible.

- **Subject matter specialists:** we worked with our project partners to identify those organisations and practitioners who were likely to have the most detailed knowledge and breadth of experience working specifically and in a targeted and specialised manner with AVITH.
- **System players:** we then sought to identify practitioners in the fields of justice, family violence, and youth and family services who fulfil systemic roles and are likely to encounter and respond to AVITH but who may not explicitly consider this a significant or formal part of their role and may not have any specialised knowledge of AVITH.
- **Practitioners serving marginalised cohorts:** we also needed to achieve participation from organisations that serve marginalised cohorts who also may not identify working with AVITH as a particularly significant part of their

role in the community, but who nevertheless are exposed to and do encounter and respond to the impacts of AVITH. This included Aboriginal and Torres Strait Islander community-controlled organisations and organisations serving CALD communities, inclusive of but not restricted to refugees.

Recruitment steps involved setting up the initial pool of potential participants through lists of specific locations, then organisations and types of practitioners within those locations who were to be targeted for recruitment. This was achieved through drawing upon:

- available literature providing up-to-date information on existing AVITH responses specific to the jurisdictions (in Victoria, for example, the RCFV's final report [State of Victoria, 2016a] provided a very useful starting point)
- the researchers' own knowledge of the youth, legal and family services systems as researchers and practitioners/former practitioners—particularly for identifying system players
- the knowledge of practice partners, particularly those in WA and Tasmania, where less documented information about programs or responses concerning AVITH was available. This step identified a mixture of key systemic players (lawyers, police etc.) and the key subject matter specialists.

Though it was an auxiliary, rather than a primary, recruitment strategy, the researchers also accepted suggestions and guidance from participants themselves as to further individuals and organisations to include, a form of snowball recruitment (Noy, 2008). This degree of practitioner input in recruitment was useful, specifically because of the sometimes-hidden nature of AVITH as an unrecognised area of legal and non-legal need for families and individuals. It was from this participant feedback that the researchers became aware of specialist programs and organisations of which they were not originally aware, or of system players who may be experiencing high levels of contact with AVITH and therefore may have been interacting frequently with the participants originally targeted for recruitment. The researchers chose to be flexible in accepting these suggestions, as it served a key purpose of the focus groups, which was to produce a

descriptive map of system responses to AVITH, including less obvious or hidden ones, such as emerging and ad hoc practices and referral pathways.

Some practitioners' membership of a particular category was not exclusive or was unclear, as many experienced practitioners had moved in and out of various highly specialised roles during their careers. This meant that they could not be categorised as, for example, a "family violence worker", "child protection worker", "youth worker" or "clinician", as they may have been all of these at some time and were drawing on this complex perspective. These practitioners therefore offered perspectives developed over the course of a varied professional career working with families, young people, the legal and other systems and government agencies. During focus groups and interviews, for example, we found that practitioners often shared and referred back to multiple overlapping examples and experiences from varied careers in illustrating their observations of current system responses to AVITH. For this reason, focus group and interview responses were not systematically coded according to participant type for analysing frequencies. Rather, the specific perspectives of participants in the context of their professional experiences were always reflected upon and taken into account when linking themes to evidence in the transcripts, especially where these arose from exchanges in focus groups that revealed differing perspectives that then gave rise to tensions or disagreement or to a more expanded account.

The three participant categories were overlaid with an approach conscious of significant geographical diversity in the local issues sometimes underpinning manifestations of AVITH, as well as the resources and services available to respond to the issue. For these reasons, a number of focus groups were conducted in regional, as well as suburban, areas. In Tasmania, due to the smaller size of the jurisdiction and the low level of local awareness/services recognising the existence of AVITH, recruitment of participants focused upon Hobart, where relevant services and practitioners were most concentrated and accessible to the researchers, although efforts (ultimately unsuccessful) were also made to recruit participants from other areas.

Initially, the PIPA team did not have a practice-based partner in Tasmania and this may have accounted for the relatively slow uptake of invitations to participate in the research.²⁹ However, the PIPA team ultimately identified the key stakeholders in the Tasmanian context and successfully recruited most of the service providers that we targeted. More practitioners from Tasmania participated in interviews than from other jurisdictions (see Table 1) and interviews and focus groups were organised through a more iterative process than in other jurisdictions, largely as a result of the delayed uptake of invitations. This iterative process meant, however, that each time the PIPA team spoke with an individual or conducted a focus group, we used this as an opportunity to revise and validate our system map of key stakeholders and services.

In WA and Tasmania, participants who encounter AVITH incidentally and are required to respond to it in a sometimes ad hoc manner were more prevalent than participants who had specialist AVITH experience. This latter group included a number of participants from mainstream family violence services. The effects of the differing legal and policy landscapes across the three jurisdictions on our data collection, and on practice itself, are examined in more detail in Chapter 3 and are relevant throughout this report.

Table 1 shows the locations of focus groups and interviews, and the number of participants from different regions.

Participant attributes

Participants included practitioners in the following roles:

- family violence (perpetrator intervention) program facilitator or manager
- women's refuge employee

²⁹ In Tasmania, unlike WA and Victoria, a partnership with a practitioner organisation (Legal Aid Tasmania) was only established later in the project. The partnership with Legal Aid Tasmania and the Magistrates Court of Tasmania was driven by data collected in focus groups and interviews, as well as practitioner feedback in the Tasmanian workshop. Data gathered in those contexts led the research team to identify an area in which a justice response to AVITH and the corresponding area of legal practice was in fact occurring, though previously unknown to the researchers—that is, the use of (non-family violence) restraint orders in relation to AVITH-type situations.

Table 1 Focus groups by locations

Research site	Number of participants	
	In focus groups	In interviews
Victoria (n=82)		
Ballarat ^a	8	1
Collingwood ^b	6 (2 focus groups)	
Frankston	7	
Melbourne	12 (3 focus groups)	1
Moorabbin	11	
Morwell	16 (3 focus groups)	
Sunshine	7	
Werribee	3	
Wonthaggi	10	
Western Australia (n=57)		
Perth	16 (2 focus groups)	
Northbridge	13 (2 focus groups)	
Mandurah	18 (2 focus groups)	
Armadale	3	
Joondalup	7	
Tasmania (n=18)		
Hobart	13 (4 focus groups)	5
		Total participants=157

Notes:

^a Incorporating participants from the Barwon region and the Grampians.

^b Incorporating Northern metropolitan region.

- family therapist
- integrated family services case manager
- counsellor
- clinician (disability)
- clinician (AOD)
- clinician (mental health)
- child protection services employee
- youth worker
- uniformed, youth specialist or family violence specialist police officer
- police prosecutions professional
- community sector duty, youth crime, family law and family violence lawyers
- court employee
- youth justice professional
- educational engagement officer/program provider
- employee of a specialist CALD family violence service
- family violence or child protection specialist employee of an Aboriginal community-controlled organisation
- other community support organisation worker.

In this report, we have not precisely attributed quotes to the type of participant based on role or the three participant categories because there may be situations where such a level of specificity, when combined with the contextual information in the surrounding text, has the potential to be identifying. This is especially the case where limited numbers of organisations and individuals deliver specific programs or services in certain locations. The PIPA team has therefore

only indicated the role of a particular participant if it is especially relevant to what is being said, or if it is necessary to ensure that the quote is not presented in a manner that could be misleading, and where it can be included without the possibility of identification. For the same reasons:

- Focus group quotes do not pinpoint the jurisdiction, unless it is particularly relevant for understanding the quote and surrounding text, and is not considered to be identifying (the same policy was applied to case studies).
- Naming specific types of orders will pinpoint the jurisdiction, so references to orders in quotes and case studies use a generic “protection order”, unless directly relevant to the context and not considered likely to identify any individuals or their organisations. Similarly, in composite case studies the parties are referred to as the “respondent”, the “respondent/defendant” (where there may have been combined civil/criminal matters), or the “accused” in relation to criminal matters alone; and the “affected person”. The terminology “affected person” was chosen because it is not the terminology specifically used in any one jurisdiction, and because it is sufficiently inclusive to denote, where appropriate, that someone is a victim/survivor, or that they also have a more formal legal role in the proceedings as the applicant or as the person whom another party, such as police, is seeking to protect.
- In exchanges between multiple participants that are reproduced in edited form, participants are labelled in descending numerical order, following the order in which they speak within the excerpt.

Conduct of focus groups and interviews

Focus groups were semi-structured, with most questions open-ended and seeking to elicit descriptions of how interlocking legal and social service systems work together (see Appendix E). Some questions sought to explore in detail a priori themes (also signalled in existing literature) of the presence of intergenerational family violence, mental illness and disability, or AOD use in families experiencing AVITH, as well as practitioners’ perceptions of the role played by those factors in both the use of violence and engagement with services and justice responses. The PIPA team also

sought to elicit practitioners’ perspectives on the magnitude of AVITH as a component of their practice, and any observations about changes in the rate of relevant presentations or volume of cases. Additionally, we sought practitioners’ views—and their observations drawn directly from practice—of the most effective strategies for engaging with adolescents, and of any interventions directly observed as contributing to making families safer.

Participants who wished to take part in the research but were unable to attend a focus group, or alternatively missed a group that they would otherwise have sought to attend, were interviewed individually. Occasionally, interviews and focus groups were conducted via telephone (five interviews and two focus groups), but the large majority were conducted face to face with participants. Where individual interviews were conducted, the same topic guide, participant information sheet and consent form were used as for focus groups. The topic guide (Appendix E) and participant information sheet and consent form (Appendix D) were designed to encompass the possibility of an interview taking place. Although semi-structured and involving open-ended questions, interviews were necessarily shorter, as there was a lack of interaction between multiple participants to promote discussion. Interviews ranged from approximately 30–60 minutes, while focus groups generally took 90 minutes to complete. The researchers’ data analysis approach and preference for focus groups is discussed in more detail below.

Interview transcripts were analysed together with those of focus groups, as the researchers did not find them to be significantly different to focus groups in the type of content provided. Interviews were briefer versions of the focus groups and fulfilled the function of helping to map and understand the system. However, interviews lacked the additional benefits brought by focus groups, which saw some perceptions or observations challenged, affirmed or triangulated with additional information from other participants, and practitioner participants expanding their own knowledge base and referral networks on occasion. In this way, focus groups were consciously adopted as a strategy for engaging practitioners in the co-production of knowledge (Coutts, 2019). For these reasons, focus groups were the preferred mode of participation because they enabled knowledge to

be co-produced as the research progressed and the impact of increased awareness and connections to be felt during the life of the project. Even so, interviews overall did not involve more complexity to conduct or analyse, or yield a very different or more complex perspective than focus groups, as might perhaps be expected if the subject matter were personal experience, rather than professional practice.

The focus groups and interviews were important for filling in descriptive gaps in terms of how systems and practices actually work and producing an accurate system map. However, the greatest value we found in the focus groups was in exploring in detail the a priori themes of intergenerational family violence and disability (including mental illness), which generated much discussion and were strongly endorsed as significant issues, and which also generated more complex emergent themes and linkages. For reasons expanded on in later chapters, these issues were difficult to explore thoroughly with the mixed methods case file audit, as the issues were poorly represented quantitatively, due to the way in which information may be recorded on case files in legal contexts, as opposed to other practice contexts, and elicited by practitioners in these areas. This was the case even though in some specific examples there was an enormous amount of information and depth in the detail available about the impact and relevance of intergenerational family violence and disability.

Administrative data and case file audits

Overall, the PIPA team conducted a mixed methods analysis of 385 court and legal case files from court protection order application lists in which adolescents were respondents, or from youth criminal law defence practitioners' general practice. This included a significant subcategory of cases involving applications for, or breaches of, civil protection orders.

Data collection

The PIPA researchers designed and used a case file audit tool (Appendix C) to capture a mixture of non-identifying administrative case outcome data; demographic information

about adolescents and families affected by AVITH (presented as aggregate statistics); and case narratives from court and legal practice files, all of which are reported against relevant themes in Chapters 4–10 of this report. The case file audit tool was designed to split demographic data from the narrative of what occurred in the legal case, one of several strategies used to de-identify data as it was extracted. Extraction of the data was conducted by practice partners themselves and by a small team of RMIT postgraduate research placement students on site at some of the practice partners' offices (Children's Court of Victoria, Youthlaw, VLA, LAWA, Magistrates Court of Tasmania and Legal Aid Tasmania) to maintain confidentiality of the data while identifiable. The PIPA lead researcher and associate researcher were then provided with the extracted, de-identified data.

The level of detail in content extracted from files varies from one organisation to another, and from one case type and jurisdiction to another. Court files and legal files that related to protection order applications generally included the original application for the order. In Tasmania, where police were rarely the applicants in those matters, an application was often a handwritten document by the person seeking protection, most often a parent of the respondent. In Victoria, the application was almost invariably a detailed form completed by police officers who usually devoted between one and several paragraphs to describing the reason why they were called to, and attended, an incident; what actions they took; and the reasons for seeking an order/why an order should be made. The analysis of WA legal case files was necessarily far less in-depth because, due to the legal status of AVITH in WA at the time of data collection, the type of files sampled were criminal cases in which AVITH does not emerge as a distinct case type, but which only emerges as a feature of cases from consideration of the circumstances underlying criminal charges.

On court files examined in Tasmania and Victoria, the outcomes at each listing were recorded, and sometimes there were Magistrates' notes regarding the evidence or the reasons for a particular decision, such as an adjournment. Legal practice files varied in the level of detail available, as some were duty lawyer files representing a one-off appearance, while others were case work files involving representation

over a period of time. As a result, some legal files included limited contextual notes, while others contained detailed reports and notes about submissions made by practitioners, the reasons for the submissions, and the evidence upon which these relied.

On files involving criminal matters, including in the mixed civil and criminal samples in Tasmania and Victoria, as well as the exclusively criminal sample in WA, some version of the brief of evidence was generally available. This included, at least, the police-constructed summary of events underpinning the charges, and sometimes more extensive material, such as full witness statements or evidentiary reports. As a result of these variations, as well as occasional issues with legibility of notes etc., there are likely to be data missing in response to some template questions across the case file audits, and different samples reflect higher rates of certain case features than others. For example, the aggregate statistics on disability are higher for legal practice samples compared with court samples because of the greater level of detail on those files. This is likely to represent a sustained professional relationship, as well as the role of legal practitioners as advocates for their clients rather than impartial arbiters.

In addition to accessing AVITH case files, VLA allowed the researchers to access 4965 electronically stored de-identified administrative records. These records reflected legal services provided by VLA to 905 clients aged 10–17, representing all of those clients who, in an 18-month period spanning 2015–17, were respondents in applications for protection orders or were charged with breaching protection orders. Some basic descriptive statistics were extracted from this data using Excel with assistance from VLA and are reported alongside results from the main data sources in the research.

Sample specifications

Sample selection and retrieval was conducted by including all available data within defined time periods where this was an available and practical option (i.e. where the number of files retrieved in this sample frame would not be too many for the researchers to extract and analyse data within project timelines). Where necessary, we also used Excel randomising functions to draw random samples from the organisations’

electronic file lists. While there were some comprehensive samples accessed, and some in which the researchers had the opportunity to supervise random selection, this was not possible in all cases. Table 2 describes all case file data sample sources.

The PIPA team discovered such diversity and complexity among the case file audit samples that, in order to focus on and describe those potentially involving AVITH, we broke down the samples into various categories and classified some as “marginal” (see Table 2). That said, in no way does this intend to downplay the importance of examining the issues raised by those cases, but instead is intended to indicate clearly which cases are considered as potentially constituting AVITH, rather than other forms of family violence or non-family violence behaviour. For example, we separated out cases involving violence by adolescents in out-of-home care settings, in part because this issue is usually addressed under non-family violence-specific responses in Victoria, which means that it does not really show up in Victorian samples at all.³⁰ As seen in Table 2, however, it is important to highlight that children *are* experiencing a legal response of some kind—including a general non-family violence civil restraining order response, across jurisdictions—for their use of violence in out-of-home care settings, which might otherwise attract a family violence response. In particular, breaches of protection orders in WA feature in the case breakdown (Table 2), where the PIPA team heard that children are more likely to be prosecuted for breach of a protection order (or be subject to a protection order in the first place) in out-of-home care settings than they are while living with family. This is discussed further in Chapter 10.

Once the marginal and potential AVITH cases were identified, we conducted further analysis within the potential AVITH cases to break the data down further. This included producing aggregate statistics of the parties’ genders; case narrative analysis regarding the subject matter and nature of disputes; the nature of the violence; actions taken by system players such as police and courts; and the role played by co-occurring and underlying issues, such as disability and intergenerational family violence. The terminology of “potential” AVITH cases relates to the diversity of factual circumstances that the PIPA

³⁰ Practitioners in focus groups confirmed that this was the case.

Table 2 Breakdown of case types in Victorian, Western Australian and Tasmanian case analysis samples

Sample	Potential AVITH cases	Marginal cases (civil)	Non-AVITH criminal cases	Total number of cases
Victoria				
Children's Court of Victoria (FVIO)	85 (75 individual adolescents)	15	N/A	100 ^d (90 individual adolescents)
VLA (youth family violence)	42	8	-	50
VLA (youth criminal law)	9		41 ^a	50
Youthlaw (youth family violence)	25	0		25
Tasmania^e				
Legal Aid Tasmania	8			8
Magistrates Court of Tasmania	19	33 ^b		52
Western Australia				
LAWA (youth criminal law)	11		89 ^c	100
Total cases				385

Notes:

^a This figure includes non-AVITH family violence criminal matters, such as cases where the primary set of charges concerned intimate partner violence (n=3).

^b This included cases that were generally school-related, such as school bullying, trespassing, abuse of other students and/or teachers (n=15), as well as all other non-AVITH cases including neighbourhood disputes, online bullying, sexual assault and dating violence (n=18).

^c This figure includes a wide range of criminal case types, including intimate partner violence as the primary set of charges (n=1), but also includes the cases where the primary charge/s had no connection to AVITH, but where there was evidence of it as a feature of the case and underlying circumstances. These cases are discussed in more depth in the text of the report above and are referred to as "secondary" AVITH (n=11).

^d Of the 100 applications reviewed, eight adolescents were the respondents in multiple separate applications. These generally involved two or three applications made by or on behalf of separate adult family members, generally the other parent, or a grandparent, and in one case a non-adult ex-partner. Where separate applications were made, in some cases, conduct or incidents which were the subject of applications were separated by weeks or months, while in other cases a general pattern of conduct at home towards multiple family members was identified. This means that the 100 court files examined actually related to 90 individual adolescents (as some adolescents had more than two applications against them). With marginal cases subtracted from the 100, there remained 85 separate applications concerning AFV/AVITH, with 75 individual adolescents involved. With duplicate cases removed during data merging, this ultimately became 69. For descriptive statistics concerning characteristics of the young person, we counted individual respondents, while for statistics involving applications as a whole, we counted applications. For statistics about AFMs' and applicants' gender or relationship ratios to adolescent respondents we counted each separate application. We followed the same process for the VLA files, among which we identified three further individual adolescents with multiple adult AFM applications against them.

^e Note that there has been no merging of the case file data from Tasmania, because of the nature of the sample types; Magistrates' Court files being all cases heard from a designated 1-year time period; legal practice files purposively selected based on practitioners' recollection of their subject matter.

team encountered in cases that, at face value, involve the components of AVITH—an adolescent respondent or defendant, and a familial victim/survivor or protected person. This complexity and diversity is explored in detail in Chapter 4 and forms a major theme of the research findings.

It should be noted that some cases originally identified by a court as involving AVITH also involved a slightly different

(but related) form of family violence, being intimate partner violence and including sexual assault perpetrated by adolescents. Alternatively, they involved offending in a context which, in the PIPA team's view, did not necessarily fit the definition of family violence included in the relevant legislation. Table 2 provides a breakdown of case types in the case analysis samples of each jurisdiction.

Data analysis

Focus groups and interviews were digitally recorded and professionally transcribed. De-identified transcript was imported into NVivo and analysed line by line. A qualitative directed content analysis approach (Hsieh & Shannon, 2005) was taken to analysing the focus group data. Content analysis involves thematic coding of text. A directed approach involves using a pre-existing framework of themes to direct that coding and "focuses on the characteristics of language as communication, with attention to the content or contextual meaning of the text" (Hsieh & Shannon, 2005, p. 1278).

For the PIPA project, this approach involved identifying frequency of themes and using accounts of practitioners working in a diverse range of system roles to help us describe current interrelated systems and practices. A priori codes that reflected the topic guided and organised data into categories, drawing on the initial literature review, provided a basic thematic framework. This was expanded significantly into more conceptual and explanatory themes and linkages as the analysis progressed (Bazeley, 2009). Later in the project, as outlined above, the identification of themes and the descriptive map of systemic responses to AVITH were tested with practitioner project partners, as well as in practitioner feedback workshops, which utilised the original pool of those organisations and individuals invited to participate in the research at the outset. The a priori themes that were frequently and strongly endorsed as significant by practitioners and by the case file audit were retained to structure the reporting of findings in this document (disability, trauma etc.). Within the chapters, however, more complex emergent themes and linkages are outlined.

One layer of case file audit data was captured in Part 1 of the case file audit template, which sought to extract demographic data and basic case features in order to present these in aggregate statistics. The basic calculations involved in producing those statistics, reported throughout this report, were performed using Excel spreadsheets kept in a secure research drive only accessible to the chief investigator and co-investigator. A second layer of case file audit data, the case narratives, was extracted through completion of Part 2 of the template and analysed through line-by-line coding in

NVivo. The data captured in these narratives focused on questions such as what led to police becoming involved in a case, as well as the court's response, and any observable impacts of this.

The analysis outlined above took the code trees used for focus groups and interviews as a starting point and modified these to enable counting some more case-specific data, such as particular legal outcomes or actions taken. It was also necessary to create separate coding trees for each jurisdiction to reflect local variations, such as in possible legal outcomes or processes, or in the available referral types and pathways. This means that, although many themes were mirrored across different coding trees, the coding was generally not merged across different samples (except in one limited instance in Victoria—see Appendix F) and the mirrored themes and codes had to be manually examined and compared with each other.

Case file audits were intended to help map system activity and capture any available evidence of the impacts of that activity, as well as frequency of intersecting and co-occurring issues, whereas critical qualitative analysis was not a primary goal of case file content analysis. Having said this, the PIPA team was continually critically attentive to the sources of information underpinning case narratives and how this impacted the meanings that could be ascribed to content. This critical attentiveness contributed to some of the findings, as well as to key distinctions, limitations and caveats explored throughout the report. For example, in analysing the role of AOD in AVITH reported to police, or by way of in-person applications, we distinguished between cases involving evidence of intoxication versus AOD being part of a parent or police-sourced narrative about problem behaviour more generally and as a catalyst for family conflict (see Chapter 4).

The PIPA team also initially sought to impose a typology of different forms of AVITH to cases, reflecting data from the first practitioner focus groups conducted. Ultimately, however, we found this unhelpful, as well as impossible to achieve. One of a number of reasons for reaching that conclusion was the likelihood that cases appearing to involve a one-off incident—and therefore lacking a pattern of coercive control—

may only appear that way because of legal and policing conventions that tend to promote the framing of behaviour in terms of discrete incidents. This practice persists even as policy settings and legislation are changing to respond more effectively to the dynamics of abuse in all relationships. A critical lens was similarly applied to practitioner observations in focus groups and interviews, including consideration of critical feminist analysis attentive to gendered victim-blaming attitudes and expectations among some social service providers and first responders (Fitz-Gibbon et al., 2018).

The emergent and a priori themes derived from case file audit analysis were examined in a complementary and comparative manner with those emerging from practitioner focus groups and interviews on an ongoing basis throughout the project. In fact, differences between these data sets led, in and of themselves, to some of the most significant overarching themes and findings. An example of this is the extent to which practitioners reported perceptions of a very high prevalence of exposure to adult-perpetrated family violence among young people receiving a justice response to AVITH. This did not translate to a high prevalence of case files that noted such exposure as a factor in the case. This and analogous discrepancies across different themes (including the applicability of a typology to cases, as discussed above) threw into strong relief the way in which justice responses to AVITH may be missing and failing to respond to critical dimensions of the problems that are key to identifying, implementing and leveraging positive interventions. This kind of comparative analysis and theorisation about the interface between different data sets was also tested in the practitioner workshops towards the end of the PIPA project.

Table 3 Case file audit: Sources and size of samples

Data description	Source	Title and size of sample
<p>Extracted non-identifiable case narratives outlining the family violence incident leading to legal case, how police became involved and their response, the nature of the court's response including orders made, and, where available, a description of co-occurring issues and circumstances, as well as evidence of previous, ongoing or different forms of violence used in the family. Each case narrative varies from half a page long up to five pages depending on the case features and volume of relevant information.</p>	<p>Children's Court of Victoria (Victoria)</p>	<p>FVIO sample</p> <p>100 court files of applications for FVIO cases from the 2017 calendar year involving a person aged 10-17 years as the respondent, randomly selected by court staff. The PIPA researchers were not privy to the processes used by the court to select the random sample. A small number of young people were respondents in multiple separate applications, so this sample represented proceedings involving a total of 90 individual young people, i.e. where a young person was subject to two or more applications, the separate applications were collapsed into one case narrative.</p>
	<p>VLA (Victoria)</p>	<p>Youth family violence sample</p> <p>50 files randomly selected where a young person aged 10-17 years was either the respondent in an application for an FVIO and was represented by VLA, or was charged with criminal offences in relation to breaching an FVIO. In this case, the PIPA researchers were privy to the process involved in randomly selecting cases, which involved the use of an Excel formula for randomly selecting a sample of numbered rows representing files. Where files could not be located or were found to be of the wrong file type (wrong type of legal matter), replacement files were randomly selected by repeating the same procedure.</p>
	<p>Youthlaw (Victoria)</p>	<p>Youth criminal law sample</p> <p>50 files randomly selected from across the VLA youth crime practice for the purpose of comparison with the youth family violence sample. The PIPA researchers were again privy to the random selection procedure, which used an Excel formula to select the sample.</p>
	<p>LAWA (Western Australia)</p>	<p>Youth criminal law sample</p> <p>100 files selected randomly by LAWA staff; all files pertained to criminal matters. Files were audited by a LAWA legal practitioner in WA, using the PIPA case file audit tool, and the extracted de-identified and non-re-identifiable data were provided to the PIPA researchers and imported into NVivo for analysis. The analysis identified those cases that involved AVITH-type conduct as the subject of the primary charges on the file. It also identified cases where the charges were not AVITH related, but there was other evidence on the file that AVITH may have been occurring or presented in other cases. Ultimately, 11 files contained explicit AVITH-related charges, and a further 11= contained secondary evidence of AVITH. Further quantitative and qualitative content analysis of those subsets of LAWA cases was conducted. The PIPA researchers were not privy to the specific means used by LAWA for random sampling.</p>

Data description	Source	Title and size of sample
	Magistrates Court of Tasmania (Tasmania)	Restraint Order (RO) sample 52 RO applications. The PIPA researchers reviewed a comprehensive sample of all RO applications made against child respondents (aged 10-17 years) in the Magistrates Court of Tasmania throughout the 2016-17 financial year. Of these, 19 (36%) involved conduct that may constitute AVITH.
	Legal Aid Tasmania (Tasmania)	RO case file sample 8 youth crime practice files had de-identified and non-re-identifiable data extracted using the case file audit template. Legal Aid Tasmania youth lawyers selected all youth crime files in which the client also faced an application for RO or charges of contravening an RO in relation to a family member protected person during a recent single financial year period. These files needed to be selected based on practitioners' recollections of which clients had RO matters, as they are not administratively labelled or captured in a way that made them identifiable in any other way to allow random selection or a comprehensive sample. As Legal Aid Tasmania is not funded to provide legal assistance to young people in civil RO matters generally, it was only possible to review files through the prism of a legally aided criminal matter being the primary subject matter of the file (similar to the LAWA file sample).

CHAPTER 3

Differing legal, policy and social landscapes

Chapter 3 describes the diverse legislative and service provision landscape in the participating jurisdictions.

This highlights the impacts of the way in which an issue is recognised and conceptualised at a policy and legislative level, as well as the way in which this conceptualisation in turn shapes the service delivery response. This chapter also includes a description of the relevant RCFV recommendations in relation to AVITH, as well as the extent to which these various recommendations have been implemented.

As explained in the introduction, the three jurisdictions in which the PIPA team conducted its research were chosen because of interest expressed by practice and research colleagues and, most crucially, because of their particularly contrasting legislative and policy environments. Echoing the variation across Australian jurisdictions more broadly, each jurisdiction was at a different point in its recognition of AVITH as a form of family violence at the time the research was conducted—and therefore at different stages in the development of companion legal and service responses. This difference is reflected across our sampling for practitioner focus groups, as well as our case file audits, because the type of practitioners that exist in a system and are able to describe their observations of AVITH, as well as the type and volume of legal case files generated, appears to be influenced by the legal and policy environment.

For example, in Victoria—which has long recognised AVITH legally—the PIPA team was able to involve many practitioners in the project who were experienced at delivering programs targeted at AVITH. In some of the smaller geographic areas in which focus groups were conducted in Victoria, some practitioners from other service types (but certainly not all) were also aware of the existence of these programs and were actively making referrals to them. This was not the case, however, in other jurisdictions, with the exception of a handful of areas in WA, in which a Step-Up-based program had been previously offered by various agencies, including one of our practice-based project partners, Peel Youth Services. In Tasmania, a Step-Up-based program was in development (but not yet in operation) at the time of some interviews, meaning that some practitioners were aware of the broad concept, but had obviously not yet been in a position to make referrals. Participation by relevant government employees, as well as the provider engaged to deliver the service, in the follow-up

workshop in Tasmania enabled preliminary findings from the PIPA project to inform the development of this program.

In relation to case file audits, in Victoria the PIPA team was able to sample a large number of case files where the nature of the specific legal matter was explicitly an adolescent aged 10–17 identified as or accused of using family violence. Again, in WA and Tasmania this was not possible. In WA, we were able to look at how AVITH featured as part of the broader Legal Aid youth justice criminal case load, while, as noted above, after initial expectations that we would be unable to review *any* relevant case files in Tasmania, ultimately a sample of general civil protection order files emerged as relevant and were able to be reviewed.

Victoria

Policy settings and key legislation regarding family violence

The PIPA project confirmed how important the nature of a policy setting is to the way in which an issue is conceived, as well as the response it receives. For example, in Victoria, the possibility of adolescents being perpetrators of family violence against family members was envisaged by the *Crimes (Family Violence) Act 1987* (Vic), the current legislation's predecessor, although a broader community awareness allowing AVITH to be recognised or to receive a response was not necessarily present.

As signalled earlier in this report, however, Victoria formally broadened its definition of family violence in 2008 with the *Family Violence Protection Act 2008* (Vic) (the FVPA),

following a Victorian Law Reform Commission (VLRC, 2006) report recommending reform of the existing system to target family violence more effectively. This expanded definition meant that family violence perpetrated by adolescents was unequivocally captured in the remit of the legislation and accompanying legal system response. Specifically, section 4 of the FVPA recognises a broad and non-exhaustive scope of familial and carer relationships as potentially featuring family violence, and also articulates a broad scope for the type of behaviour that can constitute family violence. The FVPA makes it clear that behaviour recognised as family violence ranges far beyond physical violence or behaviour that would ordinarily constitute a criminal offence, and encompasses psychological, emotional and financial abuse, as well as any other behaviour that involves controlling or dominating other family members.

The FVPA sets out a regime of civil protection orders—FVIOs—prohibiting such behaviour and creates an offence punishable by imprisonment for the contravention or “breach” of such orders. For the first time in Victoria, the FVPA also introduced Family Violence Safety Notices (FVSNs), giving police civil holding powers to remove and exclude the person using family violence from the home in after-hours situations where courts are not accessible. Police are not able to exercise these powers with respect to children who are using family violence (FVPA, s. 13A[2][a]). The FVPA reflects a strong consciousness of, and desire to move beyond, past failings to recognise or take family violence sufficiently seriously as public crime. It also seeks to have a normative, awareness-raising effect—to “send a strong message” (State of Victoria, 2008) to the wider community and those tasked with administering the law.

Since the passage of the FVPA in 2008, reforms to state court and policing responses to family violence have continued, with the establishment of the RCFV and the government’s subsequent commitment to implementing all 227 of its recommendations (State of Victoria, 2016a, 2016b) cementing Victoria’s clear policy setting of prioritising a tough, proactive response to family violence.

This has translated to a very active response by courts and police to family violence in terms of pronouncements and

policy settings. It has also filtered down to an eagerness on the part of those agencies in utilising the tools available for holding individual perpetrators to account.

Key features of Victoria’s justice response to AVITH

Family Violence Intervention Orders

Victoria Police takes a zero-tolerance response to family violence-related call outs. This translates to routine applications for an FVIO by police on behalf of the AFM. Victoria Police is in fact obliged to apply for an FVIO on behalf of the AFM, “wherever the safety, welfare or property of a family member appears to be endangered by another family member” (Victoria Police, 2017, p. 42). This translates into a consistent rate of around 70 percent of all FVIO applications being brought by Victoria Police (CSA, 2018c).

In cases where the person using violence is an adolescent and is the child of the AFM, however, the PIPA research and broader system data reveal that virtually all applications that come before the courts are made by police, with a very small number directly sought by AFMs themselves. In fact, of the 100 applications in the Children’s Court of Victoria files that we reviewed, we found only two that were directly sought by the AFM, as opposed to Victoria Police. This reflects the fact that it is very rare for a parent to choose actively to seek a protection order against their child. As reflected in existing research, this is for a wide range of reasons, including fear of exposing the child to criminal penalties for breach of the order and the challenges of enforcing it within the family environment or within a wider community context where siblings attend the same schools (Moulds et al., 2018).

Most FVIOs made in Victorian courts fall into a few broad categories as understood by practitioners, though these are not necessarily spelled out in legislation. The first is often referred to by practitioners as a “limited order” or a “safe contact order” and generally involves conditions prohibiting behaviour, such as using family violence, destroying the AFM’s property, or harassing or keeping the AFM under surveillance. These are included in the non-exhaustive list of standard FVIO conditions established by the Magistrates’

Court of Victoria (a revised form of these was about to be introduced by the Magistrates' Court of Victoria at the time of writing in June 2019) and are essentially used in situations where the court (and, just as relevantly, the police) believe that the risk involved does not require the parties being separated from each other.

The second category of order is referred to by practitioners as a “full” or “no contact” order and involves prohibitions on contact between the parties. This includes that the respondent must not be within a certain proximity to the AFM or wherever the AFM lives, works or studies or, where other children are included on the order (as there is now a presumption that they will be), within the children’s school. There may also be more limited “exclusion orders” prohibiting someone from living at or attending an address, but allowing contact under certain circumstances, such as in written form or by telephone. Increasingly, this means that the respondent is excluded from the family home if the respondent was living with the AFM. Often in these circumstances (and where other children are not included on the order), a full order will provide exceptions that allow the respondent to contact the AFM in writing, but only about arrangements to see the children. In the case of adolescent respondents, it may also include allowing contact for the purposes of the AFM taking the respondent to appointments, such as for mental health or AOD issues, as long as the respondent does not reside with the AFM. In addition to these two broad categories as the most common forms of FVIO made, Victorian magistrates are free to make any orders and in any form they choose. One example of a relatively common option is an order that allows the respondent to reside with the AFM, but which prohibits the respondent from attending the house when they are affected by alcohol or drugs.

Criminal prosecution

In cases where the behaviour constituting family violence would also be a criminal offence, police are directed to adopt a “pro-arrest” and “pro-prosecution” response (Victoria Police, 2017). Victoria Police’s (2017) most recent publicly available framework for responding to family violence, the latest edition of the *Code of Practice for the Investigation of Family Violence*, addresses AVITH. This notes that AVITH may be different in crucial respects to adult intimate partner

violence and acknowledges the complexity of responding in such circumstances. It does not extend, however, to articulating a different approach to decisions regarding arrest, prosecution or the use of civil options (Victoria Police, 2017).

The service landscape

The service landscape in Victoria reflects, to a degree, the policy settings that have evolved over the past 10–15 years in the state. Compared with the two other jurisdictions examined in this research, Victoria has seen more extensive investment in services that recognise and respond to the diverse forms of family violence occurring in the community, as well as the diversity of communities themselves.

Victoria’s commitment to funding an integrated and proactive family violence response is reflected in its Budget commitments, which reportedly reached \$1.9 billion in 2018 (State of Victoria, 2017b). Tasmania’s spending commitments on domestic violence, by comparison, have most recently been reported at \$20 million (Tasmanian Government, 2018), and WA’s most recent Budget reports less than \$9 million worth of measures to prevent family violence (Government of Western Australia, 2018).

As noted in Chapter 1, in recent years Victoria introduced three government-funded adolescent family violence programs in three regions. The design of these was influenced by the Step-Up program in the US, and many similar group-based programs have proliferated throughout Victoria, delivered by organisations that receive government funding overall, even if they are not directly funded for provision of AVITH-specific programs. This proliferation has occurred in a geographically ad hoc manner, resulting in uneven access across the state.

The RCFV recommendations

In 2016, the RCFV handed down its substantial final report (State of Victoria, 2016a), which contained 227 comprehensive and time-sensitive recommendations. The RCFV explored AVITH as a distinct form of family violence, encompassing child-on-parent violence, sibling violence and, as previously

noted in Chapter 1, problematic sexual behaviour (State of Victoria, 2016d). It made a number of recommendations that aimed to improve the capacity of the service system to respond appropriately and consistently to use of family violence by adolescents, including:

- the expansion of promising programs that aim to address AVITH
- an improved crisis response when police attend incidents of AVITH
- ensuring appropriate supports are available at court
- the establishment, or combination of, innovative justice programs to prevent criminalisation of children and young people.

While the RCFV made no specific recommendations in relation to the development of appropriate practice frameworks and tools, it observed that AVITH required increased and dedicated research and practice effort to guide family violence workers and other practitioners in this area (State of Victoria, 2016d). Accordingly, the RCFV suggested that, as a first step, the review and redevelopment of the Common Risk Assessment Framework should incorporate appropriate risk assessment guidance that is specific to AVITH (State of Victoria, 2016d). As at June 2019, the PIPA team was advised by Family Safety Victoria that inclusion of AVITH-specific considerations has been incorporated into the MARAM.

Targeted programs

Based on a preliminary evaluation of the AFVP in three locations in Victoria, the RCFV recommended the expansion of this program across Victoria (see Recommendation 123 in Table 4). In making this recommendation, the RCFV highlighted the need to embed in the program a specialist response for Aboriginal families.³¹

The RCFV also recommended that relevant programs should be delivered by—or in effective partnership with—Aboriginal community-controlled organisations. It also considered that,

³¹ The language used in the RCFV's final report in this instance refers to "Aboriginal families". This appears to be in accordance with the terminology outlined in the Victorian Aboriginal Justice Agreement (Victorian Aboriginal Justice Advisory Committee, 2000), in which reference to "Aboriginal people" or families within Victoria is intended to be inclusive of Torres Strait Islander people in Victoria.

as an alternative to the current practice of excluding families from the program where adult family violence is also present in the home, the program should be more effectively integrated with specialist family violence responses. This included requiring referrals to go through the Support and Safety Hubs³² also recommended by the RCFV, so that the family can be linked with other programs and services to address the co-occurrence of adult family violence (State of Victoria, 2016d).

Crisis responses

Victoria Police told the RCFV that few options exist for police when responding to adolescent violence in the home (State of Victoria, 2016d). Police-issued FVSNs and police holding powers cannot be applied to young people, with removal from the home requiring the consent of both the parents and the young person (State of Victoria, 2016d). Even where consent is provided, the RCFV heard that crisis and short-term accommodation options are limited. The RCFV also heard that child protection may become involved in arranging accommodation with a friend or family member or placing a young person in another form of voluntary out-of-home care. The RCFV also recognised the risk of casting young people into homelessness, and the effects this can have on their longer-term trajectory (State of Victoria, 2016d). As existing research has indicated, this longer-term trajectory can include increased risk of broader offending or escalation into more serious offending, especially for young people who had previously only committed low-level offences. In light of this significant system gap, the RCFV recommended the development of additional crisis and longer-term supported accommodation options, to be complemented by therapeutic supports to address the young person's use of violence (see Recommendation 124 in Table 4 (p. 61)). This is in recognition of the inappropriateness of out-of-home care (including residential care) and the youth refuge system for this cohort, and the need to provide alternative supported housing options that are less likely to pose additional risks to the safety and wellbeing of young people who cannot remain in the home. Furthermore, the RCFV cautioned against extending police-issued FVSNs and holding powers to young people, instead

³² The establishment of Support and Safety Hubs was recommended by the RCFV to function as multidisciplinary intake points through which police referrals could be directed, as well as through which families could seek face to face support.

recommending that existing police powers be complemented by appropriate therapeutic supports that can address the behaviours of young people who use violence in the home and help to keep the family safe. Pointing to an initiative by Victoria Police in which specialist family violence workers accompanied police officers to family violence call outs as one potential model, the RCFV recommended that Victoria Police considers including a dedicated Youth Resource Officer (YRO) in the family violence team model (see Recommendation 125 in Table 4). This role would undertake needs assessments and refer the young person and family into appropriate services and supports, either through attending an incident in person, or via follow-up engagement (State of Victoria, 2016d).

Court-based supports

Noting an absence of court-funded family violence-specific services in the Children's Court of Victoria (State of Victoria, 2016b), the RCFV recommended the establishment of applicant and respondent worker positions at the Melbourne Registry of the Children's Court of Victoria. This was intended to replicate the function of family violence applicant and respondent practitioners based at other Magistrates Courts, but with a specific focus on adolescents who use family violence (see Recommendation 126 in Table 4). These roles would work with young people and families in both the civil and criminal jurisdiction to provide "appropriate information about legal, community and case management options, counselling for both the young person and their family members, and referrals to other services" (State of Victoria, 2016d, p. 172).

The RCFV also suggested that the scope of the Children's Court of Victoria Clinic could be expanded to include FVIO respondents where a mental health or substance misuse issue is also present (State of Victoria, 2016d). Currently, this service is only available in the criminal and family divisions of the courts, subject to further review by the Children's Court of Victoria of the resourcing implications and any unintended consequences of extended jurisdiction. This service conducts psychological and psychiatric assessments to support magistrates in decision-making and may make recommendations about appropriate treatment (State of Victoria, 2016d).

Innovative justice models

The RCFV heard that, in lieu of a statutory court-based youth diversion scheme, diversion occurs in an ad hoc way via police referral, with a magistrate's consent to an informal diversion program (State of Victoria, 2016d). Given evidence that indicates that diversion of young people has been shown to reduce reoffending and continuous involvement with the justice system (Skowrya & Powell, 2006), the RCFV saw this as a significant gap in Victoria's justice response.

As such, the RCFV recommended the establishment of a statutory youth diversion scheme (pending the outcomes of an evaluation of the Youth Diversion Program Pilot) (see Recommendation 127 in Table 4). In making this recommendation, the RCFV acknowledged that diversion will generally not be a suitable response for adult perpetrators of family violence, but expressed the view that diversion remains a potentially appropriate response for adolescents who use family violence given their status as children and the unique circumstances that surround this type of violence (State of Victoria, 2016d).

Additionally, the RCFV suggested that, prior to introducing a legislated youth diversion scheme, consideration should be given to a recent review of the adult Criminal Justice Diversion Program, which found that the requirement of consent by the prosecution afforded considerable discretion to Victoria Police. The review was of the view that ultimate decision-making power regarding diversion should rest with judicial officers (State of Victoria, 2016d).

The RCFV also found that AVITH is an area that may benefit from the application of restorative justice approaches given that, more so than occurs in adult family violence, "most parents view reconciliation as an ideal outcome in adolescent violence situations" (State of Victoria, 2016d, p. 154). The RCFV therefore recommended trialling and evaluating a model of linking Youth Justice Group Conferencing with an AFVP (see Recommendation 128 in Table 4). Youth Justice Group Conferencing is a form of restorative justice conferencing that brings a young offender together with members of their family and/or community, as well as those who have experienced the offence, to discuss the impact of that offence

and potential means of mitigating the harm or making reparation. This may include, for example, repairing property damage or issuing an apology.

In making this recommendation, the RCFV recognised that a standard youth justice conferencing model, while having the potential to meet the reparative needs of the family, should necessarily be complemented by therapeutic work with the young person to address their behaviours and increase family safety. It also noted the need for strong facilitation to prevent re-victimisation occurring through the group conferencing process, with family support services engaged throughout (i.e. before, during and after a group conference) so that pro-violence and victim-blaming behaviours can be appropriately challenged (State of Victoria, 2016d).

Discussion

The above recommendations are vital and, once implemented and adequately resourced, will go a long way to improving the response for families experiencing AVITH. Unfortunately, however, as at June 2019 (the writing of this report) only half had been funded or implemented in full, given the great demands on the Victorian Budget as a result of the broader RCFV recommendations and the timeframe in which they were intended to have been implemented. This means that the state-wide expansion of AFVPs, for example, has not yet fully occurred. While an additional \$1.35 million over 2 years was reported as having been provided to the existing AFVP providers to improve their service provision (State of Victoria, 2018a), the levels of funding required for a genuine state-wide expansion have not yet been made available. Accordingly, it is not possible to identify any difference that the greater availability of these services is making to Victorian families.

The provision of dedicated crisis accommodation that is linked with therapeutic support for adolescents identified as perpetrators of AVITH had also not been funded as at June 2019. The PIPA team was informed by relevant policy-makers in the Victorian setting that the injection of significant funding into greater crisis accommodation for children experiencing family violence more broadly is considered as relevant to addressing this recommendation. This is absent,

however, of any consideration of the specific needs of children identified as perpetrators, nor the risk that they may pose to other children and workers. Further, the appointment of YROs within Victoria Police with a specific AVITH focus is subject to a range of region-specific considerations, which is leading to variation in the way in which proactive policing roles are deployed. This means that, while Victoria Police has a greater number of YROs engaged, the PIPA team heard from new YROs themselves that they did not necessarily see their role as having a focus on family violence.

The appointment of applicant and respondent practitioners to the Melbourne Registry of the Children's Court of Victoria has been implemented, with workers in place from the second half of 2018. The model developed to support these practitioners is promising and is included at the end of Chapter 10, with the permission of the Children's Court of Victoria, as an example of promising practice and innovation. It is too early, however, to glean any findings about outcomes. Anecdotal reports from the Children's Court of Victoria to the PIPA team, however, suggest that the whole-of-family focus and the provision of outreach to child respondents are seen as particularly valuable components. The Children's Court of Victoria has informed the PIPA team that an evaluation of the Family Violence Applicant and Respondent Support Service (Children's Court of Victoria, 2019) has been funded by the Department of Justice and Community Safety (Vic) and is currently underway, although no information was publicly available at the time of writing.

Additionally, the legislative state-wide expansion of the Youth Diversion scheme has been implemented, and Diversion Coordinators are now available at every headquarter Magistrates Court. During the course of the research, the PIPA team heard universal praise from practitioners about the benefits of these roles and the increased availability of diversion.

Finally, the PIPA team has been advised by representatives of Family Safety Victoria that a trial of a model linking Youth Justice Group Conferencing with AFVPs is underway on a small scale. The PIPA team understands that this includes linking Youth Justice Group Conference providers with existing government-funded AFVPs to provide opportunities

Table 4 Summary of Royal Commission into Family Violence recommendations relating to adolescent violence in the home

Recommendation	Status
123 The Victorian Government, subject to successful evaluation of the Adolescent Family Violence Program, extend the program across Victoria [within 2 years].	Not yet implemented
124 The Victorian Government develop additional crisis and longer term supported accommodation options for adolescents who use violence in the home. This should be combined with therapeutic support provided to end the young person's use of violence in the family [within 2 years].	Not yet implemented
125 Victoria Police determine its baseline model for family violence teams and consider appointing dedicated youth resource officers to provide support to young people and their families following police attendance at an incident in which an adolescent has used violence in the home [within 12 months].	In progress, location specific
126 The Melbourne Children's Court establish family violence applicant and respondent worker positions to assist young people and families in situations where adolescents are using violence in the home [within 12 months].	Implemented
127 The Victorian Government, subject to successful evaluation of the Youth Diversion Program Pilot, establish a statutory youth diversion scheme [within 2 years].	Implemented
128 The Victorian Government trial and evaluate a model of linking Youth Justice Group Conferencing with an Adolescent Family Violence Program to provide an individual and family therapeutic intervention for young people who are using violence in the home and are at risk of entering the youth justice system [within 2 years].	In progress – pilot programs running until December 2019

Note: * Summarises the recommendations of the RCFV that specifically aim to address and respond to adolescent violence in the home, including their status as of 30 June 2019. Source: State of Victoria (2016a pp. 79-80).

for the young person concerned to attempt to repair the harm of their behaviour. This pilot is running until December 2019, after which time an evaluation is expected to be released.

Broader Victorian reform

Despite slower progress than expected in terms of implementation of the AVITH-specific RCFV recommendations, the PIPA team is aware of other work occurring across the broader Victorian reform landscape, much of which relates to other RCFV recommendations or has been informed, to an extent, by some of the PIPA project's early findings. Representatives of Family Safety Victoria sat on the PIPA project's steering committee, as well as providing written feedback to the PIPA research findings, and thus the developments outlined below rely upon direct communication with representatives from Family Safety Victoria.

For example, the PIPA team understands that Family Safety Victoria, the Victorian Government department now

responsible for much of the significant family violence-related reforms, is currently overseeing a program of work to identify issues and service gaps in response to AVITH. This includes efforts to improve AVITH-specific expertise within the child and family services and family violence sector, which, among other things, involves the development of a learning and development strategy, as well as working with existing AFVPs to extend their capacity to conduct outreach and case management. Funding has also been secured for an Aboriginal community-controlled organisation to develop and pilot a culturally safe and appropriate AVITH-focused service.

As mentioned earlier in this report, development of Victoria's reformed risk assessment and management framework—the MARAM—has included work to ensure that AVITH and the different considerations it requires are specifically acknowledged. This includes a key principle of the MARAM that:

family violence used by adolescents is a distinct form of family violence and requires a different response to family

violence used by adults, because of their age and the possibility that they are also victim survivors of family violence. (Family Safety Victoria, 2018, p. 11)

The MARAM's victim/survivor-focused practice guidance will also include guidance on AVITH.

Western Australia

Policy settings and key legislation regarding family violence

Until recently, WA's primary civil legal response to family violence was via the *Restraining Orders Act 1997* (WA) (*Restraining Orders Act*). An amendment by the *Acts Amendment (Family and Domestic Violence) Act 2004* (WA), however, inserted a new category of violence into the *Restraining Orders Act*—family and domestic violence—in relation to which VROs could be issued. This became WA's primary civil legal response to family violence.

Previously, the *Restraining Orders Act* contained no mention of family violence and no definition. The definition applied in the legislation as it operated from 2004 was a narrow definition of violence, encompassing only physical violence, intimidation and stalking-type behaviour. It generally applied to the full range of “family and domestic relationships” and was not confined to spousal relationships. In spite of this, however, it clearly reflected a narrow conception of family violence, as well as of the scope of its presentations and impact on the community, something that practitioners participating in the PIPA project reported remains difficult to shift. In 2016, section 14 of the *Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016* (WA) inserted Part 1B into the *Restraining Orders Act*. Part 1B creates a new subcategory of VRO, known as a Family Violence Restraining Order (FVRO). Until these recent amendments, VROs were already used as the primary civil law instrument to respond to and prohibit the use of family violence. The inclusion of Part 1B, however, which came into force in mid-2017, appears to have sharpened the focus of the legislation on family violence and has clearly been implemented in order to strengthen the legal response to family violence more

broadly. This has been in response to pointed criticism of a previous failure to do so (Law Reform Commission of Western Australia, 2014; Ombudsman Western Australia, 2015).

The new definition of family violence inserted into the *Restraining Orders Act* in section 5A is very broad and detailed regarding the range of conduct that constitutes family violence. It is at least as broad, if not broader, than the definition in Victoria and lists harm to pets, coercive and controlling behaviour, making repeated derogatory remarks and financial abuse, as well as other more traditionally recognised presentations of family violence, such as physical assault and property damage. It also remains non-exhaustive in its recognition of family relationships in which family violence can occur, and AVITH would clearly meet this definition.

The PIPA research into WA's response to AVITH occurred just at the point that FVROs were being introduced, with the new legislation coming into force in July 2017. As such, by this point there was no significant body of cases involving breach of FVROs under the new legislative regime that we could examine for the presence of AVITH. As LAWA is not resourced to represent young people in civil matters, cases involving children as respondents either to VROs or FVROs were not available.

The PIPA team was able to obtain a snapshot sample of 100 randomly selected case files from June–July 2017 from the LAWA youth criminal law practice, and examine the volume and extent of AVITH in the actual charges that were the subject of files, and as a general feature in the circumstances of young people with criminal cases being handled by LAWA. Accordingly, we did not restrict our definition of cases involving AVITH to the offence type, but formed a view based on a reading of the whole case narrative. Having said this, the most common offence types for cases analysed as involving AVITH were physical assaults and property damage, because those forms of conduct also constitute criminal offences, which other forms of family violence are less likely to do, in and of themselves.

Key features of Western Australia's justice response to AVITH

In contrast to Victoria, where police are directed “under no circumstances” to suggest that a victim/survivor of family violence should attend court alone and seek their own FVIO where there appears to be any risk present, WA practitioners observed that WA police generally do not seek FVROs on behalf of victims/survivors, but instead advise them about the option of seeking an FVRO in person. Police orders are used to remove the person using family violence in the intervening period and to give the victim/survivor the opportunity to seek an FVRO on their own (Ombudsman Western Australia, 2015; *Restraining Orders Act*, s 30A). When the PIPA team tested its findings with WA practitioners in mid-2018, we heard that they had not seen an impact from the 2017 introduction of FVROs in terms of cases coming through, which was perhaps unsurprising at that stage. It will therefore be important to revisit the operation of the FVRO scheme once it has been in operation for a longer period of time.

In the context outlined above, criminal prosecution in cases where AVITH is reported to police and is capable of constituting an offence remains the primary tool in terms of a justice response. This tool is reportedly rarely used, however, and participants told us that it was very common for police not to prosecute unless the level of violence reached the “pointy end”, as one participant described it, meaning where very serious offences were involved. It was reported that this was mainly due to the fact that police require the victim/survivor to be willing to make a sworn statement for prosecution to be authorised. Practitioners indicated that this response to AVITH was in direct contrast to the situation of adolescents who assault staff at out-of-home care residential facilities. The PIPA team heard that prosecutions are very common in these settings as, without the familial and emotional ties, or even the sense of stigma, shame and responsibility and ongoing fear that family members experience, staff in residential settings follow clear policies in routinely reporting use of violence and making sworn statements in support of prosecutions. Practitioners explained that this in turn means that children and young people very quickly come into contact with the criminal justice system for use of behaviours that went unnoticed by the system when they occurred in the home.

Overall, while prosecution is reportedly rare, the PIPA team heard that it certainly is occurring. This was the lens through which we were able to access the case files of adolescents who are using family violence at home and were receiving a response from the justice system.

The service landscape

The PIPA project partnered with Peel Youth Services in Mandurah, WA, which has provided one of WA's only AFVPs, modelled on the Step-Up program (Routt & Anderson, 2011). The only other WA-based program of which the PIPA team was aware at the time of data collection was another Step-Up-style program delivered by the Patricia Giles Centre (Haw, 2010). It appears that WA Youth Justice delivers, or at least delivered for a time, a behaviour change program for young people involved in violent offending, also entitled Step-Up, but this does not appear to (and the PIPA team was informed that it did not) address family violence specifically (Australian Institute of Health and Welfare [AIHW], 2017b). The PIPA team heard from one practitioner familiar with the program that there were a number of barriers for children's engagement.

Overall, WA appears to be a restricted service landscape for responding to AVITH, albeit with growing awareness of the issue, due to a small number of dedicated advocates. These limitations may well reflect the state of the family violence response in WA more generally, as well as general unmet need, and are likely to be influenced by, but also perpetuate, the historically limited legal recognition of family violence in WA (Ombudsman Western Australia, 2015). Where a problem is not recognised and there are no sophisticated formal responses in place, a workforce and a service delivery framework are also less likely to arise to support that response. Conversely, a small workforce places limits on the amount of advocacy and awareness raising that can take place to secure increased resourcing and attention, as well as development of evidence and practice standards, presenting a paradox in terms of the way in which an issue can come to policy attention.

The PIPA team found the paradox referred to above was reflected in the way in which WA practitioners encountered

and described AVITH. For example, practitioners who were not directly involved in delivering AVITH-specific programs (which was a large majority) frequently spoke of encountering AVITH as challenging or difficult behaviour by adolescents that was the direct result of intergenerational family violence and just one part of a continuum of the fallout from children's exposure to family violence. This continuum included inappropriate behaviour, violence and disengagement at school, as well as violence in intimate relationships later in life. From practitioners' perspectives, AVITH arises as just one point in a journey with many different types and manifestations of violence, and is therefore not necessarily foregrounded as the primary or specific problem to be addressed. Most practitioners spoke to some degree of AVITH as arising in the context of general levels of significant unmet need with respect to support for families living in poverty, as well as in relation to inadequate responses to adult-perpetrated family violence and child abuse and its consequences.

Issues of unmet need were identified as particularly acute for remote Aboriginal and Torres Strait Islander communities, with the example given of many shop-front human services being cut back and converted to online or telephone-only delivery. They were also spoken of as inappropriate as a mode of service delivery for communities with high rates of hearing impairment, illiteracy and with spoken English as a second, third or fourth language. Practitioners working with communities in the north of the state specifically noted that AVITH is unlikely to present or be spoken about as a separate and specific problem reported by parents or any other community members. This was particularly the case in contexts where adult-perpetrated family violence and abuse, fear of child removal and issues around policing of young people *in public space* were predominant concerns.

Tasmania

Policy settings and key legislation regarding family violence

The *Family Violence Act 2004* (Tas) marked a new era of proactive police and court responses to family violence in Tasmania and saw the introduction of the state-wide Safe at

Home program. Safe at Home provides for an integrated response to victims/survivors and their families, with case coordination and a universal state-wide government-funded counselling service for children affected by family violence (Success Works, 2009). The *Family Violence Act 2004* (Tas) is regarded as progressive and proactive in its approach to protecting victim/survivor safety and welfare and risk management (Wilcox, 2010). It includes a broad definition of the type of conduct that can constitute family violence, and even creates specific offences for aspects of family violence that are often less recognised or less likely to be criminalised, such as economic and emotional abuse. The *Family Violence Act 2004* (Tas) also provides for a comprehensive system of Family Violence Protection Orders (FVPOs) and police are able to issue 12-month police-issued FVPOs directly, with no court hearing required. Nevertheless, the *Family Violence Act 2004* (Tas) only recognises intimate partner violence by persons aged 16 and over as family violence and therefore does not apply to, nor contemplate, the existence of AVITH.

Key features of Tasmania's justice response to AVITH

As AVITH sits outside the family violence system in Tasmania from a justice perspective, it appears that criminal prosecution for AVITH that is capable of constituting a crime (e.g. physical assaults and property damage) is the main tool for responding to AVITH when it is reported to police. Practitioners in Tasmania reported the same concerns as those in other jurisdictions regarding the appropriateness of prosecuting adolescents, as well as the difficulties that police have in pursuing prosecutions where victims/survivors are often the parents and do not want their own children prosecuted, but simply want the violence to stop.

In the course of conducting practitioner focus groups, interviews and workshops in Tasmania, the PIPA team learned that although AVITH sits outside the family violence system, it attracts a *non-family violence* civil justice response in another context. We learned that police members will often advise parents and other family members who are experiencing AVITH of the option of applying in person for a Restraint Order (RO) under the *Justices Act 1959* (Tas). In fact, upon review of the sample of RO case files applying to

adolescent respondents, one example included a matter in which a mother reported that she had been advised by police that they could not help her with her son's violent behaviour (despite this appearing to constitute quite serious physical violence) unless and until she had applied for an RO.

The service landscape

Until 2018, Tasmania lacked any targeted intervention program to address AVITH. In 2018, however, the state government secured federal funding to establish a pilot Step-Up program (Tasmanian Liberals, 2018), which was preceded by advocacy from the youth support and homelessness sector, making a case for unmet need for a dedicated program (Colony 47, 2015), although the objectives of this program also separately include responses to use of intimate partner violence by adolescents. As noted in the previous chapter, agencies involved in the development of this pilot participated in the PIPA research workshops and shared early findings of the project to inform the pilot's establishment.

The emergence of this program despite absence of recognition of AVITH in the Tasmanian legislative definition of family violence reflects the paradox of absent legal and policy recognition of AVITH as a policy issue of public concern, even when other forms of family violence now attract a proactive and integrated response. Although there has been no dedicated service, AVITH touches the service system in various ways—through adolescent children accompanying mothers escaping intimate partner violence at refuges, who then start to exhibit violent behaviour themselves; and similarly through those receiving counselling through Safe at Home to address their exposure to adult-perpetrated family violence. It also touches the service system in the state's youth refuges, where we were told by practitioners that they believe a large proportion of clients have left or been excluded from the home due to AVITH.

Diversity among adolescents and families receiving a justice response for AVITH

This chapter involves a substantial discussion of the diversity and complexity revealed in the PIPA research.

The discussion draws primarily on the case file audits and is based on an exploration of the variation in factual circumstances and co-occurring issues noted in “potential AVITH” case narratives. The chapter then explores issues of gender, as well as the nature of the violence and co-occurring issues exhibited on the files and reported in descriptive statistical form. It draws on practitioner observations to support and explain these findings.

The chapter concludes with a discussion of the challenge involved in this finding of diversity and complexity, explaining that the bulk of cases reviewed by the PIPA team involved multiple factors and co-occurring issues. This led the PIPA team to conclude that any attempt to categorise cases by “type” was not a useful approach, particularly when all these adolescents were experiencing a legal response.

Diversity and complexity among the potential AVITH cases

The complexity and diversity revealed by this research is arguably greater than in research conducted in relation to AVITH identified outside the legal context. This may be because families who have participated in much of the existing research regarding AVITH have been recruited through their receipt of relevant community-based or therapeutic services (clinical samples). Alternatively, they may have otherwise participated in research by virtue of identifying their own experiences as falling somewhere within the broad description of AVITH (community samples) (Cottrell & Monk, 2004; Fitz-Gibbon et al., 2018; Howard, 2015; Howard & Rottem, 2008; Pereira et al., 2017; Simmons et al., 2018).

Families coming into contact with police and the legal system as a result of their child’s use of family violence, however, may not identify their primary issue as AVITH. They are likely to have contacted police as a “last resort” during a crisis (Howard, 2011; Howard & Abbott, 2013) or may not have contacted police themselves at all (Miles & Condry, 2016). Some families may be experiencing legal intervention for a range of other reasons, making this particular intervention a less prominent feature in their lives. Alternatively, families may identify their greatest need as service provision—particularly where children with disability or complex needs are involved—and therefore describe what they are experiencing through a frame of much needed, but absent, supports. Further, it may be that a legal response is being imposed in

cases that, on their facts, do not fit within the frame of AVITH or even family violence more broadly. Conversely, a legal response may be being imposed where the presenting issue or charge is not identified as related to family violence, but where this is clearly an underlying feature.

All of these factors led to important differences in the sampling of case files from different jurisdictions accessed, and in the findings drawn from them. For example, in WA, we were able to explore the nature and extent of how AVITH is presenting as a component of general youth crime cases. In Tasmania, where AVITH is not formally identified by legislation as sitting within the family violence frame at all, we were instead able to examine how AVITH is presenting in the context of general non-family violence civil protection order cases and, in some cases, criminal cases relating to breach of those orders. In Victoria, however—where AVITH receives a specific civil legal response within a family violence framework—we were able to look at larger samples of case files that exclusively dealt with adolescents as perpetrators and/or respondents in civil protection order cases involving the FVPA.

As outlined in Chapter 2, we sought to capture these differences in the way in which case samples were broken down and then analysed (see Table 2). This was a methodological issue, but also forms part of our findings. Cases classified as a “potential” AVITH case were done so on face value wherever the case involved an adolescent respondent or defendant and a familial victim/survivor or protected person/applicant

(excluding intimate or dating relationships). The protected persons/victims/survivors included birth parents, step-parents, adoptive parents, grandparents, aunts, siblings and step-siblings.

We decided to use the caveat “potential” in our analysis because not all cases bearing the basic necessary characteristics to constitute AVITH cases actually involved behaviour that we would necessarily recognise as AVITH, as defined by Howard and Rottem (2008) or Pereira et al. (2017). Alternatively, this was because there was not enough detail in the application on particular files to be sure about the family violence nature of the conduct.³³ For example, in the WA context, all cases where there was some kind of alleged violent or exploitative behaviour towards a relative encapsulated in the charge were classified as potential AVITH. In these cases, the matter may not necessarily reflect an ongoing pattern of behaviour beyond the reported incident. Alternatively, it may involve an element of self-defence, or an episode of aggression or destruction that, in all the circumstances, bears no relationship to the exertion of coercive control. One WA criminal case reviewed involved the breach of a (non-family violence-specific) VRO, which prohibited the accused adolescent from attending the home of a relative. That case file contained insufficient information to determine whether family violence had occurred in the relationship or the basis on which the original order was made.

Importantly, the point that not all the familial cases necessarily involve AVITH is relevant to definitions, rather than to findings about actual prevalence. This is because the cases, whether criminal or civil, involve allegations. Part of the test for whether a sanction or civil restraint will be imposed is whether it meets the criteria for an offence or prohibited behaviour. Allegations can also, of course, be factually disputed. In some cases they were, where the young person denied the use of violence or alleged that they had experienced worse from the alleged victim/survivor.

³³ In some rare instances, cases involving relatives were excluded altogether from the “potential” AVITH category and this is indicated where relevant.

Victoria

The PIPA team occasionally found that in the Victorian context, applications at face value did not clearly seem to present allegations of behaviour that would constitute family violence under the relevant legislative definition on the basis of the information provided in the application by Victoria Police. This gives us an insight into how the Victorian system is actually functioning. For example, one limb of the legislative test for imposing a final FVIO is for the court to be satisfied that the conduct from which the AFM is to be protected constitutes family violence. As discussed in Chapter 10, a majority of cases end without a final FVIO being imposed. In many cases this is because the court is satisfied that risk of future violence has been attenuated. Further, legal practitioners told us that they would strive to avoid the imposition of a final order on an adolescent. However, in some cases an order is not made because the court was not satisfied that the respondent was using family violence in the first place.

The Victorian system therefore seems to be one of risk management, in which it appears that a wide range of conduct and situations are routinely referred to the court for ultimate decision regarding the level of protection, if any, required. This means that a large group of cases are categorised at the first instance by police as (potentially) family violence and responded to within that framework. Even if a court ultimately determines that a final FVIO is not warranted, however, the PIPA team argues—as further explored in Chapter 10—that the fact that the matter has been referred to court and processed through the family violence court system with an interim FVIO imposed in most cases ultimately means that the adolescent respondent has been subjected to a legal response to their behaviour within a family violence framework. This attracts all the attendant risks of criminalisation. Interestingly, there appeared to be potential differences in the characteristics of cases and adolescent respondents where final orders were made in the Victorian setting, with cases that resulted in final orders being made involving a higher proportion of male respondents (82%) and physical violence (78%), and a smaller proportion of respondents with evidence of a disability (36%).³⁴

³⁴ The PIPA team notes that we did not have the opportunity to assess the statistical significance of these differences. However, they give

For present purposes, case studies 1–4 give some indication of the spectrum of cases, each evidencing different routes by which the matter had come to the attention of police and before the court, as well as different contexts and characteristics of the violence involved. This diversity highlights that, while much existing evidence around AVITH draws upon insights from clinical practice conducted with help-seeking or self-identifying individuals and families, police and courts may be responding to a broader and more confounding spectrum of behaviours and situations.

As explained in Chapter 2, all case studies were constructed by the researchers from multiple features taken from aggregate case file data to avoid any risk of re-identification. Case studies 1–4, like all the case studies throughout this report, therefore do not represent an individual person's or family's story.

some indication of the kind of differences that might be present between cases that do (or do not) result in final orders being made. This is to be expected as, in those cases where final orders are made, this is purportedly on the basis that the legislative tests for making the orders were satisfied.

Case study 1³⁵

The adolescent respondent and the affected person are siblings who were at home when an argument broke out. The respondent was using an electronic device and the affected person asked for a turn, but the respondent refused. The affected person was angry and tried to take the device, and a “tug-of-war” occurred, during which the affected person was accidentally struck. This caused a small laceration on the affected person’s face. The affected person’s friend, who was present, called 000 and police attended. Police subsequently applied to a court for a protection order, but stated in the application that:

On arrival the parties were calm. The respondent said he was sorry for his actions. There were no previous reported incidents of family violence between the affected person and respondent. Both parties were co-operative, and the affected person told police she was not in fear of the respondent and did not want any further involvement from police.

An interim “safe contact order” was sought but refused by the court on the first return date, when no further information was available from the parties and they did not attend court.

Case study 2³⁶

The respondent is a young adolescent boy and the affected person is his mother. The affected person stated that the respondent has been abusive for the past year, and over that time has regularly hit and pushed her, verbally abused her and thrown objects at her. He has repeatedly caused significant damage to the house and has broken the affected person’s belongings. The behaviour usually occurs when the respondent does not get something that he wants, or when household rules are enforced.

The most recent incident occurred when the affected person said that the respondent could not use the computer. The respondent kicked the affected person in response. The affected person left the house in fear and called the police. The affected person told police that the violence has been getting more extreme and frequent over recent weeks. The affected person told police that she is so afraid of the respondent that she has been unable to sleep. The court made an interim safe contact protection order and attempted to have the respondent served.

The respondent was not able to be served. The magistrate adjourned the hearing in order to provide further opportunity for the respondent to be served and to find out what the affected person’s attitude to a final order was. Ultimately, the court made a final safe contact order of several months duration in the respondent’s absence. The respondent never attended court and multiple attempts to serve the respondent were made. The respondent was staying with a female relative while the matter was ongoing.

35 This case study is constructed from a composite of multiple features taken from aggregate case file data to avoid the risk of re-identification. It therefore does *not* represent an individual person or family’s story.

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Case study 3³⁷

Neighbours of the respondent and affected person contacted police when they heard and witnessed the respondent destroying property in the affected person's front garden. Police attended and spoke to the affected person, who was distressed and confirmed that the respondent had verbally and physically abused her before, as well as damaging her property. The affected person is a relative and the respondent's primary carer and they live together with other family members. Both parties told the police that the affected person had been abusing alcohol and an argument had occurred about this. The respondent told police that he has been very angry with the affected person about this issue, and about missing school and social activities because the affected person has been unable to support him with transport. The family has a history of family violence reports to police in relation to the respondent's behaviour and that of others in the family.

The police applied initially for a safe contact order and an interim safe contact order was issued. The case was adjourned over some months while a parallel criminal matter (regarding a breach) was dealt with by way of diversion. After successful completion of the diversion plan, the civil protection order case was finalised with a final brief safe contact order being imposed with the respondent's consent. Information on the file suggests that the affected person had initially wanted the respondent removed from the family home, but changed her mind and wanted no order after specialist supports and referrals were accessed as a result of the diversion plan, including an individual outreach case worker for the respondent.

Case study 4³⁸

A 14-year-old girl is the respondent and the affected person is her mother. The respondent argued verbally with the affected person, who was trying to impose a limit on internet use. The respondent was refusing to get off the internet, so the affected person attempted to disconnect the modem at home, and the respondent shoved her aside in an attempt to stop her from doing this, which resulted in an injury. While the affected person attended to the injury, the respondent continued to yell and damage property. The affected person called the police, who attended the house and spoke to the parties. The affected person told police that she feels that the respondent is uncontrollable and won't listen to her or respect rules, though she had not been physically violent before. Police sought a limited safe contact protection order. Following police being called, the respondent went to stay with her father. The parents are separated and there is a history of family violence used by the father towards the affected person. After an adjournment with an interim safe contact order in place, the court refused the police application for a final protection order because the respondent had moved away and there had been no further incidents between the parties.

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These case studies demonstrate the diversity of the type of conduct that is frequently reported to police and makes its way before the court. They are also a good demonstration of how few options seem to be available to any of the actors in this narrative. Police seem to feel that their primary duty is to manage risk by seeking the order. The court's role is then to apply the law, with the only options before the court seeming to be to make a decision about whether or not there should be an order.

Tasmania

By contrast with Victoria, in Tasmania, the potential AVITH cases among RO applications—those involving adolescent respondents and family member protected persons—tended to include detailed descriptions of significant histories of violence and coercion leading up to the decision by the victim/survivor parent or police to seek an RO. Most of those applications were quite detailed as to these histories.

The PIPA team has used the classification of “potential AVITH” for cases involving familial relationships here for the sake of consistency in the reporting across the jurisdictions, although the nature of the cases was to some degree clearer than in the other jurisdictions. One familial relationship case in Tasmania was entirely excluded from the “potential AVITH” category because it involved the sending of abusive text messages to a distant relative as part of a broader dispute between different family groupings, mainly engaged in by adults.

Other than this particular case, the remaining cases all bore evidence of longstanding serious violence and abuse of family members and indicators of high risk. In this way, while there was still diversity in the exact relationship configurations and specific incidents recounted, there was less diversity than in the Victorian case file samples. As explored further in this chapter, whether applications were completed by police or by the victim/survivor themselves had an impact on the level of detail included about the violence and how any co-occurring issues were described.

Case study 5 ³⁹

A 15-year old boy is the respondent and the protected person is his mother. After ongoing disruptive and violent behaviour at school, during which time the protected person sought and received limited assistance from the school counsellor, the respondent was excluded from school. The respondent spent increasing amounts of time with friends who had also disengaged from school, while experimenting with illegal substances, and upon returning home would threaten his mother and cause significant damage to the house. Incidents of property damage in public and other examples of low-level offending were addressed via caution and/or other diversionary options by police, although the protected person told police that she was increasingly fearful for her own safety and that her son was beginning to exhibit the same behaviour and patterns as his father. Police provided her with referrals to universal social services but were unable to provide further assistance at that time. The respondent's use of violence at home became more and more severe, including an episode of strangulation. Police suggested that the protected person apply for a Restraint Order in the Magistrates Court, but the protected person was fearful of how the respondent would react. Eventually, the protected person sought and was granted a Restraint Order and the respondent was removed to crisis accommodation. The protected person told the court that she did not want to lose care of the respondent but that she just wanted them both to be safe, as they had both experienced significant violence at the hands of the respondent's father. At no point did the protected person or respondent receive other service sector assistance.

39 This case study is constructed from a composite of multiple features taken from aggregate case file data to avoid the risk of re-identification. It therefore does *not* represent an individual person or family's story.

Western Australia

In WA the PIPA team identified a hidden dimension of unreported AVITH among non-AVITH criminal cases. In a sample of 100, we found that the number of cases with potential AVITH-related charges (11) matched that of cases where the primary charged offence had nothing to do with AVITH, yet AVITH was a clear feature of the young person's circumstances (11). We labelled this second category of cases as "secondary" AVITH cases.

Most of the cases reviewed in the secondary AVITH category:

- involved a young person who may have been charged with a serious criminal offence or a wide range of offending unrelated to family violence
- revealed a link with AVITH when the history was taken and put to the court in relation to the primary criminal case, as part of a plea in mitigation or other hearing type (this included issues such as homelessness as a product of being excluded from the family home because of the alleged use of violence, or otherwise fractured or absent community supports as a result of violence against family members)
- revealed that the AVITH itself was explicitly linked back to issues such as mental health, AOD use and/or early exposure to family violence.

Because of the prism through which these secondary AVITH cases were viewed—through their connection to serious and/or much broader criminal offending—the PIPA team concluded that there potentially appeared to be a more uniform presence of co-occurring issues than was seen in the Victorian civil cases. That said, the sample of these cases (n=11) was too small to make a finding regarding this, and because these cases were not the focus of the file, specific factual circumstances were unavailable.

The greater uniformity in the presence of certain co-occurring issues noted on the LAWA youth crime files may speak more to the nature of practice in criminal law representation than to uniformity, as opposed to diversity, of circumstances

among the adolescents themselves.⁴⁰ Factors that go to mitigation in particular—such as adverse childhood experiences or states of impairment—are actively identified and presented by a defence lawyer in criminal cases. By contrast, in civil cases these factors are not sought out as they are not directly relevant to the narrow decision at hand.

Further, there may be no dedicated funding for legal services in the civil jurisdiction (as in Tasmania and WA), and hence no individual client work and advocacy to bring these matters to the court's (or anyone else's) attention. Even in Victoria, where there are dedicated legal services for adolescent respondents, the PIPA data from practitioner observations strongly suggest that matters such as early exposure to family violence are not coming to light or being responded to in the context of most civil family violence proceedings, as the narrow legislative frame of decision making does not require this.

⁴⁰ A body of research compares the characteristics of youth child-to-parent offenders to general youth offenders in a juvenile justice context (Contreras & Cano, 2014a, 2014b, 2015). The PIPA team is unaware, however, of any research comparing the characteristics of adolescent family violence respondents/defendants where they are dealt with purely by way of civil options to the exclusion of criminal prosecution, as compared with those dealt with by both civil and criminal options in combination, or those dealt with only by way of criminal prosecution.

Case study 6⁴¹

A 14-year old girl is the accused. She is appearing in court in relation to a charge of aggravated burglary and other significant property damage. The evidence presented to the court indicates that the accused has been homeless or in unstable accommodation for some time. She has reported to her legal representation that she is not allowed to return home following conflict with other family members and concedes that this has involved significant property damage and threats to the safety of her siblings on her part. The accused, her mother and siblings have all experienced substantial physical violence and controlling behaviour from her father, although he has not been living with them for some time. The accused reports that her mother uses alcohol to manage her resulting trauma and that she and her siblings all experience significant anxiety. Without stable accommodation, the accused and her friends broke into a residence looking for money and/or goods to pawn, causing property damage in the process. The accused's background and prior experience of violence was presented as evidence in mitigation to the court, although the accused's own use of violence against her family was not raised.

41 This case study is constructed from a composite of multiple features taken from aggregate case file data to avoid the risk of re-identification. It therefore does *not* represent an individual person or family's story.

Table 5 Gender, age and relationship information in Victorian merged data set and VLA administrative data set

Demographic information	VLA large client data set (n=905)		Merged Victorian AVITH cases (n=139)	
	N	%	N	%
Gender of respondent/accused				
Male	561	62	105	76
Female	344	38	34	24
Age of respondent/accused				
14 years and under at incident or legal service delivery ^a	208	23	42	30
Proportion of male respondents/accused aged 14 years or under	107	19	26	25
Proportion of female respondents/accused who were aged 14 years or under	109	32	16	47
Respondent's relationship to victim/survivor				
Cases involving child to-parent violence			116	83
Child-to-mother violence			87	63
Son-to-mother violence			61	44
Daughter-to-mother violence			26	19
Child-to-father violence			28	20
Son-to-father violence			24	17
Daughter-to-father violence			4	3
Cases where another child was known to be living in the home where violence was used, whether or not the child was included as an AFM			72	52

Note: ^a The criminal law principle of *doli incapax* creates a rebuttable presumption that children 14 and under lack capacity to form the requisite intention to offend.

Gender and relationship between people using and experiencing violence

Consistent with existing research (Condry & Miles, 2014; Routt & Anderson, 2011; Walsh & Krienert, 2007) and publicly available police data (State of Victoria, 2016d), the Victorian data set from VLA showed a male perpetration/respondent rate of approximately 62 percent. We note that the merged Victorian case file audit sample (which was smaller than the administrative data sample and therefore less likely to be representative) involved a rate of 76 percent males as those using violence at home. Both sets of figures, though, confirmed that a consistent proportion of young girls do experience a legal response as a result of being identified by the system as using family violence and that, in general, the rate of female perpetration/respondents appears to be somewhat higher than in adult family violence (State of Victoria, 2016b).

Table 5 highlights the relationships between the person using and experiencing family violence as identified in the Victorian data. It reveals that the majority of victims/survivors of AVITH are mothers; that siblings are often present in the home, whether or not they are named as AFMs on the order; and that a significant proportion of the violence is committed by sons against mothers. Although not present in a majority of Victorian cases, son-to-mother violence still represented by far the most common configuration of gender and relationships.

Table 6 and Table 7 provide a breakdown of the gender, age and relationships of those involved in AVITH cases within the WA and Tasmanian case file samples, with further discussion following.

Table 6 Gender, age and relationship information in Western Australian AVITH cases

Demographic information	In AVITH cases (n=11)		In non-AVITH criminal cases (n=83)		Residential care assaults (n=6) ^a	
	N	%	N	%	N	%
Gender of accused						
Male	8	73	65	78	2	33
Female	3	27	18	22	4	67
Age of accused						
Accused 14 years or under (at time of alleged offence)	4	36	27	33	4	67
Respondent's relationship to victim/survivor						
Mother victim	7	64				
Son to mother violence	6	55				
Child victim or witness	4	36				

Note: ^a Assaults in residential care settings (this does not include kinship or foster care) against workers (n=6), were excluded from the AVITH cases (n=11) in the WA case file sample. The PIPA project does not believe that violence against workers in such institutional settings should be regarded as a form of family violence or AVITH. A residential unit is not a home, but an institution. This does not preclude the possibility that there could be familial type relationships in such settings with family violence dynamics occurring, particularly between children, or of course by adults (including workers) towards children, but this would be individual and context dependent. In Tasmanian samples, there were no cases of this type. In Victoria, there was one single case that involved a residential care setting/location but related to violence between close family members. Cases of children using violence in residential care settings have very distinctive characteristics. Had these cases been included in the AVITH number, they would have made up a large proportion of the sample and would have had a significant impact on its profile, making the description inaccurate, and less meaningful on a practical level. Perhaps more importantly, including residential care cases would have erased the distinct nature of cases where children in residential care enter the criminal justice system as a result of inappropriate responses to behaviours occurring in that environment which are driven by complex trauma. This was described by witnesses to the Royal Commission into the detention of children in the Northern Territory as the "care-criminalisation" or "care-to-crime pathway or pipeline or nexus" (Commonwealth of Australia, 2017b, pp. 176-177; see also Victoria Legal Aid, 2016, pp. 5-8). We do not suggest that violence in these settings should not receive a response, nor that this response should not be informed by insights from emerging AVITH related practice wisdom and evidence. Rather, we suggest that it is not useful to conflate it with AVITH, and that doing so would erase crucial contours of the problem.

Table 7 Gender, age and relationship information in Tasmanian Magistrates Court Restraint Order cases

Demographic information	In AVITH RO cases (n=19)		In non-AVITH RO cases (n=33)	
	N	%	N	%
Gender of accused				
Male	15	79	25	75
Female	4	21	8	25
Age of respondent				
14 years or under at the time of the application	4	21	4	21
Respondent's relationship to victim/survivor/applicant				
Mother ^a as an in-person applicant/protected person	10	53		
Mother as protected person in a police application	4	21		
Child protected person, victim or witness	7	37		
Total child-to-mother violence cases	14	74		
Total son-to-mother violence cases—all types of application	13	68		

Note: ^a For the purpose of consistency across the samples, mother includes step and adoptive mothers, however does not include female relatives providing primary care at the time of the case/incident such as grandmothers. In Tasmania, if the category mother is extended to include all female caregivers, the total number of applications in this category would be 5 rather than 4.

All samples highlighted how many children aged 14 years or under were receiving a legal response for their use of AVITH. The higher proportion among female respondents/accused of those aged 14 years or under in the Victorian case file samples (47%) compared with males (25%) was similar to findings in recent research (Moulds et al., 2018)⁴² that drew on extensive police data across a number of states and territories, as well as to data reported by the Victorian Crime Statistics Agency in relation to Children’s Court of Victoria FVIO applications (CSA, 2018b).⁴³

Discussion among practitioners in focus groups and interviews reflected the VLA data and case file findings in Victoria that a steady proportion of the adolescents with whom services came into contact and who were using family violence were girls. Existing research has justifiably questioned whether this greater representation of girls within AVITH figures when compared with adult perpetration is the result of girls being subject to a lower threshold (Carrington, 2013, cited in Fitz-Gibbon et al., 2018, p. 13) and identified as using violence for behaviour that, in a boy, might be dismissed as unremarkable in male adolescents. To this end, researchers have suggested that parents might identify their daughters as “violent” where they would not similarly identify their son.⁴⁴

The acceptance of violence from young boys was discussed and reflected upon by participants in the PIPA research; some contradictory views were expressed, which may stem from practitioners’ own implicit gender biases. However, a

number of participants observed that young girls were experiencing legal system intervention for use of very significant violence, rather than the less serious behaviour envisaged above. This is perhaps a reflection of the *legal* context from which some participants were drawn, with a higher proportion of children with whom they work likely to come from backgrounds involving multigenerational violence, poverty and trauma.

The particular trajectory of some girls involved in serious physical violence against family members, described by some practitioners, bears similarities to the findings of Armstrong et al. (2018) regarding young people at the “back end” of juvenile justice in the US (i.e. in detention). These authors found there may be a specific trajectory for a specific cohort of young women exposed to poly-victimisation in early childhood and later incarcerated or detained in relation to using serious violence against family members (potentially in some cases defensive). This contrasts with the gender divide in perpetration of adult intimate partner violence, which appears to involve a higher rate of male perpetration, but with similarly high rates of female victimisation (State of Victoria, 2016b).⁴⁵ This information should also sit within the context of broader juvenile justice systems, which across Australia see rates of male youth offenders range between 80–91 percent of the total number (AIHW, 2017c).

Practitioners reflected on the use of violence by the girls with whom they worked, and the role that trauma might play in this.

Participant 5: The girls that do family violence I find, I think they’re even more aggressive than the boys when they exhibit family violence. They’re almost more—

Participant 2: Tends to be more dysfunction generally ... it’s not unknown, but I’d say the middle-class perpetrator[s] tend to be more male, but there might be more of a mix at that more dysfunctional level. That might be a gross generalisation.

Participant 1: But I think it’s also symptomatic of the way boys are raised.

42 Moulds et al. (2018) found that in Victoria and New South Wales police data, incidents of female adolescent violence towards parents (AVTP, a subset of AVITH) seemed to “plateau” at age 15 and hypothesised that AVTP may be more age-related for females (who might “grow out of it”) than for males, for whom rates of violence tend to increase over time. They alternatively suggested a potential hypothesis that girls may be more responsive to law enforcement intervention, hence the plateau in rates following police contact. See Moulds et al. (2018, p. 13).

43 The PIPA team performed basic calculations of figures reported in data sheet 5 of the Children’s Court of Victoria family violence dashboard data sheets and found that a greater proportion of female child respondents were aged 14 and under than male child respondents.

44 Researchers have also suggested that behaviour recorded by police as non-physical violence, such as property damage, may induce much more fear and intimidation when engaged in by older teenage boys and therefore provides an earlier trigger for reporting the behaviour compared to girls, who may not induce fear that will trigger reporting until they actually engage in physical assaults.

45 Though see Daly and Wade (2016), who argue that the rates are comparable.

Participant 2: That's right ... boys are far more likely to use violence full stop and if we go to a criminal listing assault charges, there are far more. So I think to answer that, to get a girl to be violent, there's something else ... It needs to usually be exposure or a very dysfunctional family or she's got a cognitive problem like autism or a functional issue. [Focus group 1]

Many examples that practitioners offered throughout the focus group discussions involved female clients who were exhibiting serious violence, though the client's gender was of no particular relevance or surprise to the practitioner.

I can think of one person ... she'd get knives out and threaten to stab her mother, and then she'd turn the knife on herself and threaten to cut her throat ... get the mother to go to the police station and have her daughter arrested and charged and it just became too complicated, and trying to get some respite for the mother, but it's all based on an intellectual disability, and traumas. [Interview 1]

Some observed that girls who may have been exposed to violence or other forms of neglect at home may be more likely to be in and out of home, or homeless, and consequently assuming aggressive behaviours to protect or assert themselves.

Well, if they're out on the street and they're using drugs or whatever, they can be potentially in a dangerous situation, so they react to that and that behaviour transfers ... [Participant 3, focus group 1]

Some participants reflected on the fact that they needed to take this prior experience of victimisation in girls into account in the development and delivery of services, particularly given the likelihood that girls had prior history of victimisation.

So I think even... our groups for males has been really different [from] our groups for females. So we've had to ... adapt what we've presented ... as we've gone along ... So I think the learning initially was, most young males that came in ... did really want to participate ... And they were clearly even understanding that they may well be

perpetrating family violence. Whereas the girls' group came in and there was a lot more [disclosures] of them being victims within the group. So that was really interesting and then even for the people that were running the group it was like, "How do we manage this? What do we do with this information?" ... And they've felt that the girls' group probably didn't run long enough whereas the boys group was like, "That's enough now. We're done. We've come, we're done." [Participant 3, focus group 2]

Here the previous point regarding sample sources is important to remember. In wider research drawn from community and clinical samples—including recent Victorian research—the family violence used by girls was less likely to involve physical violence (Fitz-Gibbon et al., 2018). In a justice sample, however, it is possible that only more extreme behaviour by girls—which may also be occurring at school or in other environments—is coming to the attention of the justice system and receiving a family violence-specific response.

By contrast, the WA sample was drawn from youth crime files and therefore involved children coming into contact with the legal system for a range of other offending behaviour—sometimes directly related to AVITH on the file, but sometimes in cases where AVITH was only identified through detailed review of the case narrative on the file. As noted earlier in this chapter, in particular, the WA sample provided a snapshot of violence occurring (or attracting a legal response) in out-of-home care contexts.

The nature of the violence

Physical violence

It is important to note from the outset that examination of legal case files is likely to reveal a higher proportion of physical violence and property damage than in the experiences of victims/survivors of AVITH more broadly. This is because, despite legislative recognition of other forms of family violence, such as emotional or economic abuse, police are generally less likely to be called in response to other forms of abuse, or may be less likely to seek a protection order or

make an arrest.⁴⁶ This may be particularly the case in the context of responses to varying forms of family violence used by adolescents, given that parents are less likely to seek a police response. With this caveat noted, the following subsection explores the presence of physical violence in the case files reviewed. In doing so we note that in the Victorian cases in particular, while physical violence was prevalent, it was not universally present. This reflects the proactive and specific family violence focus of the relevant police response in that state.

Victoria

From the merged Victorian case file data, 74 percent of the 139 cases reviewed involved physical violence. This included hitting, punching, kicking and pushing. It also included behaviour such as deliberately throwing objects at the victim/survivor, and destroying property close to, or in, someone's immediate physical space in a manner that appeared, or was reported by the victim/survivor, to be deliberately intended to physically intimidate. Using a weapon or holding up a weapon while making threats to harm the victim/survivor was also included in physical violence.

Cases of sexual abuse were included in this category. These were all cases of sibling incest/sexual abuse. There were no cases encountered involving parent or other adult relative victims/survivors in which sexual assault or abuse was reported on the file as a component of the AVITH.⁴⁷ Property damage or throwing items that did not appear to be directed at a particular person was categorised as "property damage" but not "physical violence". Of female accused/respondents, 62 percent were alleged to have used physical violence, while 76 percent of males were accused of using physical violence. Of all those accused of using physical violence, 79 percent were male.

⁴⁶ For example, in Tasmania, emotional and economic abuse are standalone criminal offences, regardless of whether there is physical violence; however, prosecutions are exceptionally rare. This outcome has not been unique to Tasmania (McMahon & McGorrery, 2016; Walklate, Fitz-Gibbon, & McCulloch, 2018).

⁴⁷ As noted above, cases involving sexual abuse by children are also discussed separately below, for reasons that are explained.

Western Australia

Of the 11 cases that involved criminal charges for AVITH-type conduct, 73 percent (eight cases) involved physical violence, while two cases involved verbal abuse and threats, and property damage. One remaining case involved breach of a VRO between siblings by way of attending a prohibited address, without clear information as to the nature of the original conduct underpinning the making of the order.

Tasmania

In Tasmania, 74 percent of the 19 AVITH-related RO applications involved physical violence, while 16 percent involved verbal threats to kill or injure in the absence of physical violence, and 10 percent involved property damage alone.

Weapon used

Victoria

In the merged Victorian case file data, 25 percent of cases involved the adolescent using a weapon or an instrument to assault the victim/survivor. Most of the time when this occurred the weapon was a kitchen knife. No cases involved knives actually making physical contact with the victim/survivor.

Much of the violence alleged was serious. This was consistent with the view expressed by many practitioners, and reflected in existing research into the experience of victims/survivors, that those subjected to AVITH, most often parents, were extremely reluctant to report it until it reached a stage where they were in significant fear for their own safety or the safety of other children in their care (Howard & Abbot, 2013).

Western Australia

One of the 11 reviewed AVITH cases involved use of a knife, with three further cases involving the accused deliberately throwing an object at the victim/survivor and causing injury.

Tasmania

In the Tasmanian court file AVITH sample, 37 percent of cases involved use of a weapon, and this was most often a

knife. This seems to accord with more extreme levels of violence observed in the Tasmanian cases overall compared to the other two jurisdictions.

Multiple or previous reports and histories of unreported violence

Victoria

Criminal cases involving breaches of protection orders by definition involve a previous history of reported violence, leading to the original order having been made. With criminal cases excluded, however, 36 percent of civil cases contained clear information in the incident narrative that violence had been reported previously and that there had been previous orders in place or previous police call outs, sometimes several, involving the same adolescent. A large number of cases showed a history of violence, but the material available on the files reviewed, including in the text of FVIO applications, often did not contain enough detail to establish clearly whether the history spanned days, weeks or several years. As a result, it was difficult to quantify in any way. Even where cases referred to the number of previous police call outs, this did not necessarily indicate a significant history of escalating violence, as several calls may have been made over a few weeks. Several cases, however, clearly exhibited a lengthy history. It was also very challenging to identify a proportion of cases in which there was no history (if such a thing is, in fact, possible). There were several cases in which no reference was made to the history of violence or abusive behaviour, but it was not clearly stated anywhere that there was no history.

Western Australia

Among the WA AVITH cases, there was only one case (out of 11) in which there had been no previous reports to police and no history of unreported violence noted. In eight out of 11 cases (more than 80%), a history of both reported and unreported violence was noted. All the WA cases were criminal cases and therefore tended to contain notes relevant to making a plea in mitigation for the offending. These seemed more likely to contain a coherent account of the relationship history of the parties, including the history of use of violence by the young person.

As in the Victorian cases, many did contain this level of detail, but many also did not make the relationship history sufficiently clear. While much of the relevant information may well be sought and disclosed verbally at court in the Victorian setting, and we are therefore at a disadvantage by primarily relying on the written files, we are also using written files in the other two jurisdictions. This means that the comparison still raises questions about how thorough our understandings are of these young people and their families.

Tasmania

The Tasmanian file review revealed that four cases involved an in-person application that contained insufficient information to determine whether any previous reports had been made or whether there was a history of violence and, if so, what the duration of the violent behaviour was. The remaining 15 cases demonstrated evidence of a history of either reported or unreported violence, or both. Six of these applications included a description that detailed very longstanding violence extending back over several years. One of these six applications was in person and the rest were prepared by police.

This suggests that Tasmania Police become involved in leading RO applications in cases that are viewed as particularly serious and that police then devote resources to providing significant detail in the applications. Some police applications also provided a detailed account of police efforts to link respondents with community support and crisis accommodation from various community organisations.

A note regarding sexual abuse

As indicated above, the case file audits indicated the presence of sexual offending among adolescents who had received a legal response for their use of family violence. While this was not as apparent on the WA files, practitioner observations in that jurisdiction made it clear that they regularly saw sexual offending against siblings as part of a spectrum of behaviour by adolescents. In fact, many practitioners who worked with young people with a range of co-occurring needs did not distinguish sexual abuse against siblings, for example, from AVITH more broadly. Others saw sexual offending outside the home (e.g. against other students in a

school) and physical assaults against a mother that replicated a violent father's behaviour as part of the same trauma response and attempts by a child to gain control over others.

Legislative definitions of family violence across the three jurisdictions all include sexual assault within the remit of family violence. Because of the severity with which sexual assault is regarded, however, studies have indicated that sexual assault is regularly the only offence recorded by the criminal justice system, with other forms of family violence disregarded in the course of prosecution (Salter, 2012; Victoria, Sentencing Advisory Council, 2007). Adding to the complex considerations, emerging evidence indicates that children who commit sexual abuse against their siblings or other children are also likely to have experienced family violence from their parents (Blackley & Bartels, 2018; Casey, Beadnell, & Lindhorst, 2009).

These considerations mean that sibling sexual abuse and AVITH are unlikely to be mutually exclusive and may often intersect. They also mean that, arguably, sibling sexual abuse should be included in the remit of AVITH data and responses. This suggestion is a contentious one and was the subject of some discussion within the PIPA team, given that some members considered this a very different form of offending behaviour.

While the small number of sibling sexual abuse cases identified in case file audits were counted within the total physical violence figures, the PIPA team does not intend to erase the distinct characteristics of sexual abuse or to wholly subsume it within a broader physical violence category. This is because this necessarily includes a complex spectrum of type and severity of behaviours, as will any category used to analyse and report on data of this kind. The complexity of the intersections between sexual abuse and other forms of family violence require a dedicated but distinct focus, as well as substantial further research.

For the purposes of this project, it is nonetheless worth noting the stark difference between the current legal responses to problematic sexual behaviour (PSB) by children and responses to the use of AVITH. This is because, while PSB is regarded as very serious by the criminal justice system, the response

it receives is increasingly a highly therapeutic and well-developed one. This includes the use of multisystemic therapy in some international jurisdictions, as described in Chapter 1, as well as the availability of mechanisms such as Therapeutic Treatment Orders in the Children's Court of Victoria. These function as a form of court-supported pathway to treatment, with services held accountable for their engagement with the young person and without criminal penalties for the young person where orders are not followed.

Given the complexity and prevalence of trauma explored in the chapters that follow, the PIPA team suggests that it is worth considering the stark contrast between responses to PSB in children on the one hand and current responses to other forms of violence and abuse against family members on the other. For this reason, the PIPA team has drawn on the use of responses to PSB in children for its recommendations in relation to responses to children identified as using AVITH.

Subject matter of disputes

School refusal, disengagement and exclusion

Of the merged Victorian cases, 15 percent involved overt reference within the case narrative to school refusal, disengagement or exclusion as the direct subject matter of an argument leading to the reported violence, or as being a contributing factor in the context of the violence. Some cases involved arguments that began with an adolescent refusing to get out of bed and leave the house to go to school in the morning. One example involved a child being excluded from school due to their behaviour, only to come home and end up in an argument that then escalated to verbal abuse and property damage by the child.

In addition to school refusal, disengagement or exclusion as the direct cause or subject matter of disputes, in an additional 4 percent of cases the adolescent was enrolled in a specialist school or program for those disengaged or at risk of disengagement from mainstream formal education. This means that 19 percent of cases overall displayed evidence that there had been a significant issue with school refusal, exclusion or disengagement.

In WA, two of the 11 adolescents with AVITH charges were engaged in alternative or flexible learning programs, and a further two were not attending school; however, they were both 17 years of age and it was not clear when they had stopped attending. School refusal, disengagement and exclusion received significant attention in focus groups, and many practitioners believed that it was a key issue. This was not only in terms of contributing to the use of violence, but in preventing effective responses. Some practitioners referred to the challenge of engaging young people overall as relevant to their engagement in AVITH-specific recommendations.

Trying to get kids to come to programs like Step-Up or whatever other programs that are around. That parent can't get the kid out of bed. That parent's got no chance to get that kid in a car to get them to [a] counselling appointment or a group session or anything. So how do we engage? It takes special people. Some of the really severely disengaged clients I had, when I had someone from the [service provider] helping, they were going in every day trying to get that kid out of bed. Trying to get that kid into its uniform, trying to get the kid into a car, trying to get the kid to school. Sometimes with success, sometimes there was no success. Some of these kids have dug themselves into such a deep hole of disengagement, they're disengaged from life; they're disengaged from social contact. They're not going to go to school, they're not going to go anywhere. [Participant 9, focus group 3]

In Tasmania, five of the 19 AVITH RO cases involved clear evidence of co-occurring issues with engagement in education.⁴⁸ This included references to:

- the RO respondent having been excluded from school due to violent or abusive behaviour
- the RO respondent having been engaged with the Tasmanian Department of Education's outreach service for children disengaged from education and at risk of involvement with the criminal justice system
- a child simultaneously being the respondent to an AVITH-related RO application, as well as an RO application

⁴⁸ The PIPA team heard that school disengagement was a huge issue for children in Tasmania who were now in the juvenile justice setting more broadly, including in Ashley Detention Centre, which runs a school within that setting.

intended to reinforce their exclusion from school, due to behavioural problems.

School exclusion and disengagement were identified by practitioners as a multifaceted marker, with different meanings for different kinds of young people and their families. Practitioners described school disengagement as being often both a risk marker and multiplier all at once.

Since I've been working [in this role] I'm finding a lot of the kids that are perpetrators of family violence are actually disengaged from schools ... it comes up against a [protection order] and so they might be living by themselves or [with] a carer or something but I think they just struggle with navigating the service and they've witnessed so much in their lives that they don't know any different. [Participant 11, focus group 4]

In some cases, school disengagement was an indicator of the likelihood or possibility that the adolescent may be using violence at home—particularly if school problems or exclusion were linked to violence or aggression in the school environment. However, school disengagement was also highlighted as an indicator that a child may be *experiencing* family violence—with some practitioners describing patterns where failure to attend school was a consistent occurrence in children in the days immediately following a police family violence call out. One service collaboration had informally mapped the trajectory of particularly high-risk children in the area in order to understand this and related issues better:

When you see there was [a] family violence incident on that date, you can see where a kid disengages from those positive things such as education ... and you can see after every family violence instance, there's a correlation in terms of absenteeism from school, so you might see 10 days then it's 20 days then it's 50 days and then the kid disengages with education and then the offending starts, bang. Straight away. [Participant 4, focus group 2]

Others identified that children may be staying home to protect their mother or siblings:

And you have kids keep rocking in late but they're too scared to leave mum. They're afraid that she's going to be hurt ... but if that's the thing about educating the schools and having teachers aware that this kid's not going to be blasted for coming in without being in school uniform ... [Participant 9, focus group 4]

As mentioned above, practitioners noted that violence may be occurring at home and at school, meaning that there was nowhere that the adolescent was not posing risk or feeling safe. This was reflected in the case files as well (see, for example, Case study 7).

For some young people, school may also be the only place of safety and routine in the young person's life, and the only place where there are safe adults to be found.

Participant 10: We've got a [good] counsellor who is in the schools and so he, really kids are actually going to school ... because they know they're seeing a counsellor that day; they might not come otherwise ... I had one who has had a really bad life growing up [family violence, the works], and ... school was her only saviour and she went religiously. She's very smart and she's really clever and she's scared because she's going to be finishing soon, she doesn't know what to do and I'm like, "Further studies, let's keep going" ... but that's been a positive outcome because she's wanted to go to school.

Participant 3: It's a protective factor.

Participant 10: Yeah, so she is engaged with services because she's been protected a little bit more because she's been in school ... she's been on the radar ... [Focus group 4]

Participants further noted that this link could be tenuous given that it often depended on children themselves choosing to go to school, without any support from home.

[In one case] mum had ... gone through a really vulnerable period, had serious drug and alcohol issues. Dad did too. So, obviously she was really struggling, but the kid was still engaged in school because he lived [a short distance]

from the school. So he could get to school himself, he could get his sister up and go to school. So that was a really important protective factor ... even though mum was really struggling, he still had school.

So then what happened was, she was going to get evicted, went to emergency housing for support, instead of just paying her rent and say[ing], "Let's keep you here where you're supported" they moved her to emergency housing which was [substantially further away] ... he couldn't get himself to school. So he lost that protective factor. He lost that support from school ... and he disengaged from school and offending started. [Participant 4, focus group 2]

Practitioners also noted that disruptive behaviour where children were still attending school could be an indicator of other behaviours—or experiences—at home.

They may act out a lot of their behaviour if they are attending school, even get themselves suspended because they'll just belt somebody because that's what you do ... And [there's one child] when I first started working with [the family] he had to be segregated from other children during lunch, which had an impact at the same time, because he'd have the tendency to be violent towards other children. [Interview 1]

Practitioners also observed that children's experience of violence and consequent difficulties with trust could impact on their behaviour at school.

But we don't just get referrals for violence, it would be lots of suspensions at school, it could be getting into fights at school, it could be graffiti, it would be like stealing stuff. But then just as you work with that person, you then realise, "Oh hey, this [using violence at home] is also happening" ... And sometimes that's reacted to quite well by schools, but a lot of the time it's, "Okay, you're suspended, now you've got this, now you've got that", and then there's school disengagement as well. Especially when the young person won't tell them what's going on. And if the parent does, then once again they're seen as, "Well, they're shouting, they abuse their parent at home and they abuse

Case study 7⁴⁹

The adolescent respondent/defendant had spent time in out-of-home care as a young child due to exposure to significant family violence and abuse at the hands of multiple adults in his family. In his early teens, the adolescent left care and was “sleeping rough”. He ultimately arranged to stay with his grandmother, and during this time he recommenced formal schooling. However, this arrangement broke down as the young person was abusive to his grandmother, resulting in multiple police call outs and a series of protection orders being imposed, following police applications to court.

Both interim and final protection orders were breached within days and multiple times by similar ongoing conduct, and the respondent was arrested and bailed multiple times. The seriousness of the conduct was not escalating but the same kind of abusive behaviour, mainly abusive text messages in response to disagreements about a decision made by the affected person about household rules, and damaging property, was being repeated over and over. Further abusive behaviour of the same kind resulted in more charges and multiple court appearances, which continued to occur for several months.

During this time, the affected person sought to vary an existing “safe contact” protection order to exclude the respondent from her address. A full exclusion protection order was issued in the respondent’s absence and it was noted that he went to stay with another adult relative who had a history of using family violence.

During this time, the young person was expelled from school due to engaging in physical fights, absenteeism and attending school while intoxicated. The respondent breached the exclusion order during this time by returning to the affected person’s property and attempting to sleep in the shed. Finally, after many court appearances at which the respondent pleaded guilty to multiple offences and numerous protection order breach charges and was sentenced, resentenced and bailed, the volume of the offending meant that sentencing options began to escalate. The young person was then formally engaged with Youth Justice. Youth Justice helped to coordinate a return to education via flexible learning and supported efforts to obtain safe accommodation.

Case study 8⁵⁰

The respondent is a young adolescent boy whose mother has reported multiple serious episodes in which the respondent has assaulted her with weapons, strangled her and threatened to kill her and himself repeatedly.

The respondent was expelled from school due to behavioural problems and first began using violence at home during primary school. His mother reported that the violence became more frightening and frequent after his exclusion from school, as he had nothing to do each day and was using more and more cannabis, which she stated she felt contributed significantly to his low mood and irritability, and was the subject matter of many arguments.

It was around this time that the respondent’s mother first called for help from police. After a number of police callouts over some months in relation to serious physical violence and threats to kill, police elected to apply to court for a civil protection order for the affected person. At the first application hearing, the respondent did not attend and was not represented by a lawyer.

An interim safe contact order was made and was later served on the respondent. A final order in the same terms was subsequently made for several months’ duration. The respondent was unrepresented throughout the process and there was no information recorded about any services accessed or referrals made by police or other agencies at this time.

49 This case study is constructed from a composite of multiple features taken from aggregate case file data to avoid the risk of re-identification. It therefore does *not* represent an individual person or family’s story.

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their teachers here at school, so someone needs to fix them”, and they’ve never told anyone that well, because before they got to school mum spent the whole time saying, “What’s the point anyway, you’re wasting everyone’s time here, you’re not going to be worth anything, why do you even bother?” ... Isn’t great at school, but it’s also totally, in terms of the trauma response, completely normal. [Participant 2, focus group 5]

Alternatively, and including when home is not a safe place, further risks may develop as adolescents seek out other spaces to forge social connections. Practitioners noted that this in turn has its own complicating trajectory, with the discussion below referring to young people congregating in public spaces, including the central train station in Melbourne.

Participant 2: My experience working with adolescents is that, once you’re dislocated, separated from the school, you are looking for an anchor, you are looking for a connection and where do you find it? Other kids who aren’t going to school.

Participant 3: Exactly right. Flinders Street steps, let’s go.

Participant 2: And so it compounds the problem ... those social networks reinforce anti-social norms using violence and they learn creatively off each other. [Focus group 6].

Use of devices, internet and gaming

In 18 percent of the merged Victorian cases (n=25) the use of phones, internet surfing social media apps or gaming were overtly referred to in the case narratives as the subject matter of, or a precipitating factor in, conflict leading to the reported violence.

We’ve had a few calls, you know, “My kids are gaming all night. We’ve turned the internet off; they’ve gone violent, smashing up the house.” [Interview 2]

A common scenario among these cases involved a confrontation when a parent had disconnected the modem or confiscated a game console after unsuccessfully trying to limit the young person’s access to these. Alternatively, this was a punishment

for other behaviour, such as not completing household chores. Gaming and internet/social media use were spoken about by many practitioners working directly with families experiencing AVITH in specialist programs and services. Several felt that these were a contributing factor to poor communication and relationships within affected families, and some linked the role of access to technology to entitlement, which is discussed further in Chapter 6:

In the cases [which relate to] middle-class families, I find that the parents are too scared to try and say no and enforce rules for young people because of the retaliation, because of the stigmas of society where, “Well if my friends have it I must have this”, like say for an iPad for example. And so instead of going, “Well no, this is no”, and having those repercussions ... it’s all about, “I want, I want” and the parents just go, “I’m too exhausted to fight, I back down” and get subjected to the violence. [Interview 3]

Other practitioners highlighted the impact of gaming and social media use on issues around mental health or cognitive ability and self-regulation:

We’ve had a few that either can’t get their sleeping patterns right or unable to sleep, this may be due to experiencing anxiety or going through addiction. Whether that would be AOD or gaming is a really big one with the young boys in particular. [Participant 1, focus group 7]

Yeah, so the screens being on, and all of that sort of happening. If you’ve got an adolescent with Asperger’s [syndrome] or autism and then poor impulse control, add no sleep, and then have a look at what the behaviour is like the next day. There’s zero impulse control, zero motivation for impulse control, because they’re having difficulty self-regulating that kind of —all the feels. Add on top of that trauma. Add on top of that role modelling of family violence if there has been a history there. And then the no ability for that consequential thinking. [Participant 2, focus group 15]

Gaming was also linked explicitly by one practitioner to disengagement from education, meaning that the presence of one risk factor for AVITH was increasing the likely presence of another:

I run two group [flexible learning] sessions: one morning session being 9:30–11:30 and then I do an afternoon session for the kids who aren't up and about; they've been gaming all night and that starts at 12:30 so we're finding that works really well. [Participant 5, focus group 4]

A practitioner in one follow-up workshop, however, did urge the PIPA team to consider this kind of use of technology as self-soothing behaviour, particularly among young people otherwise lacking any control over their circumstances or environment.

In WA, in three out of 11 cases (27%) the use of technology, including devices and gaming, also arose as a subject matter of a dispute that preceded violence being used by the adolescent. While use of devices and gaming was very readily nominated as the subject matter of the dispute in police reports, closer examination revealed this to be a fairly superficial feature. Deeper, underlying issues often existed which were only revealed because of the time and resources that a range of practitioners invested in identifying them as part of the criminal sentencing process.

In contrast with Victoria and WA, in Tasmania, use of internet and gaming was mentioned in only one of 19 cases (5%).

Drug and alcohol use and mental health concerns

Alcohol and other drugs

In 19 percent of the merged Victorian case file sample, use of AOD was a factor, though in different ways. This figure encompasses all cases in which:

- AOD use or misuse was mentioned directly in the incident narrative—in many cases this was a reference to the parent AFM's belief that AOD use was having an impact on the adolescent's mood, demeanour and/or mental health (in 16% of merged cases)
- intoxication was apparent at the time of the reported incident or when the adolescent was previously reported as violent (in 4% of merged cases)
- clear reference was made to an AOD intervention/service referral or engagement during the course of the FVIO case (in 6% of merged cases)

- the reported incident involved an argument about the young person's AOD use or suspected AOD use (in 4% of merged cases).

In the Magistrates Court of Tasmania sample, 37 percent of the AVITH applications contained reference to concerns specifically around the adolescent respondent's illicit drug use, with ice and/or cannabis always being the drugs mentioned where there was specific reference. Recalling that the sample sizes here are small, and that the figures reported are merely indicative of areas that may merit further inquiry, the difference in the frequency of AOD use arising in jurisdictions may be influenced by socio-economic factors in different locations.

One obvious difference between the Tasmanian and Victorian case file analysis data is that, in Victoria, the vast majority of applications are made by police. In Tasmania, the majority of applications were made in person, with applications in most cases handwritten in the applicant's/victim's/survivor's own words. As a result, these applications emphasised the information that the victims/survivors think is most important to convey or about which they are most concerned. This may differ from police assessments of the situation and what information is most relevant to a protection application. This reinforces how, even among justice responses, the adolescents appearing before courts for violence and abuse at home are reaching these courts through different pathways, and reflects a diverse and varying makeup of underlying issues and challenges.

In the WA case file analysis, three of the 11 cases involving AVITH charges contained references to the charged adolescent using AOD. In one case, the connection to AOD was that the adolescent was referred to and engaged with the Drug Court in response to the AVITH charges. In another case there was reference to a long history of seeking treatment for AOD issues and, in the third, violence was used in an attempt to get the victim/survivor to provide AOD to the adolescent, with the adolescent subsequently referred to intensive AOD treatment during the course of the relevant criminal case.

Existing literature identifies AOD abuse as one of a number of co-occurring risk factors in AVITH (Cottrell & Monk, 2004; Routt & Anderson, 2011). While AOD use both by adolescents using violence at home and by parents and other family members (Connell, Gilreath, Aklin, & Brex, 2010) was discussed in about half of all focus groups and interviews, it was rarely volunteered as a particularly strong factor seen in most or all cases. They were discussed and endorsed less frequently and in less detail than mental health and disability, trauma or family relationships involving historical and/or ongoing adult-perpetrated family violence. Other recent Australian research, which has tended to focus specifically on intoxication alone, has also found low rates of AOD involvement in reported AVITH cases (Freeman, 2018; Moulds et al., 2018).

Variation existed between the perspectives of different practitioners depending on their location and role, with some practitioners placing more emphasis on the role of substance use than others.

I think drugs and alcohol play a huge part. Some of the kids we've had that have been violent ... they've been using [drugs or alcohol]. But when they're not high, they're great kids, so I think some of the violence comes from that as well. [Participant 3, focus group 8]

Most of them I think would be related to drugs. When I first started at [service] I remember we had a lot of [referrals] coming in for a family in [region] and the youth, there was ice [and the mum], and she'd have to ring the police, they'd come and collect him and he might spend the night in jail or go to a friend's and then there'd be a [protection order] put in place and then he'd come back, knocking on the door and that guilt and then she'd let him back in and next minute she'd be ... It might be a week later she'd have to ring the police again because they'd all be locked up in the room, too scared to come out because he was on the ice ... [Participant 9, focus group 4]

Rather than AOD use being a visible factor in AVITH, however, a stronger factor throughout the research was the experience or use of family violence as a backdrop to AOD use. Observations of two AOD practitioners who ended up

hearing disclosures about their clients' use *and* experience of family violence are relevant here.

Sometimes you find with the drug and alcohol that's such a small issue in comparison to the rest of their lives of what's going on and the chaos so ... sometimes I find the drug and alcohol stuff sits on the side a bit because you're trying to deal with crises from the rest of their lives and try and get some normality in their lives and the positiveness. [Participant 11, focus group 4]

So all of a sudden I was in this space where it was no longer about drugs and alcohol, it was about family violence and what he'd witnessed growing up and all these things throughout his life. But he didn't know that witnessing and experiencing what he had, he was ... there was no dots drawn, no connection ... so he says, "Do you think because of what I've seen growing up that maybe this is the way I work now?" And I said, "Well, it's the way you've learnt to function and cope and survive but it doesn't mean that you can't change. There's room for change." [Participant 10, focus group 4]

These observations should be considered in light of literature that lists AOD abuse as one of a catalogue of co-occurring issues, referred to above, suggesting that AOD use may be present in the context of broader family violence experience, rather than as a causal factor in AVITH.

Mental health

In 10 percent (n=14) of the merged Victorian cases reviewed, police attendance or interaction with the adolescent resulted in police transporting them to hospital for the purpose of a mental health assessment, either voluntarily or pursuant to mental health legislation. Self-harm was a feature in 10 percent of cases, sometimes intertwined with verbal threats, and sometimes not apparently directly related to threats or to the alleged AVITH occurring at home. Mental health concerns have long been noted in literature on AVITH as co-occurring with AVITH and are also noted in wider literature as ecological factors in young people's lives. In our case file audits, cases where there appeared to be evidence of a diagnosed mental illness were counted as a psychosocial disability, and therefore mental health concerns are addressed in part in the following chapter, which focuses on disability.

That said, we note that indicators of mental health concerns were also present beyond just those cases where there appeared to be clear evidence of a diagnosed condition or disability, and several cases across each jurisdiction included reference to parents suspecting that their adolescent may have a mental illness and wanting the adolescent to engage in treatment.

Just as Howard and Holt (2016) reported, we came across a number of cases in which parents believed that either AOD or mental health issues, or both, were contributing to AVITH via their possible effects on mood, but also as a common subject matter of arguments that led to violence (see Case study 9). In many cases, parents were looking for help for the children, rather than wanting them criminalised. This in part reflects gaps in the youth mental health system, which may be geared primarily towards crisis response.

In these cases—as well as in the observations of practitioners throughout focus groups—the need for service support for young people and families appears both palpable and acute—and likely to be far more effective than a punitive legal intervention.

The challenge involved in finding this diversity and complexity

In this chapter, the PIPA team has focused on the diversity and complexity among the cases reviewed and an initial analysis of gender, types of relationships and types of violence, with the next two chapters being devoted to disability and intergenerational family violence. The PIPA team is of the view that these particular themes need to be highlighted because they featured predominantly, either in the case file audits or in observations from practitioners, and are especially relevant to considerations about the way in which legal responses are applied.

More generally, the variation and diversity that the research team found in the case files that we reviewed—some of which has been highlighted throughout this chapter—presented a challenge in terms of how the PIPA team ultimately chose to present these findings. This is because, as flagged in the

introduction to this report, we expected to find cases that followed a certain “classic AVITH” pattern or conceptualisation. This included scenarios that featured a strong element of coercive controlling behaviour exhibited by the adolescents concerned—potentially learned from a violent parent in the past, but also perhaps learned from gendered structures in the community—with family members living in fear as a result.

In cases where adolescents have learned family violence from a parent or been exposed to it in early childhood, this complicates the issue in terms of the legal system’s determination to distinguish between victims/survivors and perpetrators. For example, this research raises serious questions about the efficacy of imposing legal orders designed for adults upon children of any kind.

Where children have also been victims/survivors of family violence, however—the “silent victims” as the RCFV described them (State of Victoria, 2016c, pp. 101–102)—the label of “perpetrator” means that they are suddenly experiencing a legal response that brings with it the likelihood of criminal justice system involvement, while an original adult perpetrator remains out of view.

Where children are identified as perpetrators and are experiencing a legal response but do not necessarily fit the classic AVITH pattern, the PIPA team suggests that this raises even more questions about the legal system’s response. Certainly, reviews of the narrative in each case file revealed scenarios that did not match the classic AVITH pattern at all, or which may have matched the pattern on the surface in terms of who was using violence against whom, but which also had multiple other elements involved.

In fact, a majority of cases in the merged Victorian sample did not necessarily meet the criteria of an adolescent using coercive control or power in the way in which we have come to understand it in the context of adult perpetration of family violence. Rather, in many cases, the behaviour of the adolescents appeared to involve children unable to regulate their emotions or actions in relation to events or relationships; their responses were arguably “reactive” (Daly & Wade, 2016)

Case study 9⁵¹

The defendant and affected persons, his parents, became involved in a verbal argument over the parents wanting the young person to seek mental health treatment, and also regarding their concerns about his peer group and the increasing periods of time he was spending away from home. The young person became angry and upset during the argument and walked out. After some time, the respondent/defendant returned and then took a kitchen knife and went into his room and cut himself with the knife. The respondent/defendant's parents tried to stop him, and he threatened to kill them with the knife. The parents called police. Police attended and took the respondent/defendant to hospital for assessment of the injury, and later applied for a safe contact civil protection order on behalf of the parents. During this time the order was breached by a further similar incident, and the young person was charged.

Case study 10⁵²

Police applied for an "exclusion order" in relation to the respondent, an adolescent girl. The respondent's mother (the affected person) had called police after steadily escalating violence at home, including threats and physical violence. The affected person reported that the respondent was emotionally abusing her and seeking to control her by demanding that she stop seeing her new partner.

Police initially contacted a government department for assistance with placing the young person in suitable accommodation, but no beds were available. Eventually, a relative was able to be located who could have the respondent stay with them and police took the respondent there. An interim exclusion order was issued and the finalisation was listed at the same time as related criminal charges.

The respondent's legal representatives presented a report to the court that indicated that the respondent had been exposed to family violence used by multiple adult males in the past. The report recommended that the respondent be referred to a suitable community support organisation, and that the respondent required specialist disability case management. The legal matters were finalised on the same day.

51 This case study is constructed from a composite of multiple features taken from aggregate case file data to avoid the risk of re-identification. It therefore does *not* represent an individual person or family's story.

52 This case study is constructed from a composite of multiple features taken from aggregate case file data to avoid the risk of re-identification. It therefore does *not* represent an individual person or family's story.

and they exhibited a sense of having little or no control or power in their home environment. As some of the cases featured above demonstrate, cases also included isolated use of violence between siblings where no history of violence or coercive control, nor fear of ongoing violence, was present, yet police chose to pursue an FVIO anyway.

Importantly, in many cases the scenarios included diagnosed disability as a significant feature. To identify this does not mean that the behaviour of the adolescent concerned was not serious, nor that family members were not living in considerable fear and isolation. It also does not mean that the behaviour of the adolescent did not sometimes mirror the behaviour of a person using coercive control and other forms of family violence, including the use of highly gendered language that is also used in the community as a form of abuse or exertion of power.

It is highly relevant to distinguish these cases in terms of the validity of the legal response that was nevertheless sought by police or imposed by courts. Further, in many cases the adolescents identified by the legal system as perpetrators were living in environments of chaos and multidirectional violence. This included violence over and between generations, with parents also victims/survivors of violence from their families of origin, as well as perpetrators of violence in their current family environments. Arguably this leaves the distinction between victim/survivor and perpetrator even more muddled when parties are brought before the court.

Finally, the PIPA team found examples of cases in which, on face value, the adolescent was the perpetrator, but on closer review the adolescent was the victim/survivor of ongoing and current abuse by parents—including where the legal response was being used as a tool to perpetuate this abuse. In these disturbing cases, the legal system's response was colluding in family violence, rather than addressing it.

In the PIPA team's view, this also brought into question whether cases that practitioners encountered and which appeared to involve adolescent defiance or even "entitlement" (discussed in Chapter 6) instead sometimes involve an adolescent's reaction or resistance to control experienced from the people with the real power in the family.

Only a minority of cases exhibited one of these features alone. Here it is important to acknowledge that the PIPA research focused on matters that featured police or legal system involvement and therefore reflect only a subset of AVITH cases, making it difficult to identify typologies of AVITH. As noted in Chapter 1, the majority of cases that the PIPA team reviewed—including those featured in case studies throughout this report—involved multiple elements, making it even more difficult or, at the very least, an artificial exercise, to classify the cases into types. One participant challenged the definition of AVITH that was put forward by the PIPA team:

Just having the description [of AVITH] we started off with about the violence, I felt was a little over simplistic. It's much more complicated, although that's not inaccurate for a lot of cases ... also, it doesn't cover the field. [Participant 1, focus group 9]

During the course of the research, however, the PIPA team often heard comments that distinguished some types or categories of cases or clients from others.

Participant 1: I have something from a colleague [who] couldn't attend. So, she says in her experience ... "child respondents to [civil protection orders] often fall into one of two categories. The first being where the young person is using violence in the home and that young person is cognitively impaired, low functioning or autistic. These kids often have otherwise well functioning families and stable parental support, but parents are unable to cope anymore with the behaviours and need access to better help. Parents don't want [court orders], they want help desperately. Supports often seem hard to access and are slow moving. And the second category is where dysfunction is evident more broadly in the family. The young person may be in fact the victim[/survivor] of violence or there are other issues, parental mental health, drug and alcohol etc. playing out. Often it helps to ask the court for [a clinical] report which can tease out broader dysfunction and again intervention and support for the family and the young person is needed." [My colleague] says that in both situations it's an ineffective response to impose [a court order] and it does little to impact on behaviour.

Participant 3: And that covers it all. We're finished. [laughs]

Participant 2: That's kind of what I was going to say.
[Focus group 1]

Some practitioners offered an anecdotal estimate of how the breakdown of cases manifested in their workload. This did not always match the categories that other practitioners offered.

Participant 2: I guess in my mind when I'm thinking about these things, there's two different types of kids. There's the kids where there has been family violence in the home, the relationship between the parents has broken down, the kids live with mum and then there's some sort of allegation of assault or abuse against the mother. And those children ... they return to mum [and] do still seem to be engaged with school and extracurricular and all of those things. It just seems to be an issue with mum probably because of what they've been exposed to as a child but not necessarily disengaging from everything else ... So that probably makes up say 20 percent and the other children where they're from ... the families that you already know of and then they're engaging in the same sort of offending towards mum or girlfriend or whatever it is and they're more likely to have drug issues and they're more likely to have orders against them preventing them from returning to mum and they will already be delinquent.

Researcher: And so, if the first group is 20 percent, is that 80 percent or is there another kind of group in there, a sub-group?

Participant 2: No, either or. [Focus group 9]

The above two examples featured practitioners from different service and legal landscapes, making them likely to encounter clients in different circumstances. Given that legal files do not always contain a full account of a party's history, this makes it even more likely that multiple factors may be at play in any scenario in which the legal system identifies an adolescent as a perpetrator of family violence. Further, as the discussion throughout this chapter highlights, a combination of multiple co-occurring factors may also be

present, such as AOD use, mental health, internet or gaming addiction, school disengagement and broader offending, among others, or all of these factors combined. As one participant described it:

It's a soup where the predominant flavour changes from family to family. [Participant 1, focus group 9]

In many cases, these may be contributing factors, multipliers and/or *consequences* of an adolescent's experience of family violence. This means that, while the PIPA team initially found value in distinguishing cases in terms of their predominant features—simply because the diversity and complexity that we found was both stark and startling—ultimately we decided not to categorise cases or assign a proportionate value to any category.

This is similar to the conclusions in other research in this area (Condry & Miles, 2014; Miles & Condry, 2016) and reflects the fact that the purpose of this research was not to develop or debate typologies of AVITH⁵³ but to explore the systemic response with which it is met. For these responses to be effective, they need to take account of each individual, and their circumstances, who presents to a service or appears before a court and cannot be applied by type.

Given that most of the cases we reviewed involved multiple factors at play all at once (see, for example, Case study 10)—and that they may, in fact, involve more complexity than a legal or court file will reveal—it would be counterproductive to reduce the PIPA analysis to categorisation. It may also risk misinterpretation or misrepresentation in other fields. As noted above, other researchers in the AVITH field have described a similar challenge in terms of defining and describing the complexity and diversity that they encounter (Miles & Condry, 2016).

⁵³ We note that typologies of adult family violence perpetration are somewhat disputed and would certainly not be appropriate to be applied to adolescent family violence (see Boxall, Rosevear, & Payne, 2015b). See also Daly and Wade (2016), who describe the challenges in categorising the character of reported incidents of adolescent-to-parent violence used in South Australian court files they reviewed.

Rather than attempting to create new categories, therefore, the PIPA team highlights this complexity and diversity because it contrasts so profoundly with the blunt one-size-fits-all nature of the service and legal response that is currently available.

Note: The PIPA team could find no evidence of a plan identifying the party responsible for making the relevant referrals or following these up.

CHAPTER 5

Disability

This chapter explores a theme that arose especially prominently throughout the research, being the prevalence of children with psychosocial disability who were experiencing a family violence legal response.

The chapter discusses the findings of the case file audits in this regard, complemented by focus group discussions and analysed in the context of consideration about the implications of deficit, as opposed to strengths-based, approaches. This chapter also reflects on the implications of legal responses for children with disabilities and the impact that these can have on a family's capacity to report or seek help.

The definition of AVITH posed by Pereira et al. (2017), as described in Chapter 1, specifically excludes adolescents experiencing states of “diminished consciousness” (Pereira et al., 2017, p. 220) that may be related to disability, among other things. Just as importantly, and as noted in Chapter 2, the PIPA team does not wish to conflate this discussion with the significant—and quite distinct—literature concerning the use of violence by people with disabilities where this is framed in clinical contexts and outside a family violence frame (Brosnan & Healy, 2011; Coogan, 2014).

The PIPA team was conscious that this was a family violence project concerning service and legal responses, not a project focused on the relationship of violence and any forms of diverse abilities. Rather, this project is focused on the response from the family violence system to a wide range of adolescents, including adolescents with varying cognitive abilities. Where these abilities potentially impact on a person's capacity to comply with a legal order or participate in a service in a meaningful way, this is where the issue of disability becomes relevant for this project. This chapter should therefore be read with this significant caveat in mind.

Rates of disability among children involved in AVITH cases

In the merged Victorian case file sample and the WA sample of AVITH cases, we found that a very high proportion—47.4% (n=66)—contained specific reference to the adolescent having a diagnosis that in combination with social or environmental barriers would equate to psychosocial or cognitive disability. The most frequently seen diagnoses were depression and

anxiety, autism spectrum disorder (ASD)⁵⁴, attention deficit hyperactivity disorder (ADHD) and post-traumatic stress disorder (PTSD). There were also cases of intellectual disability, reactive attachment disorder and fetal alcohol spectrum disorder (FASD). In addition, there were descriptions of what seemed to be psychotic experiences, but with no reference to diagnoses of specific psychosocial disabilities such as schizophrenia, which is not surprising with a cohort of adolescent children. These were not counted among the cases where there was a disability present.

In the Magistrates Court of Tasmania RO files, disability was referenced or recorded extremely rarely, but five of the eight Legal Aid Tasmania files reviewed confirmed intellectual and psychiatric disability experienced by the adolescent respondent—most often dual diagnoses of ASD and ADHD and, in one case, a psychotic illness leading to ongoing compulsory treatment.

It should also be noted that ASD was very infrequently seen in the WA cases, and was described by practitioners as not commonly encountered. While some practitioners reported working with clients who had a range of symptoms along the autism spectrum, several practitioners in WA suggested that it was rare for young people to be diagnosed with ASD. This was because of the expense and inaccessibility of private assessment processes, with a lack of publicly funded and easily accessible options.

Especially with the autism spectrum disorder—sometimes if you just have a mild form of it—it's really hard to get

⁵⁴ In accordance with contemporary usage, autism spectrum disorder (ASD) includes Asperger's syndrome.

diagnosed because you have to pay a private doctor or private clinical psychologist to make that diagnosis. That hasn't been picked up in childhood. [Participant 6, focus group 8]

Another reason that the PIPA team considers likely to be contributing to the much smaller number of cases involving children with ASD—which received some support among WA practitioners at the project's Perth workshops—was that our WA case samples were all criminal matters. In a criminal prosecution, police and prosecutors may be required to consider the question of the child's capacity to be tried in terms of any relevantly impacted cognitive or intellectual functioning before proceeding with, or authorising, a prosecution. This means that some cases in which the young person was significantly impacted by disability or likely to be seen as such by police may have not proceeded to the point of prosecution, thus being filtered out of our sample.

By contrast, in Victoria the large majority of cases reviewed were FVIO applications, a process that at no point requires or flags a compromised capacity or absence of capacity as a possible bar to imposing the order sought. This means that young people who may be significantly impacted by disability may be less likely to be filtered out of the relevant court process. Of the merged Victorian cases, 24 percent showed evidence of an ASD diagnosis of the adolescent, with several of these being dual diagnosis with ADHD. In a small comparison sample of VLA general youth crime files (n=50), the proportion was 6 percent. These figures compare to an Australian population level prevalence of 0.7 percent overall, 2.8 percent for those aged 10–14 years and 1.8 percent for those aged 15–19 years (AIHW, 2017a; ABS, 2015). This prevalence of children with ASD diagnoses as a noticeable contingent among children whose families were actively seeking interventions for AVITH, as well as those children involved with services via the criminal justice system, was noted by several practitioners:

There have been a number of families that have come our way whereby there hasn't been a history of family violence, but we're certainly seeing the autistic spectrum is playing quite a significant role so we've worked with a number of people with Asperger's and also autism as well who have perpetrated violence within the family home, families

... [have] really just exhausted their resources to try and contain that and actually manage it safely in particular as those adolescents do grow older, the risks do raise a lot higher, so we certainly echo those experiences. [Participant 1, focus group 10]

I primarily do youth justice work, so... a lot of my kids have [orders] out against them, they're in child protection or they're in out-of-home care also. There is a lot of violence and the kids are generally perpetrating against their parents, against other kids or they're in custody and there's a lot of ... there's just violence across the board ... There's a lot of mental health issues, a lot of ice use, really high rates of autism which is really interesting, I don't understand why everyone is suddenly being diagnosed with autism but it seems like most of my clients are being diagnosed with that. [Participant 6, focus group 11]

Echoing other recent Australian research (Douglas & Walsh, 2018), practitioners noted that often behaviour would not be reported, or need to be very extreme before it was, or before families would be prepared to go to court.

We [disability support workers] actually have a lot of younger children perpetrating violence and parents are more likely to talk about it with staff members ... but as they kind of get to adolescents that's when they stop telling us ... The other thing is there are families out there that have children with severe disabilities and those children are perpetrating family violence but it's part of their disability and they don't have the cognitive ability to understand why they're doing what they're doing and so how do you support a family, how do you support a mother who is saying, "My 17-year-old son is huge and bigger than me and is beating me up and he has [a neurodevelopmental disability], what do I do?" And I have to sit there and go, "I have no idea." [Participant 8, focus group 4]

I've just got this classic one that happened ... recently, that I consulted with a coordinator about, and it's like they were at court because the police made the applications on the family's behalf. The family didn't want it to go to that point. But a very, very long history of family violence by the son to the parents in the context of his autism... [Participant 6, focus group 12]

The possible explanations for these data are varied, complex and multi-stranded. It is important, first, to emphasise that the figures regarding ASD tell us that 24 percent of children in sampled cases, *in families who experienced a justice response regarding their child's behaviour*, appear to have had an ASD diagnosis.

This is not synonymous with saying that a significant proportion of children using family violence at home have ASD or a disability, nor that children with a disability are necessarily over-represented among those using violence. Rather, this figure means that 24 percent of those children who were being brought before courts and, in many cases, issued with civil orders, appear to have had an ASD diagnosis.

This is vital when it comes to considering the appropriateness of the current justice response. It also suggests that, where children who are using violence at home do have a disability, a legal response seems to be becoming a “backstop” response of sorts, pulling in a certain cohort of adolescents with complex needs and equally complex challenging behaviour.⁵⁵

The nature of this legal response may in turn be likely to perpetuate the stigma and isolation that families in this situation experience, entrenching their reluctance to disclose.

The role of disability in AVITH cases

The PIPA research is not focused on exploring the nature of any purported link between aggressive behaviour and specific disabilities, and we are conscious not to promote the notion of a causal link between any form of disability and use of violence. This is especially important to note when much violence against and abuse towards people with disabilities

has occurred in institutional settings, including correctional facilities, where medicalised notions of the “dangerousness” of people with disabilities have bolstered institutionalisation (Human Rights Watch, 2018; Spivakovsky, 2014). People with disabilities—particularly women and children—continue to experience widespread institutional dehumanisation and abuse. They are disproportionately affected by interpersonal violence (Australian Human Rights Commission [AHRC], 2018), and are also over-represented in youth and other justice systems (Hughes, 2015).

As noted above, however, the focus of the PIPA research is on the appropriateness of the *responses* that adolescents using violence in the home and their families receive. This is especially important to address in relation to people with disability precisely because inappropriate, cruel and unfair responses to behaviour that may be legally considered criminal, dangerous or antisocial make up much of the historical and ongoing institutional mistreatment and abuse of people with disabilities (AHRC, 2018; Victorian Ombudsman, 2018). Failures of our criminal justice system to respond fairly and appropriately to the alleged crimes of children and adults with disabilities—whether in relation to truly harmful behaviour such as serious violence, or more disruptive, survival-driven and over-criminalised behaviour—remain a feature of contemporary legal systems.

When describing the experiences of people with disabilities who are accused of using violence or committing crimes, it is important to note that it is difficult to avoid writing in terms of a “deficit model” of disability where the PIPA team would otherwise prefer to employ a social model and a strengths-based lens. This deficit approach is a by-product of the structure and culture of legal systems themselves, which can often only begin to accommodate and respond in an appropriately tailored manner to differences between people by reading their disability as a causal factor in criminality. Alternatively—or additionally—legal systems read disability as a barrier to engaging in programs and services that are relevant to rehabilitation and risk of further offending (Weller, 2014).

Consequently, the language of deficit and the use of labels remains the main key to unlocking whatever limited supports,

⁵⁵ There is increasing evidence for the more general proposition that criminal justice systems are drawing in children with disability and are becoming a direct de facto social response to children with disability. This is particularly the case in relation to children with neurodevelopmental disability, as well as those with intersecting poverty and trauma (addressed further in the following section about the links between disability and trauma in relation to AVITH). A recent prevalence study revealed that 89 percent of children in detention at WA's Banksia Hill detention centre have at least one domain of severe neurodevelopmental impairment, and 36 percent have FASD (Bower et al., 2018).

services and appropriately tailored responses might be available to people with disabilities who come into contact with the criminal justice system. This includes improving acknowledgment of the over-representation of children and young people with neurodevelopmental and cognitive impairment in our youth justice systems more broadly (Hughes, 2015). Within this context, defence lawyers, the judiciary and parents (usually mothers) constantly desperately struggle to obtain adequate support. Accordingly, the PIPA team simply wishes to observe this fact and to encourage readers of this report, as we also strive to do, to remain critical of deficit-based and medicalised representations of children and adults with disabilities. Similarly, we remain critical of our own reliance on them to describe and grapple with problems like AVITH.

Focus groups and interviews revealed a broad spectrum among the views expressed by practitioners about how disability featured in the experiences of adolescents and families using and affected by violence in the home. Some practitioners felt that there were examples of aggressive behaviour that they strongly associated with the sequelae of ASD or another disability.

Practitioners identified a form of injustice in the legal system's reading of this behaviour as constituting family violence, flagging a real risk of criminalising challenging behaviour that is specifically linked to disability:

The kids with Asperger's, on the spectrum and stuff, going back from many, many years there's been those issues of impulse control and violent behaviour and stuff and moving, it's almost as if we're in dangerous territory when we're moving that behaviour into a family violence type of behaviour because we're sort of redefining it with a certain kind of, I don't know, a certain shade of something that was never there, it's only there because now we're all focused on family violence. [Participant 1, focus group 10]

I think the real problem—particularly with ... autism or intellectual disability when they're a child—is making sure they actually have capacity to legally understand what the [civil protection order] means. So, they should never have had the [civil protection orders] in the first place, in my view. And then they end up on these breaches.

And we had one kid who ended up in a hotel because ... he couldn't be safely put in a residential unit and his mum, luckily, was still very supportive, but his behaviour was really violent and out of control, but it was directly linked to some stuff that he had been experiencing and manifesting itself in his disability. And I don't actually think he had capacity to understand the [civil protection order]. And then suddenly he was excluded from his home. [Participant 5, focus group 12]

This theme carried across in the case file audits, with applications for protection orders prepared by police themselves sometimes displaying uneasiness about the appropriate way to describe and respond to the behaviour, with police sometimes including statements such as that they believe an adolescent's behaviour is “due to [their] cognitive impairments and the respondent doesn't know right from wrong” (quotation from police note on a case file).

By suggesting that current responses are not appropriate, the PIPA team is not suggesting that violence, when used by adolescents with a disability, is not serious and does not require a response. Indeed, what we already know about the experience of families who are subjected to violence used by a child with a disability is that they are likely to be especially reluctant to view the violence as a matter requiring police attendance. This means that, by the time violence is reported to police, it is likely to be at a serious level (Fitz-Gibbon et al., 2018).

By this point, parents calling police are often extremely frightened and concerned for their own safety, as well as for that of younger children (Fitz-Gibbon et al., 2018; Douglas & Walsh, 2018). However, the fact that parents are driven to call emergency services does not mean that the response that currently follows meets their needs or expectations.

The young person's 12 identifies that he suffers from autism and a full no contact exclusionary order has been made [protecting] his dad who was his single only carer, stable home ... So that means a referral has to be made to [child protection] the child has to be removed from the home has to go into what I would assume to be a

residential care facility. And for five days not allowed to have any contact with the one person that's been constant in his life ... So it gets to court and a civil advocate spoke to the informant, spoke to the police, spoke to the dad and he was like, "I don't want this order, I don't know why this has been made, I just want my son to be home" and it's just like well this is an example [of] ... how an adult response doesn't fit with a very specific family situation. But then also when an order is made, how does a child with autism actually understand and comprehend the conditions? [Participant 4, focus group 11]

More often than not, autism and that just adds such another level of complexity ... parents are considered not just parents but carers, so they are caught up in a service system that recognises them as carers and yet it doesn't recognise the point at which they can't care because they can't protect themselves and they certainly can't have the siblings around. And then you have the dilemma for them which is, they don't even want a justice response because the justice response is even less able to respond appropriately and, as a worker on the end of the phone, whatever time of night you're dealing with those kind of issues, your options are so limited. [Interview 4]

Complexity of disability diagnoses in the context of AVITH and the links with trauma

In addition to questioning the imposition of legal responses upon children with significant disabilities, practitioners repeatedly questioned the *validity* of ASD or ADHD diagnosis in some of the cases that they saw. This was not to question the nature of the child's presentation, but was largely in relation to cases involving children who they knew had experienced, or were likely to have experienced, a range of adverse experiences and trauma throughout their lives.

I think the word autism gets thrown around so frivolously. A few years ago, it was cognitive behavioural disorder or oppositional defiance [defiant] disorder and now it's autism and then it was Asperger's. I think at the end of the day it really comes down to, yes, some of my clients

may have autism but I honestly believe that of all my clients I've had I've only had one that's genuinely had autism and the rest have ... had post-traumatic stress disorder at a young age or have had behavioural or oppositional defiance [defiant] disorder ... because of the environments they've grown up in. [Interview 3]

I guess it's just about the trauma and I find that really interesting because I think that with one of my clients we sort of look at it and the mum with horrendous trauma growing up. ... The mum's got an ID [intellectual disability] and the daughter's got autism and a whole lot of other diagnosed things and they are saying that the mum's re-traumatising the child ... and a lot of people have known this child for a long time. She's been a client of mine for a long time, the more I get to know her I question the autism. She comes in and out of Youth Justice [settings], and even [workers in those settings] questions the autism ... [Participant 6, focus group 11]

Flagging these questions or doubts by practitioners about ASD diagnosis does not suggest in any way that the PIPA team believes that these disabilities—or their companion need for much greater supports—do not exist. We do believe, however, that these observations—supported by an emerging body of research (Bremness & Polzin, 2014; van der Kolk et al., 2009)—call for a broader view that encompasses the child's experiences and environment as contributing to the behaviours they are exhibiting and which may have led to a particular diagnosis. This is relevant to the kind of support and responses that a child may receive, as well as the supports offered to their wider family structure.

That said, the following exchange goes further in terms of casting doubt on the diagnosis of autism in the context of trauma:

Participant 1: One of the young people I work with, she was diagnosed with Asperger's, but most of us actually thought it was attachment disorder, but it was diagnosed as Asperger's. Which doesn't mainly affect the treatment, it's the same thing, you want rules of stability, and lowering chaos and all of that. But it does affect how we strike at it ... which is some of this is related to parenting ... And then the parent is shocked when the child behaves perfectly

for you, and won't do anything for them ... and you try and say something, like, "Well, sometimes if you do something nice with your child they're more likely to listen to you." "Oh, well, that's just rewarding bad behaviour." They're like, "No, they have to do it my way, or they can't get anything. No, they didn't listen to me, so now they don't get a bed, they only get a mattress. They don't get furniture in their room."

Participant 2: Yeah but that's intergenerational, because the parent wasn't treated nicely. [Focus group 5]

As explored in the next chapter, a growing body of evidence explores the relationship of trauma to the presentation of symptoms that arguably mirror many of those present in cognitive disabilities but which could otherwise be attributable to developmental trauma disorder (Bremness & Polzin, 2014; Teicher, 2000; Thomas, 1995; Timimi et al., 2004; van der Kolk et al., 2009). In situations such as this, presenting symptoms are caused by trauma on a psychological level and function as a trauma response, which may require counselling or other supports.

It's interesting to see a lot of children are being diagnosed with ADHD, and when you do a psychosocial assessment, there's a heavy amount of trauma in ... in early years. So one of the roles that I had ... was to do the psychosocial assessment to make sure children were not put on Ritalin unnecessarily, that there was something else in their lives ... And it was really interesting to see that a lot of them having worked, specialised interventions on treating the trauma, decreased the symptoms ... [Participant 3, focus group 13]

Further complicating this issue, however, is emerging evidence that trauma can actually contribute to observable differences in brain function. In this scenario, the developmental trauma (i.e. the person's life experiences, such as adverse childhood experiences) causes impairment in a similar way to cognitive disability caused by physical or chemical trauma, such as in traumatic brain injury or FASD (Timimi et al., 2004; van der Kolk et al. 2009). What this means is that a person's impaired cognitive function has not been misdiagnosed in terms of being non-existent, but may have been misdiagnosed

in terms of what has caused the impairment and how this experience consequently impacts on their life.

It is also equally important to recognise that many diagnoses are *not* rooted in trauma. It should be noted that those practitioners who felt that their clients had been misdiagnosed were those seeing children exposed to the criminal justice system, or those working with families who did not have the resources to shield them from criminal justice system involvement. Compounding this, young children involved in the criminal justice system often had a wide range of risk factors in their lives, making straightforward diagnosis very difficult.

A lot of our kids are on the spectrum, they're either diagnosed or undiagnosed. ADHD, opposition defiance [oppositional defiant] disorder, a whole range of mood disorders, but then often sometimes with the parents, we can identify that they're struggling but they're not diagnosed either. [Participant 3, focus group 7]

To this end—and somewhat conversely—practitioners also commented that many disabilities may go *undiagnosed* where families simply lacked the resources to have expensive assessments done, as noted earlier. This means that care should be taken to avoid the risk that families may be dissuaded from taking their children to be assessed—and receive support—for fear of being stigmatised as having caused trauma or otherwise exposed their children to harm.

So the other thing I would add is that with kids who have autism, often there's child protection floating around in the background. There's often some kind of ... involvement ... It often doesn't lead to any formal court orders or anything but again, that often is identified as a hindrance rather than help. I'm sure that's no surprise to you, I'm just treading carefully the way I say it. But yeah, I think again it's that question of that service, child protection in general is not set up to deal with these people where there are maybe very functional parents but very dysfunctional children, it doesn't add much but it often floats around. [Participant 2, focus group 1]

... if there are no services that exist to support these people in these situations and many families have just gone underground because of that ... There are a number of reasons so if you tell child protection about it you're treated in an abuse and neglect framework. So therefore, families don't usually go and talk to child protection because the result may be that they have their other children removed. [Interview 1]

Of course, the fear of child removal or of otherwise being stigmatised when all they want is support is not an experience limited to families of children with disability. Across all participating jurisdictions, the PIPA team heard that statutory child protection intervention was one of the greatest fears of families. This included fears that their adolescent would be placed in residential or out-of-home care, as well as that their younger children would be removed instead, with no support offered for the older child using violence. This is discussed further in Chapter 8 concerning service responses.

Most pragmatically in relation to diagnosis of disability—regardless of what that diagnosis is—it is important to note that formal diagnosis often enables families to receive a certain level of help and service provision that would otherwise not be available.

Participant 8: One thing I've found ... is also early diagnosis, so PTSD, fetal alcohol spectrum has not been addressed. And it's not recognised as a disability, so there's no supports for that. So I think that needs to be recognised as a disability ... It's not. And there is no support.

Participant 4: We're getting around it ... by addressing the functional deficits that have been caused by FASD, to show that their function is now dropping to a disability realm, then we can get them onto the [National Disability Insurance Scheme] ... people need to understand how to access those systems to be supported, to get to those systems. [Focus group 13]

Participant 1: FASD alone is not actually an eligibility criteria for disability services however global development delay or intellectual disability is ... certainly in my experience working with child protection, I'd have to say

[FASD is] certainly present in a number of young people who are in care. [Focus group 14]

Overall, these questions complicate any attempt to produce a straightforward finding about the link between ASD, and other disabilities, and cases of reported AVITH. What is more important in the context of the PIPA research, however, is how the impacts of a civil or criminal legal response may be experienced by children exhibiting these symptoms and behaviours.

Impacts of civil and criminal legal responses when adolescents using violence have a cognitive impairment or other disability

The prevailing theme from practitioners and the case file audits was that, where an adolescent using violence at home has a disability such as ASD, many of the problems specific to how our systems currently respond to AVITH are compounded and often made more complex. Poor impulse control, difficulties with consequential thinking and limited communication skills were noted as common contributors to the occurrence of AVITH itself, as well as being associated with the developmental stage of adolescence. Most relevant to this project, these issues also impact on adolescents' capacity to understand and comply with court processes and orders.

The problems that young people in general experience with attending court, understanding what occurs at court, and comprehending and then complying with written court orders are discussed in further detail in Chapter 10. For the purposes of this chapter, however, practitioners highlighted how problems of comprehension—as well as the structural difficulties of compliance when the respondent/accused is dependent on the AFM victim/survivor—can be greatly magnified when young people are impacted by disability.

For example, the PIPA team heard that it can be difficult enough for an adolescent to comply with an order excluding

them from the family home and limiting their contact with their primary caregiver. This is complicated tenfold, however, when the protected family member is not only the parent but the carer for a child with a disability who is using violence at home and may also be left with the responsibility for enforcing the order.

Participant 7: Even just young people with intellectual disabilities and if there is an exclusion that they're not to reside at their home that something else is set up for them as well is a huge thing that sometimes we don't necessarily see and they're used to ... relying on their parents and things like that and now they're in a completely different situation and everything's just completely escalated for them and then that brings up a whole heap of other issues in itself as well.

Participant 5: And I think with those people there is a real risk that the whole, "Just come back; you can sleep here tonight" or like, "You can come and have a shower at the house" or whatever. And so, the clients can cycle because they come in, they've suddenly had ... this really intensive support and this person protecting them for a long time and then it all happens and then they're like, "Okay, you can come back" and so they slip back into this normal life and that protection and then all of a sudden there are breaches, and because of the ID [intellectual disability] ... it doesn't matter how many times you say to them, "You cannot go to the house" the next time I see them in the cells they're like, "But Mum told me I could go to the house." I'm like, "No! Don't you know you can't go there?" And you have these ... repetitive conversations with people but it's because, yeah, that's an added level ... And there is a risk that parents won't then call the police the next time ... especially when people are reminded then they're there saying, "This is not what I wanted and this person needs some help and if had have known that this was what was going to happen then I wouldn't have called the police." [Focus group 12]

Access to existing AVITH programs and community interventions

Beyond the legal system, it is not only current justice responses to AVITH that can be inappropriate for adolescents with a disability who have used violence at home. Practitioners also raised questions about the suitability of existing services and interventions for adolescents who have disabilities that may impact on their modes of communication, cognition and social interaction. Just as our legal responses are based around fundamental assumptions about the independent, literate, cognisant, self-controlled and self-possessed subject of civil orders and criminal prosecutions, both the thinking behind and the design of interventions and programs on offer in response to AVITH tend to reflect the professional experiences of the practitioners who designed the interventions and the range of clients with whom they have worked.⁵⁶

Unlike legal responses, which were designed based on a standardised and idealised rational adult, existing AVITH interventions, such as Step-Up-style programs or AFVPs in the Victorian context, are at least designed specifically for adolescents, often by practitioners who have impressive experience working with young people. Nevertheless, they still reflect a set of assumptions about the type of adolescent and the type of family that will be voluntarily participating in the program and will also depend for their success upon participants fitting the mould.

The PIPA team heard that AFVP practitioners have been working hard to evolve their programs in order to make their programs accessible. This may partially be because broader referral sources, including for police, are leading to more participants who do not "fit the mould"—such as those who have cognitive disabilities or who are illiterate. An example given by one practitioner was the adaptation of a significant part of the Step-Up curriculum to avoid written homework exercises, as it is beyond the capacity of many adolescents and parents.

⁵⁶ For example, Gallagher (2004) describes the client base that has informed his influential approach as a mixture of sole parent mothers who have previously experienced intimate partner violence, and middle-class couples whose adolescent children are over-entitled. This formulation was not reflected in data derived from justice system samples in the PIPA research.

Structured interventions may become increasingly tightly woven into legal responses to AVITH in Australian jurisdictions, and mandated where appropriate, as indeed the PIPA team argues they should be. However, these programs may not be designed in a way that enables adolescents with disabilities to participate fully.

There is therefore a significant gap in service provision, as well as another form of potential disadvantage in the legal context, given that dispositions that depend on program participation are not available to adolescents who may already be at greater risk of criminalisation because of a lack of appropriate disability support in the community. Practitioners working with children and adolescents in service provision contexts reflected on these challenges:

First program that we ran, we were particularly challenged by the number of young people that did present with families where there was perhaps not so much the history of family violence but there was that representation of young people who were diagnosed with Asperger's or were on the autism spectrum and that was an incredibly, I mean there are also debates we've had internally and also had with external stakeholders and some consultants that we've been in touch with around our model of group work and [whether] the Step-Up model can actually feasibly or viably work with a particular cohort and where there needs to be a separate response and that's something that we'll be teasing out over the months. [Participant 1, focus group 10]

With teens and people with autism and Asperger's, you know that kind of pre-plan isn't there, and the ability to future think isn't there. So you have to almost be the future think at the end of their decision-making, and try and do some of that future think so that they can weigh up some of the consequences in what's happening there ... [Participant 2, focus group 15]

The trauma-disability interface for children who use violence

Some practitioners referred to emerging evidence regarding the impact of poverty and trauma on language development,

as well as presentations of symptoms similar to that in diagnoses of cognitive disability (Snow & Powell, 2011; Sylvestre & Mérette, 2010). In one example a practitioner spoke of different categories among adolescents who may be violent at home. In this practitioner's experience with young clients, these categories often reflected and tracked along socio-economic lines, with trauma more often being the apparent presenting issue in children from disadvantaged backgrounds:

In our [private practice] with the kids with ASD [autism spectrum disorder] and other disability types that...the language is low, and their sensory challenges are high. In the [universal public service in a poor locality] it's the trauma kids. [Interview 5]

The experience of most practitioners emphasised the complex interface of trauma and disability, where trauma can contribute to, as well as compound, the impacts of neurodevelopmental disability. This makes for a potent cocktail, given evidence that suggests that people with disabilities are more likely to experience violence than those without disabilities, though not enough is known about the extent of this (AHRC, 2018).

Participant 5: We've got students with autism that, because of their level of autism and how it presents within them, they will act out if they get upset or if they become frustrated and it's not because they're angry at their mum or they're angry at their dad or whoever but they're just frustrated and they don't have an understanding of how to adequately get that out.

Participant 4: And they're also more likely to exhibit problematic sexualised behaviour as well because again that same cognitive understanding, memory issues that can keep going back there.

Participant 5: And if they've had it happen to them they then go, okay, well, that's how I'm meant to treat other people. [Focus group 4]

Practitioners noted that the intersection of trauma and disability could impact on future behaviour.

So one 16-year-old girl who has been sexually abusing her younger brothers, if you look at her lifetime line she was sexually abused herself by her [step-parent] and she also has an intellectual disability ... from an early age her understanding of relationships was that you get intimacy, you get people to like you, by behaving sexually with them. And she replicates that in all of her relationships now. [Participant 2, focus group 16]

As discussed in the next chapter, presentations of developmental delay in turn can be interlinked with trauma.

Participant 8: We know that once the trauma comes often kids are developmentally at all different stages so emotionally ... there's huge gaps in these kids' learning and by the time they get to 15 they're still at grade two level and we expect them to operate.

Participant 7: Yeah, and we've got them till 16.

Participant 8: Yeah, as an adult we expect them to be an adult and take on what we think but they're still back in grade prep, grade 5 and year 7 and it's quite ... but we have this expectation that they get it. [Focus group 4]

Practitioners also described the intersection of family violence victimisation, trauma, developmental disorders and lack of service system support.

I had one client who had three young children ... she's left the [adult] perpetrator, she was a single mum ... she's got one child with autism, another one with a behavioural ... she's now in government housing, she can't get employment, she's caring fulltime, the children are acting out, they've got huge needs for support. Then [her children were sexually abused by the children next door] ... She's applying for alternative housing. She's got a 5–10 year waiting list to change housing ... So it's a situation where it's like where are the resources where there's just pure safety? ... Because even when they've left the perpetrator in a seemingly neutral environment, they're then exposed to further alcohol abuse, sexual abuse, physical abuse. They then get multiple disorders, when really it's just trauma. [Participant 1, focus group 13]

The above descriptions from practitioners expose the sometimes artificial distinctions between experience of trauma and presentations of disability in children who have been exposed to family violence or other forms of interpersonal abuse. In many cases, the reality of children's lives is that living with disability and living with trauma are far from mutually exclusive. Most importantly, a child's behaviour is frequently conceptualised and treated as the child's fault, regardless of the reason or diagnosis.

Understanding what a child's experience has been—as well as their capacity to function in an adult world with adult rules—therefore tells us important things about the kind of *response* we should be imposing or offering. These considerations also function as important reminders of the over-representation of children and young people with neurodevelopmental impairments (Hughes, 2015) in youth justice systems more broadly. As the next chapter explores, adverse childhood experiences and trauma similarly have strong links to youth offending (Malvaso & Delfabbro, 2015; Malvaso, Delfabbro, & Day, 2017, 2018; Malvaso, Delfabbro, Day, & Nobes, 2018).

CHAPTER 6

Intergenerational family violence and trauma

This chapter discusses another—if not the most—prominent theme that emerged from the research, at least in the context of focus groups discussions.

While not as prominent in the case file audit findings because of the nature of the information recorded on court and legal files, the experience and resulting impacts of trauma on children were raised almost universally across focus groups with practitioners in the three participating jurisdictions and were sometimes starkly signalled in the case file narratives.

This topic—and the extent to which practitioners believed that the vast majority of the clients with whom they worked had experienced family violence or other trauma—was then contradicted in part by some practitioners spontaneously raising the concept of children’s “entitlement”. The chapter notes the tension between this concept and what most practitioners considered to be the reality of their client base, again signalling the relevance of samples from justice contexts rather than clinical or community sources, as well as the influence that concepts developed in certain contexts can have on practice in others.

While disability is often (but not always) recorded or recounted on legal case files (as flagged in earlier chapters in relation to the different legal contexts in which this research occurred), previous experience of family violence and trauma may not be identified. This is partly because court and/or legal files in *civil* contexts, at least, are concerned with imposing responses to prohibit *future* behaviour, rather than imposing a consequence for past behaviour as in a criminal justice context. This means, in civil contexts, lawyers and judicial officers alike make far less inquiry into the circumstances that led an individual to display certain behaviour and which therefore may be taken into account in decisions around the imposition of an order. The PIPA team concludes that this is why the merged Victorian case file samples revealed a lower rate (25%) of exposure to family violence in child respondents to FVIOs than was estimated by practitioners (80–90%). This was echoed in practitioner observations, as noted below.

We don’t hear a lot about their background, they’re not talking about the trauma they’ve been through or anything, unless you’re dealing with a criminal matter then you’re doing a plea for them or something ... but if you’re there to help them with the [civil protection order] and get them basically living in the home, they’re not coming forward and telling you a lot of stuff about what they’ve experienced. [Participant 6, focus group 10]

By contrast, legal files involving criminal matters are far more likely to (but do not always) record prior adverse childhood or other experiences because lawyers will be seeking information from their clients that might mitigate sentencing. To this end, the PIPA team concludes that this may be the reason for a much higher reflection of exposure to family violence in children in LAWA’s youth crime files, with figures closer to 80 percent in those matters that we classified as AVITH cases in the WA file review. This was also the case for the eight Legal Aid Tasmania files reviewed, in which legal assistance was provided in the context of an RO breach prosecution and where five out of eight showed evidence of significant intergenerational trauma and family violence. This is an important distinction to remember as we consider the appropriateness of the legal response to AVITH.

Existing literature and evidence points repeatedly to the prior exposure of children who use AVITH to family violence by adults, usually a violent father. In fact, the more conventional narrative around AVITH often implies an intergenerational “transmission” of violence from father to son (towards the mother) in the context of a child observing and learning the use of family violence as a form of power and control (Campo, 2015; Cochran, Sellers, Wiesbrock, & Palacios, 2011; Holt, 2013; Kwong, Bartholomew, Henderson, & Trinke, 2003). The implication in this commentary appears to be that the transmission occurs over the course of one generation, without the benefit of inquiry into, or information about, what parents themselves have experienced.

A body of literature conceptualises this phenomenon as “social learning”; that is, a child simply replicates what they have witnessed or experienced (Fergusson, Boden, & Horwood, 2006; Kwong et al., 2003; Margolin & Baucom, 2014). Here the implication is not necessarily that children’s capacity to learn or develop or regulate their emotions has been affected or is different in any way from other children, but that they are repeating or “replaying”, as some practitioners referred to it in the course of the research, what they have observed as a natural consequence of the way in which children learn. This conceptualisation accounts and accommodates not only for witnessing behaviour from parents and from older siblings, but for being “coached” (Participant 2, focus group 13) in the behaviour, by virtue of fathers continuing to undermine the mother–child bond while having contact with their children post-separation (Douglas & Walsh, 2018). It also incorporates to some extent conflict and distress that children exhibit post-separation, which can include hostility towards their mothers or a survival instinct, which means that children side with the parent who has the most power in the family constellation (Routt & Anderson, 2011; Daly & Wade, 2016).

Practitioner observations reflected these scenarios, including in the following quotes from Victoria:

Participant 1: Yeah absolutely I would say the ...

Participant 4: Majority.

Participant 1: Yeah, the majority. There wouldn’t be many that would have that behaviour without being exposed to it at all, yep.

Participant 3: Would say at least 85 percent if not higher. And probably across all the services that we provide ... So homelessness, out-of-home care, any of the youth services, that’s a predominant factor for those people. So I suppose when you’re looking at adolescent family violence, the majority of the children have experienced that and in different contexts ... then replay that ... so, for a lot of young people that I may have had contact with it’s like, “Well it’s not the same as what mum and dad did. I’m doing this, it’s not the same.” Because it’s not being addressed with the children when they’ve experienced it and they’re growing up and they’re behaving in ways that they’ve observed as well and that’s part of the issue. [Focus group 2]

Practitioners also noted that the dynamic in a separated family could escalate the violence behaviour exhibited by an adolescent.

Participant 4: Consistently, it comes up, about 80 percent of the families that we work with have a history of family violence ...

Participant 3: Yes, there’s quite a flavour in most of my families, where the parents have separated, and the young people live at home with mum, but then they have access with dad, and when they come back from dad’s, they totally escalate and are really violent, because dad’s putting mum down, and you know, and it’s just horrible, it’s ... and they won’t ... the dad won’t be involved; he doesn’t need anything done; it’s all her fault. [Focus group 17]

In some descriptions, the behaviour of adolescents not only involved replicating or replaying behaviour they had witnessed but was impacted by a variety or combination of other factors.

So, like commonly you might see parents who are applying for [civil protection] orders because of drug or mental health issues. Whether that’s family violence per se as such is an interesting question. I don’t think it’s part of, necessarily, the pattern of power and control. And often strongly linked to trauma and abuse. Sometimes from that parent, sometimes, say, from a step-parent, and sometimes from other unrelated traumas. It’s a really strong trauma link. [Participant 12, focus group 18]

Practitioners also noted the lack of services for children who have experienced family violence but have received no specialised support. Accordingly, they suggested that this failure to provide support in earlier childhood was having adverse consequences later. This was reflected in observations by participants from specialist family violence women’s services.

What is very disheartening—is that it’s often that ... the mum was in a DV [domestic violence] relationship, and the child has witnessed that. So, I would say the high majority of the children that are now perpetrators were in a DV upbringing. So, I think over the years we haven’t

done enough early intervention for children. We're trying, but we're still not doing enough intervention and seeing how serious the impact is of DV on the children. So, the mum gets all this help, but the children don't get enough help. So that's the vicious cycle that goes on. [Participant 4, focus group 8]

Practitioners working in AVITH-specific contexts also spoke of the survival instinct of children who found ways to cope by identifying or siding with the adult perpetrator.

Generally, the families I was working with had split up, and mum had been often physically abused within the marriage. Male children, not always, but often follow the path of the dad, and it's ... I've seen situations where both parents are not particularly loved by the children, particularly the male children, but what they move towards is the power. So, when mum doesn't have much, is smaller, she has probably depression or at least a lot of stress. She's just not able to manage the children and I've been in situations where I've also been, as part of the advocacy involved with the schools, trying to get the children to go to school, etc., and mum trying to maintain some control at home, where basically the child becomes strong enough that they can just about do what they want. And they're not particularly interested in changing that behaviour. [Participant 2, focus group 19]

Practitioners also noted that socio-economic status and resources could play a part in this.

In families where there's power and money and the resource you go with who's more powerful so you often see fathers and sons ... where there's violence that's been disguised, they will be really well connected because he's gone, "Alright, that's more powerful, I'm going to connect there because I'm going to get money to spend and that's survival; that's not a judgement, that's just my world." Power works. That's what this is all about. [Participant 4, focus group 4]

Practitioners also noted that the trauma that children experience through exposure to family violence can be compounded by grief at the loss of a parent at separation.

Separated parents may, however, feed this perception or the conflict felt by the child.

The child gets so upset, he hits the mother anywhere, even when she's dropping him at school. He will just get upset and hit, because that's what he's been seeing. And he keeps saying, "No wonder dad left, because of you. We're not happy because of you. You couldn't just put up." And she's just, she's in a bad way because she's thinking, "What have I done, and what's wrong with me?" And every time he goes to the father, because the father feeds him with the information, he comes back, he will be screaming, throwing everything. [Participant 3, focus group 19]

In the context of family law matters and separated families, the issue of ongoing undermining of mothers by former partners was seen as a concern.

We occasionally see adolescent children being used by the perpetrators of family violence to continue to control and keep the female partner under surveillance and it's on a couple of occasions where the male partner has actually been forcing the children to hit the female partner as much as—in the same sort of context as their violence, which has been pretty horrendous. But very difficult for us to work with our clients when they don't want that, those issues raised. [Participant 7, focus group 12]

Often, in my experience, it appears to be connected to the [child's] ongoing ... relationship with an abusive ex-partner who's coaching them in how to be abusive and using post-separation abuse strategies to continue to undermine the family, even though the separation might've been for quite a considerable length of time ... One of my clients who's been put in a difficult position because the teenager that's becoming violent, her oldest son is being coached in violence from the father [and he has] access to the father. He has [cognitive impairment], and he is trying to complete [school] ... She doesn't want to kick [him] out of home ... and he has these issues, but at the same time he's been extremely violent towards his younger brother and towards her. So, she's in a very, very difficult position. [Participant 2, focus group 13]

Practitioners also noted the significant levels of violence to which children exhibiting violent behaviour may have been subjected.

So, one mum ... they've been in a ... situation where they were tortured for 10 years. The dad was finally jailed, he got an extensive jail period they moved into [safe accommodation], and the first night in their new home she found her son trying to suffocate his sister ... what that demonstrates to me is that we might run and get the perpetrator in jail, put them in a new house, and whatever, and then these kids are just like ... creating that structure again, because that's what they know. [Participant 12, focus group 13]

Importantly, practitioners also noted that social learning was not limited to children learning from parents, but children learning from older siblings as well.

I come across as much [intergenerational family violence] as when you've got an older sibling and there's younger ones in the home as well because let's just say, hypothetically speaking, there has been family violence, the partners have separated ... but that child has still learnt what they've lived and so when they get that little bit older and, "Yeah, I don't have to listen to what you say and I'm a bit bigger and stronger" and they start perpetrating, it's the siblings that are then learning ... [Participant 6, focus group 4]

Social learning can also account for children replicating other kinds of behaviour from their parents—including their parents' *current* use of violence, as well as chaotic lifestyles and environments in the family home. In this context, practitioners reflected that children often bear the brunt of a legal or service response when the environment in which they live has directly shaped their behaviour. Further, the implications of this legal or service response are played out without a child or young person having the opportunity to voice their experiences or having the label of "perpetrator" questioned. Importantly, this impacted on some practitioners' views of programs based on Step-Up, which they viewed as being about the adolescents being held to account. Although the basis of the original Step-Up design is primarily restorative

and whole-of-family based, the following quote is useful in terms of reflecting practitioners' views, as well as the way in which programs may be implemented from location to location.

Quite honestly, my initial reaction to Step-Up is that I'm not a fan of it, because I don't feel that it really talks about the trauma and the attachment that are the key for me in most of these families. Now [referring to an earlier discussion about children being able to move from A to B in terms of their behaviour], you talk about the kids not knowing where B is—*parents* don't know where B is. They haven't experienced respectful relationships, as children, as adolescents and adults, so this is a very complex area, and I do find Step-Up terribly punitive and, you know, perpetrator, and stand up, and own your behaviour, and I'm going, "Oh, my God, no ..." They need to understand that, absolutely, the behaviour's unacceptable from anyone, but also, you have an understanding where it's coming from, and it's interesting to hear them sort of say it and start, "Oh, okay, so I'm not the bad person." [Participant 3, focus group 17]

Practitioners further noted that, in many cases, children were construed as the person responsible for all the behaviour in the family, in terms of being the target of a legal or service response.

A lot of the time with my cases ... always the young person is identified as the perpetrator, where I have some cases where it's both the parents are the perpetrators, not even realising they're the perpetrators and which is why the young person is retaliating but instead of the parents being parents and going, well let's look at why, they press charges. So, these young people are getting in trouble with the law for behaviours that are just laid upon them every day. [Interview 3]

As noted in previous research (Howard, 2015), practitioners in the PIPA research also reported that they saw parents using legal responses to punish or discipline their child in the context of previous family violence.

Not saying anything that everyone here doesn't know ... you know young people who commit family violence are often victims[/survivors] of family violence themselves and they've been brought up with trauma and poor modelling around behaviour and/or their behaviour's a reflection of their experiences, and then they get to a certain point, mum and dad can't control their behaviours anymore and their behaviours start becoming criminalised ... and then they start getting charges and appear before the court. [Participant 6, focus group 12]

Participant 2: One of the [adolescents] I was working with said ... "That's the only way I know how to have an argument, it's the person who hits hardest and yells loudest that wins, that's all I know." So yeah, he just learned that. But a lot of the time because the adolescent normally hits harder, they're seen as the perpetrator, and the parents might be seen as just the victim, and you're like, "Yeah, but they were doing violence as well."

Participant 1: Yeah, so it sort of turns around, doesn't it?

Participant 2: It's just the young person doesn't have the confidence to report it to the police, and so they're seen as only a perpetrator and not a victim as well, when they're both. [Focus group 5]

This was, in practitioners' views, a reflection of the legal system's design.

Because the [civil protection order] scheme is set up the way it is and the [order] is taken out against one particular family member ... even if you get a ... report, which might identify [violence in] the family ... because [the adolescent is] the respondent, they're the ones that have the most responsibility for changing, even if other people [in] the family aren't willing to also change their behaviour then it doesn't work out. I had a young person where that exact scenario played out where the clinic came back and said actually the issue is [not the child] but the parents ... wouldn't take any responsibility whatsoever and the young person ended up moving into a kinship placement. No issues there. But they still wouldn't budge on the idea that it was all the child's fault ... [Participant 1, focus group 1]

In these cases, it seems particularly important that the young person's experience be properly explored and identified. This is especially the case where identification by the service or legal system as a "perpetrator" of family violence can lead to criminalisation or simply to exclusion from desperately needed services. This could include services that may provide either the young person and/or their family some safety from an adult perpetrator, such as family violence refuges.

So what we found difficult is that sometimes we've had mums ring up and the child is a perpetrator living [at] the mum's house, so we can't accommodate the mum ... because of the way some of our systems are funded, the mum doesn't always fit our programs we run. So there's a limit to how much support we can actually give the mums which is really disheartening. [Participant 4, focus group 8]

Participant 6: The other significant issue ... is the 17, 18-year-olds, where child protection is not an option, and then they get evicted from the home or enter into stable housing situations because of family violence, if they're too old for [the] child protection space, family violence services won't necessarily take them because you know these are services that are for victims[/survivors] of family violence and these young people are victims[/survivors] of family violence but they've perpetrated family violence.

Participant 5: And they're charged as the perpetrators.

Participant 6: More often than not, and they're charged, and therefore they're excluded from a lot of those services that are supposed to address their needs ... [Focus group 12]

As reflected in the example of a child perpetrating violence in the context of fleeing violence, practitioners noted the additional challenges that this would present for the support that children and their families may receive.

[A] lot of it comes through when they're staying at the refuge with their mums, and the mums will let us know that the young boy or young girl has been quite violent towards them. We've had quite a few instances where staff have actually been involved in it as well ... The bad

part about it is there's nowhere for these kids to go. So, we have to call the police to remove them because we've got other children and other women who are traumatised through their own violence without having that violence there as well. So, it's just really sad to see these kids with nowhere to go and a lot of the time the police will actually put them back with the perpetrator, rather than finding them somewhere to go. [Participant 3, focus group 8]

The PIPA team was particularly struck by the way in which the subject of trauma arose almost universally throughout focus groups and interviews in relation to what children—and often their parents—had experienced. While practitioners referred to it in different ways—and approached it from different perspectives depending on the clients with whom they worked—all were conscious that experience of trauma was somehow impacting on their clients in different ways. This was particularly the case in relation to families and children from refugee backgrounds, as well as from Aboriginal and Torres Strait Islander communities, which is discussed separately and in more detail in Chapter 7.

What was particularly notable, however, was the way in which the subject of trauma arose spontaneously throughout the conversations—but as an afterthought, given that it was so prevalent and therefore assumed. These observations included references to the ways in which trauma impacted on parenting, as well as on the development of children, and how this intersected in complex intergenerational patterns.

We almost as a sector have just started to come to terms with adult PTSD as a diagnosis and as a cluster of certain sorts of symptoms but I don't think we're anywhere closer to understanding the difference between that and the way trauma affects people in the formation of personality from childhood into adulthood. [Participant 5, focus group 10]

It's like co-dysregulation, rather than co-regulation, and so families ... will contact you and say, 'He's kicking off! He's punched holes in the wall!' ... It's sometimes from their own traumatic experience of their own childhood as parents, it's sometimes from a grief or loss event, it's sometimes through the experience they have of the violence going on in the home. So we see a lot of that

and we also see the impact of trauma [when it] kind of generates that fight or flight response, that reaction that's there and a lot of the way the criminal justice system, or a lot of consequences in school or etc. are set up on action/consequence or action/punishment and for a young person with a trauma make-up, that makes no sense to them. Action/reward makes no sense to them. Developmentally they can't, they're not at that point. They can't put it together. [Participant 5, focus group 2]

The above comments point to use of violence as more than behaviour developed through social learning and, in the PIPA team's view, support evidence that argues for recognition of the way in which trauma can shape and change the development of a child's brain (van der Kolk et al., 2009). This can include in utero, as well as across generations through altering the expression of genes, as the field of epigenetics has begun to demonstrate (Anda et al., 2006; Nowakowski-Sims & Rowe, 2017). The impacts of trauma as described by the research include neurological impacts in terms of changes to neural pathways in the brain, as well as wider physiological impacts in terms of the overall health and wellbeing over the trajectory of individual lifespans and even subsequent generations (Bremness & Polzin, 2014; van der Kolk et al., 2009). A practitioner observed the following in clients:

Trauma actively dampens the ability to develop prosocial interaction, prosocial interpersonal warmth, as well as language—it dampens language ability as well and language development. The ameliorators here are in relationship and play, and so in our practice ... one of the pieces of work we've been doing is to bring and to lift and highlight and support families to learn how to play with their children. [Interview 5]

Flagged in the previous chapter, proponents of this area of research have argued for what van der Kolk et al. (2009) have called “developmental trauma disorder” to be recognised as a clinical diagnosis under the *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)* (American Psychiatric Association, 2013; Bremness & Polzin, 2014; van der Kolk et al., 2009).

As discussed above in relation to disability, this approach

obviously risks medicalising and pathologising people's experiences, as well as adopting a deficit model of working with clients, rather than a strengths- and rights-based model. However, the advantages of recognising that the impacts of trauma are very tangible and can have devastating effects on a person's capacity to understand and comply with the expectations of legal or service system responses are *highly* relevant to the PIPA research, as they are relevant in studies of contexts further down the trajectory of offending behaviour by young people (Malvaso et al., 2017, Malvaso, Delfabbro, & Day, 2018; Malvaso, Delfabbro, Day & Nobes, 2018). This includes recognition in relation to a child's capacity to understand or respond to "action/consequence or action/punishment" as described by a practitioner above, and as discussed in more detail in Chapter 10, which examines the value of imposing civil protection orders on children.

However, the PIPA team heard that recognising the impacts of trauma is also highly relevant to understanding the dynamics in the house in which a child has been living. In particular, it is relevant to the impacts of previous trauma on an adult victim/survivor of AVITH, who, in one of the paradoxes that abound in this complex area, is expected by the legal system to help to hold the adolescent to account but whose capacity to do so has been constantly undermined by the adult perpetrator.

I think the other thing that's needed too is support for sole parents because often women who come out of family violence, not just her relationship but her own family of origin and this is what we see a lot is ... they're traumatised ... So I think they need support to be able to, I guess, re-form and repair their family as well. [Participant 2, focus group 7]

Lack of attachment, and the lack of being present and available to the children by mum [for all those years], I think exacerbates it doesn't it, because ... there's been that poor attachment, potentially, and that trauma. [Participant 7, focus group 17]

In this sense, the PIPA team was struck by what could be termed an "original perpetrator" who remained out of view. This included adult perpetrators remaining invisible to service

or legal system intervention, but continuing to have a very real impact on an adolescent's life, sometimes with devastating legal consequences.

Participant 1: That's one of the issues that we have with, particularly, mums, in them getting that control back, getting that power back, building them back up, because, "I've let these kids down; I need to nurture them; I need to" ... and it's really hard for us to go, "Well, you can say no [to the child], and you can do this, and you can do that, and you can say it like this", and that's a real issue, because they are the good parent, you know ...

Participant 3: It's often, too, that mum compensates for the kids going to dad's, and dad just sits there and watches telly all weekend. I mean, the kids don't know why they even go, but then they come back to mum, and she compensates for knowing that they haven't had a great time there, and then she gets the behaviours.

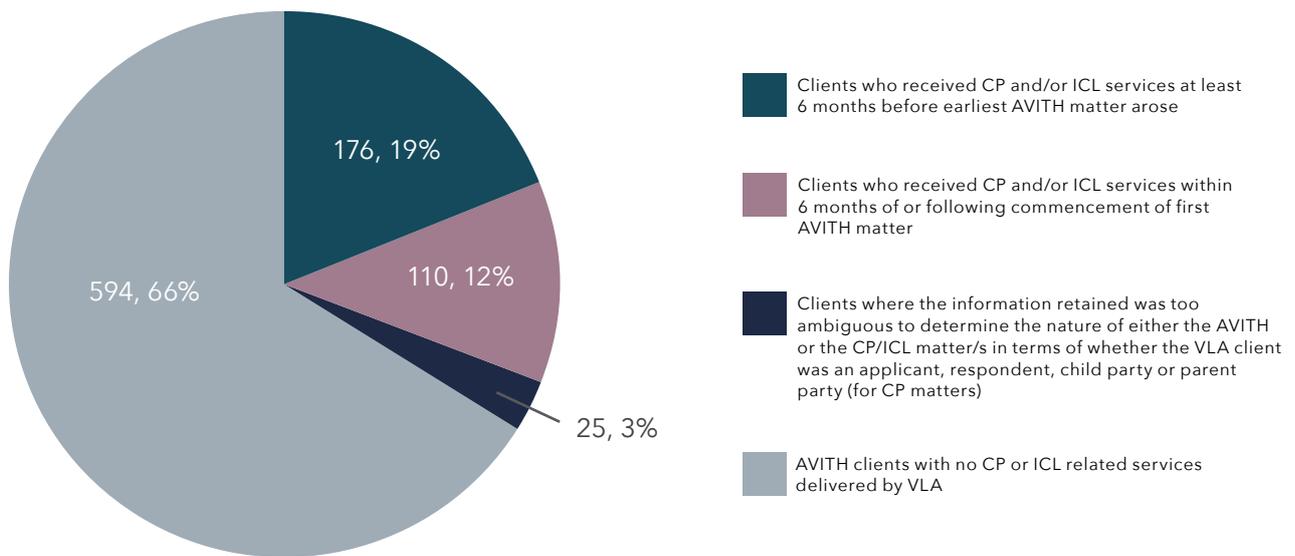
Participant 1: Yes, and they're really actually angry at dad, and we can see that, but they can't recognise that.

Participant 4: Yes, and they can't communicate that to dad because he's an angry man, as they'll even say to you, yes, they're not safe. [Focus group 17]

Some strong themes that we would see is that we work with a lot of single mums who have been affected by domestic violence ... so they're often very traumatised ... I guess their parenting has often been very undermined so that whole idea of the absent father continues to play out even though they've left a violent relationship, um, that the impacts of that violence continues to play out. [Participant 1, focus group 11]

This was highly relevant to the gendered nature of AVITH, as well as the legal and service system response, which still places the burden on victims/survivors to manage their own risk.

You know, the [system's] expectation ... is the same one as for perpetrators of domestic violence ... it is endlessly about putting mum under pressure. It's just endlessly about making her responsible. "She's the most available person, we know where to find her, she'll be at home. We

Figure 2 VLA child protection, independent children’s lawyer and AVITH crossover clients^a

Note: ^a This refers to adolescents who also received CP and/or ICL services as a proportion of the total number of VLA AVITH clients from September 2015–March 2017. VLA AVITH clients refers to clients who received a VLA client service (being legal advice, in-court duty lawyer representation or litigation case work over a longer period of time) in relation to being the respondent in an FVIO application or an accused person in a criminal prosecution for breach of an FVIO. Those in receipt of an ICL service in the absence of child protection matters made up 3 percent overall. These were included because it is an indication that there has been a family separation involving a significant level of conflict, and a high likelihood of allegations of abuse or family violence, as that is a primary reason for ICL involvement. One study of the Family Court system found that, of the parents who used court, 85 percent reported emotional abuse and 54 percent reported physical violence (Kaspiew et al., 2015, p. 16).

don’t find the kid, but we actually don’t want to find the kid, because [you know, what’ll I do with the kid if we found him?]” And we’d never go looking for dad anyway, because we don’t have to engage with the perpetrator, so we don’t know what to do there. So it endlessly is about mum, who is just riddled with guilt, shame, everything else, and feeling incredibly responsible, and is very unlikely to call the police. My experience is why the fuck would I do that? I’m going to call the cops on my kid? You know ... that will undoubtedly be used by dad as, see, your mother called the cops on you ... She’s [not] just going to walk into that. She’s smart about ... how that will be used as a tactic against her, and to further undermine what little is left of that relationship between her and her child ... [Participant 10, focus group 20]

For these reasons practitioners reported that it was essential to work with and support entire families in order to understand the various and particular factors at play. In this way, a focus on parents that may be interpreted as ignoring the adolescent is about recognising the needs of the adolescent and where the real risk or problems lie.

We’re family therapists, so we do look at the family of origin and into intergenerational issues. We do that with the family because then that informs them as well. But yeah, we find mental health in the parents, even if it’s just

PTSD, their own experience, certainly interferes with their ability to parent effectively and the adolescent of course reacts and they’re the ones seen as the problem. So we predominantly focus on the parents for that reason. [Participant 1, focus group 11]

The impacts on children in relation to previous trauma experienced by parents—whether trauma from intimate partner violence on a mother or intergenerational trauma on whole families—is beginning to be better understood (Berthelot et al., 2015; Provençal & Binder, 2015). These impacts can also affect children’s capacity to comply with legal responses and engage with services, and point to the need to provide whole families with much greater support *before* their adolescent comes into contact with the civil or criminal legal mechanisms or other statutory systems. This can include more effective early intervention where statutory child protection authorities have been involved with families years before the presentation of AVITH (Evans, 2016).

Figure 2 demonstrates that 19% of children who had received VLA services in relation to their *use* of family violence had also previously received VLA services either in relation to child protection matters or in the context of independent children’s lawyer services in relation to family law matters where issues of violence or abuse were suspected. These services were received at least six months prior to the service

relating to the adolescent's *use* of violence, suggesting a contributing effect. A further 12% had received additional services in relation to child protection matters or in the context of independent children's lawyer services within six months of, or following commencement of, the first AVITH-related service, meaning that it was harder to distinguish in these further cases whether these services were related to the adolescent's experience or use of violence on the basis of the data provided alone.

High levels of prior child protection involvement was also supported by practitioner observations:

I find when it comes to child protection involvement with the families I've worked with, with adolescent violence in the home ... it gets kind of really muddy who actually is the perpetrator and who is the affected family member, sometimes. Because if you get the [relevant department's] history, say you've got someone's [police referral] report of adolescent violence and ... they may be currently open with child protection as well, for concerns relating to the parents' mental health and the parents' care of the child, and then when you get the child protection history with it, the child protection is from when the adolescent was younger [and details] protective concerns relating to the parent towards the child ... now they're bigger and stronger and now it's almost flipped. [Participant 4, focus group 7]

I guess once you start representing a child in relation to that type of offending, you only have to start looking to previous notifications of [child protection] services, for example, to see why it's happened and what they've been exposed to as a child and ... it's just so incredibly evident but when you speak to the child about it, they don't necessarily make the connection themselves. [Participant 2, focus group 9]

Prior child protection involvement included cases in which child protection had been a constant feature of a family's life, sometimes over generations.

There is a lot of that intergenerational trauma so we've

got three ... families ... where there has been sexual assault from all family members against all family members ... where children have been removed and then taken back and then removed ... and my particular case that I was talking about ... the parents had been victims ... themselves so therefore they weren't able to identify what they were doing as wrong. They weren't able to realise that, when they called their child [derogatory names] it's actually creating that devil, so to speak, it's creating that pattern. So when [the child] uses it against them, "You can't use that, you're a child and I'm the parent." Well hang on, this is what you've learned and you use it because that's what you were called. And so, yeah, it's very much trying to help them identify that, yes, you might be the victim[/survivor] but sometimes you have been that perpetrator. [Interview 3]

As discussed in further detail in Chapter 7, the need for support *before* child removal by statutory authorities was highlighted, in particular, by practitioners working with Aboriginal and Torres Strait Islander communities. This may also be highly relevant to the supports that families from all demographics need, however, before crisis hits.

While acknowledging that early intervention is crucial, as well as whole-of-family support, many people working with children identified that contact through the legal system was often the first opportunity that a child had to disclose their experiences. A number of lawyers noted that they might have disclosures made by young clients, which children had not felt safe to make at any other point and which they also did not want spoken about in open court for fear of repercussions from their family.

How [are] all these kids getting slipped through the crack when their first disclosure [of prior experience of violence] is to a lawyer and I can't actually disclose that because of client confidentiality? ... Why are we waiting for the accused to set foot in a court to get a service? [Participant 5, focus group 6]

Potentially just as relevant in broader youth justice contexts

(Malvaso, Delfabbro, & Day, 2018), practitioners further reported that their adolescent clients did not feel safe in disclosing their experiences or, in many contexts, did not feel they were believed when they did.

Participant 5: [T]he kids they say, police don't listen to what I say, they don't believe me and they only listen to mum or dad ... I think that's a failure on the police ... they need to listen to the young person at least and then they can make assessment. But kids just turn around and say, "Nah they didn't listen to anything I had to say. They only cared about what mum said."

Participant 3: And they don't have the communications skills. [Focus group 1]

This could impact on what the court was likely to hear as well.

We obviously see kids in the absence of everybody else initially, but there's nothing stopping the parent from coming into court ... and the magistrates are asking ... "Is the victim/[survivor] here? Do they have something to say about it?" And if the kid's then disclosed to me in the interview, "Oh, yeah, because dad used to beat me and so that's part of how this has all happened but I don't want you to say that in front of the magistrate" ... It puts us in a difficult position to then put it to the court. [Participant 5, focus group 12]

As demonstrated in the exchange below, this can lead to young people being assessed by different practitioners as having different needs, depending on what the child is able to disclose.

Participant 3: I feel like I don't see it that often [young person using AVITH having themselves been exposed to family violence]. I see it more from young people using violence as a way to, there's a sense of entitlement; they'll use the violence to get what they want within the home, so, I don't know what the split would be with young people who experience family violence and young people ... who are just using violence for those kind of purposes.

Participant 4: The thing I'm worried about with that in the context of ... police or lawyers or whatever interact[ing] with these kids, it's often in a crisis moment. Like we're meeting the kids at court to respond to their ... matters and [participant 3] for the first time is doing safety planning and risk assessment with children. So that hasn't happened in courts as far as I know before and so, that's an opportunity where [they] might get information where the kid might say, "I've actually been the victim of violence." But I think a lot of other services that are interacting with these kids in these crisis moments, they're not doing any sort of risk assessment or safety planning, so we might not be uncovering that about the kid ...

Participant 5: Picking up on the point with the risk assessment ... because that isn't being triaged ... who does that assessment and who they get is also crucial because what we've got is a lot of kids with compounded trauma, the family violence in the home might also be sexual abuse that hasn't yet been disclosed, which we're seeing in a lot of our clients. So, how do we get that information? How do we do the risk assessment? What time is appropriate? Is it in crisis mode at court trying to give instructions to a lawyer or is it in a more therapeutic space? [Focus group 6]

Entitlement

Alluded to in the exchange above, of interest to the PIPA team was a tension that arose about a perception by some practitioners that use of violence by adolescents was sometimes the result of "entitlement" and a view by others that this was a misconception. While the concept of entitlement was not posed by the research team, the issue arose spontaneously in a significant number of focus groups, especially in Victoria. When it did arise, it was almost always towards the end of a focus group discussion, at which point one or more participants seemed to feel the need to register a caveat on the predominant themes of disability and trauma, which had been the focus of participant observations throughout the preceding conversation.

On some occasions, the raising of this issue was met with enthusiastic agreement by other participants, including with reference to a general perception of children expecting

instant gratification and being more widely aware of their options and their “rights” as a result of social media. This was also linked by some practitioners to another theme of permissive parenting, or parenting lacking an appropriate balance between warmth and boundaries, as referred to in Chapter 4, and which may in turn echo an element of “social learning” (Fergusson et al., 2006; Kwong et al., 2003; Margolin & Baucom, 2014) in adolescents, as described earlier in this chapter.

Considerations of entitlement overlap considerably with the work of Contreras and Cano (2014a, 2014b, 2015), who found that child-to-parent offenders in a Spanish youth justice system were more likely to be from a higher socio-economic status background than general youth offenders and were more likely to have been subject to “permissive” parenting styles. It is difficult to determine the extent to which this research has reached practitioners through professional development channels and therefore informs their perspectives.

The researchers noted that much of the language around entitlement used in the focus groups was particularly similar to that used—and, in some cases, acknowledged as directly influenced—by practitioners and commentators such as Eddie Gallagher (2016), who, among others, has been influential in the design and delivery of child-to-parent violence programs in Australia in terms of the professional development of those who work with families experiencing AVITH. Much of Gallagher’s observations come from the context of private practice with families who have not necessarily been linked with any justice responses.⁵⁷ Gallagher (2004) has described alternating between working with families characterised by sole parenting by mothers where there has been past exposure to parental family violence, and with those identified as middle class, marked by permissive or over-protective parenting and resulting entitlement.

The examples that practitioners gave during the PIPA research were not always clear in terms of distinguishing between where children may have been exhibiting entitled behaviour

in the context of otherwise safe and happy family environments, or where there may have been underlying factors contributing to the child’s behaviour. This included examples in which practitioners described children who had clearly been exposed to family violence (by the father against the mother), as well as examples in which practitioners described whole families as experiencing multigenerational violence and poverty. However, practitioners then somewhat confusingly described the children from these families as both “entitled” and “out of control”.

It is also worth noting that those who spoke about entitlement in PIPA focus groups mostly tended to be those involved in delivering family therapy services or specialist AVITH contexts. These practitioners therefore observed this feature in the context of working with whole families in which adults were voluntarily and cooperatively engaged in the service enough to report their experiences, even if the young person was not engaged themselves. This is again a similar context to that in which Gallagher’s observations about entitlement have arisen. These families were often led by single mothers who had experienced adult intimate partner violence from a male partner, and trauma was certainly a factor in the family dynamic, including in its impact upon parenting (Gallagher, 2016). These were families that practitioners had the opportunity to come to know fairly well, where a non-violent parent was actively engaging in appropriate help-seeking.

The PIPA team stresses that we cannot assume that this cohort is the same as the cohort coming before courts via police call outs and subsequent police-led FVIO applications in the Victorian setting, nor the cohort sometimes coming through the civil protection order processes in WA and Tasmania, or the criminal process.

The PIPA team argues that the diversity in these families’ experiences is greater than that seen by specialist AVITH practitioners who have produced and participated in literature and research that reflects, but also informs, practice development (e.g. Calvete et al., 2014; Gallagher, 2004, 2016; Holt, 2016a). This in turn suggests that, while valuable for some practitioners, the entitlement label—as conflicted and contradictory as it was—may be of limited use in a context

⁵⁷ However, see Gallagher (2004) for a single case study description regarding the use of an intervention order by one affected mother as a productive means of re-asserting her control and status where AVITH was occurring against a background of exposure to adult family violence against the mother.

of much more diverse family and social dynamics underpinning police-reported and court-processed AVITH cases.

A number of practitioners in focus groups observed that children from relatively well-resourced families may be less likely to come to the attention of the legal system for their use of violence—or for their experience of it. This observation was not limited to Victoria.

In these families where everything's nice those kids carry that all through their life and they've never been able to talk about it because that's not okay, because then we'll demean the family somehow ... we've got clients like that as adults. [Participant 4, focus group 4]

With the clientele that I'm dealing with, I find that more of the lower socio-economic [families] call the police—they're more out there—and the kids end up couch surfing. Whereas, the [well-resourced] kids will stay at home ... and no one knows about it. [Participant 2, focus group 8]

The PIPA team believes that this may be why the concept received a mixed response from our focus groups, which brought together specialist AVITH services practitioners with, for example, lawyers or court-based workers who would only see justice-involved adolescents, often those who are *not* engaged with any family or therapeutic services. This is also why the concept should be treated with caution and relates to a very specific social, and perhaps economic and geographic, manifestation of AVITH. It has nevertheless been included to reflect the perceptions of some practitioners, as well as how these views may be influencing other services or their responses to clients.

In subsequent workshops to test the research's findings, the PIPA team reported that the term (entitlement) had arisen spontaneously throughout the research process. Some workshop participants agreed that this was reasonable to include, but others strongly contested this conception—suggesting that entitlement was not a factual issue, such as drug use or disability, but was a judgement, and a highly laden one at that.

One workshop participant suggested that entitlement could instead be read as “resistance”, where children were feeling that they had no control over any aspect of their lives,

particularly in the context of family violence or neglect. This was similar to the sense of many participants in focus groups, including where resentment of a child's agency was interpreted by parents as entitlement. For this reason, the PIPA team felt that it was important to include this contested issue in this report.

If your child does the wrong thing, well, then there's boundaries and there's punishments, but you don't, like, cancel Christmas on them. You still give them presents. You don't exclude them. So, you don't have a whole meal ... and leave one of your children over there. Because then, shock horror, when that kid doesn't listen to you and doesn't do chores around the house, because they're like, 'I'm not treated as a member of the family, why should I have to do chores', and you're like, 'Good point, kid.' But some of the parents just, yeah. Don't want to change the way they do it ...

And sometimes it's their inability to put the child first. That it's more like, "This is what I need", and you're like, "Yeah, but that one's relying on you, you have to look after them." Sometimes it's expecting, having unreasonable expectations, "Oh well, she's old enough, she shouldn't be stealing tomatoes from the fridge to eat, they were for our dinner tonight. If she wanted them she could have gone down the shop and bought them herself." "Yeah, but she's 14, she doesn't have a job, you do. Do you give her pocket money?", "No." "Well then ..." There are some parents who will engage well when you teach them those things, they take it on board. Some don't. [Participant 2, focus group 5]

Similar cases are discussed in Chapter 10 in relation to the misidentification of young people as perpetrators and as the person who therefore experiences a family violence legal and service response. As also suggested throughout this chapter, the case file audit featured several cases in which the young person may well have been one among multiple perpetrators in a situation of multi-directional and somewhat chaotic conflict management. These cases were difficult to classify because the information available might suggest violence-supportive attitudes by multiple individuals, or it might represent defensive actions during an incident that could represent an apex of escalating violence and abuse (see, for example, Case study 11).

Case study 11⁵⁸

The respondent/defendant was arrested by police and charged with several criminal offences in relation to an incident involving his mother, uncle and cousin. Police stated that the incident began at home when the respondent/defendant's mother tried to limit his access to the internet by disconnecting the modem. The respondent/defendant then threatened to damage property unless his access was reinstated. He then reconnected the modem and stood in front of it.

The respondent/defendant's mother sought help from the uncle, who placed the respondent/defendant in a headlock while the cousin took the modem away. The respondent/defendant tried to punch his mother. His cousin and uncle then took hold of him and dragged him out of the house. His mother called the police.

After his arrest the respondent/defendant was released on bail. Information provided to the court indicated that the respondent/defendant was exposed to adult intimate partner violence in the past, as well as direct family violence from adults in his family. As a result of referrals made by his lawyer, the respondent/defendant was diagnosed with a disability while on bail. He began engaging in disability support and a flexible learning program, with the aim of returning to school, as he had been expelled from school due to behavioural problems.

58 This case study is constructed from a composite of multiple features taken from aggregate case file data to avoid the risk of re-identification. It therefore does *not* represent an individual person or family's story.

Specific communities

This chapter highlights the impact of service and legal responses on specific communities, identifying the ways in which service availability, as well as issues of distance and resourcing, can impact on the response to an issue.

The relevance of AVITH conceptualisations to CALD communities, as well as Aboriginal and Torres Strait Islander communities, is also discussed, and highlights that community-led and -developed responses are essential and that assumptions should not be made about the application of responses developed in one context but implemented in another.

Service provision and reach in different communities

As explained in Chapter 2, the PIPA methodology attempted to explore distinctions between different geographic locations in terms of the extent to which practitioners encountered AVITH, as well as the extent to which services were available to address it. The PIPA team took this approach because, from the outset, we were aware of the variation in availability of AVITH-specific services, in particular, and wanted to explore whether this variation impacted upon awareness and service provision among a broader range of practitioners.⁵⁹

The PIPA team organised focus groups according to geographic location in those jurisdictions—being Victoria and WA—where this was feasible. The size of Tasmania, as well as the numbers of potential participants for interviews and focus groups, was too small for this to be a useful approach there. While this approach revealed variation in awareness and availability of services for adolescents and their families, the research process also revealed that the simple *existence* of AVITH-specific or other relevant services did not necessarily guarantee a better response.

Given the different stages and focus of policy and legislative landscapes in the three participating jurisdictions, as well as the recent conduct of the RCFV, practitioners' awareness of and relationships with services were inevitably going to be high in Victoria at the time the PIPA research was conducted. In WA, where there were some AVITH services and a recently expanded definition of family violence, practitioners were broadly conversant in the concept of AVITH as a distinct

phenomenon and were aware of the existence of some services. In Tasmania, the narrow legislative definition of family violence did not mean that practitioners did not encounter or work with adolescents using family violence; it simply meant that they did not necessarily name the behaviour as such, given the relevant policy landscape.

Service relationships and awareness

Practitioners in areas with AVITH-specific services reported some success with referral pathways and a sense of options being available for their young clients and/or their families. However, this appeared to depend more on the particular relationships and a conscious and proactive focus in certain areas, than simply the existence of a service. For example, in one area, it was apparent that local justice practitioners were all aware of and worked cooperatively with a local AVITH-specific service, with the court making regular referrals for young people and their families to this service (this is discussed in Chapter 10). In another area, relationships between service providers and advocacy by a particular service provider had clearly meant that awareness of the issue was high, though this did not necessarily translate into links with a justice response.

We don't have many places to send young people around for violence within the home. If it's a specific charge, often we'll send them to our departmental psychologist, but there isn't really a specific program that we run in the community ... It'd have to be in context with their interventions. But, yeah, I can think offhand of one case recently [here] where [youth justice] had to do a significant amount of work for this young person and his mother. The psychologist was involved and we had a good

⁵⁹ A description of the AVITH-specific services available at the time the research was conducted is contained in Chapter 1.

turnaround. So, as I said, it's not often that it's the primary [presenting issue]. [Participant 1, focus group 8]

In another area where an AVITH-specific service was in operation, however, awareness of the service's existence was very mixed. Practitioners from that service, for example, reported that they had received no referrals from the local court for adolescents who were respondents to protection orders.

In some areas, the increasing number of adolescents identified as respondents to police family violence callouts, as well as respondents to protection orders, had prompted a collaboration of service providers to develop an AVITH-specific program of sorts.

This started from the police actually saying that ... they had a number of adolescent perpetrators of family violence but there was no program for them to refer the kids to, so that's sort of got the ball rolling, you know? [Participant 2, focus group 2]

Similarly, practitioners from other regional areas felt that their small community and service network allowed for a more collaborative approach.

If we go back say 15 years ago ... it's definitely different now and there's a lot of great things we do and now a lot of collaborative things we do as the partnership and the collaboration that you see in [a similar region] ... I go to [the city] and it's not there. [Participant 5, focus group 4]

Practitioners in areas with no dedicated services highlighted the lack of options for police and courts.

If it's an adult, there's various programs the court can refer them to but when it comes to children, there just doesn't seem to be the programs there that specifically cater for children and it makes it a lot harder ... like what programs can we refer them to? [Participant 1, focus group 12]

Relevant to service provision and the impacts of availability on certain communities was the size of the geographic region that existing programs serviced. For example, one AVITH-specific program was funded to service a relatively large rural region, and the relevant provider was therefore attempting to provide an outreach program to communities hundreds of kilometres away from where the main program was run. Practitioners noted, however, that the sheer distance required for adolescents and their families to travel in order to participate in that service meant that numbers were extremely low.

In some areas there was no service provision specifically relevant to AVITH. In fact, relatively remote distance and a lack of investment in even the most basic services acted as a serious barrier to access to justice of any kind for adolescents. This was acutely felt by remote Aboriginal and Torres Strait Islander communities, as highlighted below and later in this chapter.

Well we just had to remand things to the day after pension day because we'd know that there was some money. Because our kids just kept getting train fines all the time. So by the time they're 17, they can't get a licence. There are so much fines. [Participant 4, focus group 18]

[Speaking about centralisation of services] we had a young [client] who had been charged with assault ... couldn't get instructions over the phone ... he's a 14-year-old Indigenous kid ... travelling to [location] to run the duty lawyer service meant that I could actually get instructions from him and resolve this matter, which is something we couldn't do over the phone or email or letters. It's just not practical with some clients, particularly young people ... [Participant 13, focus group 18]

In fact—and as discussed in Chapter 8—a significant theme of the PIPA research was the absence of *any* useful services at all in many regions, as well as simply the profound, palpable and very acute need present in families across a wide range of communities.

AVITH in culturally and linguistically diverse communities

The availability of service provision in certain areas impacted on awareness of and connection with diverse communities. Absence of relevant services or networks to support families experiencing AVITH in areas that were home to a high number of CALD communities, for example, impacted not only on the services that communities are able to access, but may have also impacted on awareness of the extent and prevalence of the issue in those communities.

While some studies indicate that prevalence of AVITH appears to be higher in white, or Anglo, populations (Agnew & Huguley, 1989; Walsh & Krienert, 2007), a proportion of the VLA service data sample appeared to feature young people in families where a language other than English was spoken at home by at least one family member, or where the case material made reference to migration from another country. For example, 10.9 percent (n=99) of VLA clients in the VLA service data were born overseas and 6.1 percent (n=56) spoke a language other than English at home. It is important to note, however, that the VLA service data cover all FVIO-related legal services provided and do not distinguish AVITH from other possible types of family violence that may feature among those cases. In the Victorian case file audit, 7.9% (n=11) of cases involved either the need for an interpreter at court, or the case material made reference to migration from another country.

The mix of languages and nationalities involved, and the individual circumstances of young people and families in this small number of cases meant the PIPA team felt it was not useful to draw any conclusions about them based on the commonality of linguistic diversity and/or recent migration history. This was despite more general comments from practitioners who reported that cultural considerations might make it more likely for adolescent boys from particular communities to assert authority over their families.

As Moulds and Day (2017) observed, there could, in fact, be a widely varying range of ways in which cultural and linguistic diversity could interact with the experience of AVITH. Some

of these may have more to do with experiences of trauma (e.g. for children from refugee backgrounds) as a factor in itself, distinct from any specific cultural framework.

Throughout the research, practitioners noted that recognition of AVITH as a distinct phenomenon was not high in the particular CALD or, most specifically, newly arrived communities with whom they worked. In fact, practitioners reflected on observations by participants in other recent research (Douglas & Walsh, 2018, p. 513) when they explained that AVITH was not one of the most pressing issues facing their clients, or alternatively reported that they simply “did not see it” in their client base.

Practitioners reported that a range of factors would reduce the likelihood that families and, in particular, mothers from CALD communities would disclose or report experiencing violence by their children. These included considerations similar—but additional to—those confronting women from CALD communities when disclosing family violence perpetrated by other family members, including intimate partners (InTouch Multicultural Centre Against Family Violence, 2010; Vaughan et al., 2016). The following quote from a practitioner who works in an agency supporting newly arrived communities is cited at length given that it canvasses the spectrum of these considerations.

These issues are probably far more under-reported amongst the people we work with. So, it's all people from refugee backgrounds with histories of torture and trauma who I guess have faced persecution ... [and] often are very mistrustful of police, courts, service system[s]. Sometimes they've had bad experiences when they've arrived, with language barriers and not understanding how things work. So they're very, very unlikely to report ...

I think there's more stigma of using interpreters who are from the same community or cultural group. I think there's broader issues around power and control and how those are perceived and implemented in different cultures and communities as well and the power shift that comes with families coming to Australia, where young people might be developing language skills and knowledge of service and systems more quickly than their parents,

which could shift roles and power in the family and have flow-on effects ... but it's very rare that a family will report that. It's pretty rare to report even partner violence. But I think this is even more stigmatised for our client group. And sometimes there could be different perspectives around violence and power with families anyway and what's accepted might be a little bit different. For example, from the oldest boy in the family, if there's no dad around, [it] might not be seen as much of an issue to a family ... [for example] we were working with six siblings and mum and grandpa and it was only the 5-year-old, after the year of intensive work with this family, it was the 5-year-old who said anything. There was violence against lots of family members by the brother. I don't know if they'll ever tell us, really, the other family members. [Participant 4, focus group 12]

A practitioner who worked primarily with women seeking protection from violence—and who worked in an area with a very high CALD population—echoed some of these observations:

[Clients] are wanting to deal with removing their partner and hoping ... that stops the violence from their adolescents, but in any case are really protective of their children and not wanting their [use of violence] raised. [Participant 7, focus group 12]

Practitioners also reported particular shame and stigma experienced upon disclosure of violence, which may be perceived or construed by particular communities as a victim's "failure" to maintain the family's wellbeing (InTouch Multicultural Centre Against Family Violence, 2010; Vaughan et al., 2016), with women often assuming blame for exposing the family unit to community scrutiny and ridicule.

So, with the women I see, like two clients ... really one of them has been in a violent relationship with her husband, thank goodness now she's left him, but for over 20 years. And in that 20 years they've had sons ... so the two male children have actually turned against the mother. And most of the times they would tell the mother, 'No wonder you're stupid, no wonder dad hits you.' So, because she thinks whatever the sons say to her it's the truth, because

she's thinking, "I don't have the control, and because I don't have the control obviously I'm foolish". And because she's had this [frame of] mind culturally from her country of origin to say if you do wrong your husband is supposed to punish you. So, to her whatever she goes through it's her fault, and everything has gone wrong in the marriage because of her, because she's not a good woman enough [*sic*]. [Participant 3, focus group 15]

Many people in newly arrived and refugee communities face a range of challenges that they may identify as more pressing than an adolescent's violent behaviour. These include housing and financial support, education, health issues and the impacts of trauma experienced in their countries of origin (Sawrikar & Katz, 2008).

Just as importantly, many CALD communities—and some more than others—experience significant levels of racism and discrimination from service providers and justice authorities alike (Ferdinand, Paradies, & Kelaher, 2015; Han & Budarick, 2018, p. 221). This only compounds any existing historical mistrust of authorities they may have and is likely to limit even further their likelihood of reporting or disclosing behaviour by their children that may attract the attention of the criminal justice system.

Further, adolescents and families from CALD communities experience additional barriers to service provision, such as language barriers.

The [programs] we have run so far one [client] didn't quite understand because English was his second language so that was a component and we didn't get a chance to do an initial assessment with an interpreter because it was hard to just even bring him in let alone to have an interpreter come along as well. [Participant 7, focus group 21]

Because of these challenges, the PIPA team was unable to reach specific findings about either the nature or prevalence of AVITH in CALD communities, nor the impact of the service and legal response—apart from the high likelihood that families are going to additional lengths to avoid disclosure or exposing their child to criminal justice system involvement.

Conversely, for some communities the disproportionate rates of criminal justice system involvement—and companion high exposure to criminal justice system scrutiny (Ferdinand et al., 2015; Han & Budarick, 2018)—are likely to mean that children are far more likely to come into contact with the law for reasons other than AVITH.

The PIPA team therefore believes that this should be the focus of dedicated research in the future, as well as workforce development, given the lack of culturally specific workers in this area. This includes in established migrant, as well as refugee and newly arrived, communities, which we note should not be homogenised but have very diverse and distinct experiences. In particular, practitioners noted the relevance of prior experience of trauma as relevant to working with adult perpetrators from certain migrant and newly arrived communities—noting that this would be relevant for adolescents from those communities as well.

Aboriginal and Torres Strait Islander communities

Similarities arose in terms of the challenges of exploring the nature and prevalence of AVITH in Aboriginal and Torres Strait Islander communities, as well as the impact of the legal and service response.

As with CALD communities, the administrative and case file data reviewed by the PIPA team did not generally contribute to specific findings in relation to the rate at which Aboriginal and Torres Strait Islander adolescents were experiencing a legal response as a result of their use of family violence. VLA client records showed that 5.9 per cent (n=54) of the client base in AVITH-related cases was identified as Aboriginal and Torres Strait Islander, which was not markedly different to the rate across general youth crime. However, as indicated earlier in this chapter, it is important to note that the VLA service data cover all FVIO-related legal services provided and does not distinguish AVITH from other possible types of family violence that may feature among those cases.

Of the 100 VLA youth files reviewed (50 specifically family violence-related and 50 general youth crime), only three involved Aboriginal and Torres Strait Islander clients. We

therefore formed the view that this was insufficient to draw any specific conclusions. Similarly, only one of the 100 files from the Children's Court of Victoria included a respondent who identified as Aboriginal. However, record keeping on these files was not necessarily reliable in this regard as the question regarding the respondent's Aboriginality was often left unanswered. Two of the 25 Youthlaw files (8%) reviewed involved clients who identified as Aboriginal.

In Tasmania, the Magistrates Court of Tasmania files included one respondent who was represented by the Tasmanian Aboriginal Legal Service and we assume that this person identified as Aboriginal. Of the eight Legal Aid Tasmania files, two (additional) respondents were identified as Aboriginal. Given the small sample size, it is difficult to draw conclusions, but it seems that Aboriginal Tasmanians may be over-represented as children subject to ROs.

In WA, 31 percent of clients across the general youth crime files were identified as Aboriginal and/or Torres Strait Islander. By contrast, among the AVITH cases, 9 percent of the clients were identified as Aboriginal and/or Torres Strait Islander. The sample size is very small but suggests there is possibly less reporting of AVITH to police by Aboriginal and Torres Strait Islander families in the WA context. This proposal was endorsed as likely by practitioners.

Practitioners from areas further north in WA added that AVITH was completely unheard of as a matter reported to police by families among their largely Aboriginal client base. Practitioners speculated that AVITH would be unlikely to be singled out as a problem of specific concern or defined as a distinct phenomenon in communities experiencing a well-founded distrust of the criminal justice system, as discussed in more detail below.

These observations also highlight how much the construction of AVITH as a distinct phenomenon is based on a culturally, economically and geographically specific family structure in which there is an adolescent child within a fairly restricted and small nuclear family unit. This is also reflected in the limited success of AVITH-specific programs in Victoria in terms of engaging Aboriginal families, something which the

PIPA team understands recent additional investment is intended to address, with funding made available to an Aboriginal community-controlled organisation to develop a community-led AVITH intervention (State of Victoria, 2018a).

Practitioners from Victorian legal services and Aboriginal community-controlled organisations who participated in the PIPA project identified similar concerns, although they said that they did see Aboriginal children in the system as a result of being respondents to protection orders. As discussed above, however, the PIPA team considers it more useful to explore the experience of Aboriginal and Torres Strait Islander communities in relation to AVITH through overarching themes of systemic and structural considerations.

Themes included those specific to Aboriginal communities, as well as systems issues that are likely to have a disproportionate impact on Aboriginal communities.

One of the most prominent and unsurprising themes arising in discussions was the disproportionate rates of criminalisation of Aboriginal communities. Echoing practitioners in other recent research (Douglas & Walsh, 2018), practitioners reported that the high rate of contact with criminal justice agencies that young Aboriginal and Torres Strait Islander peoples already experienced, particularly in public spaces, made disclosure and reporting of any violent behaviour by adolescents in the family or home context highly unlikely.

Aboriginal families aren't going to be calling the police. It's the last thing they're going to do because they so distrust the system for obvious historic reasons. They don't see the formal legal system as an answer to their problem. [Participant 2, focus group 6]

Some practitioners observed that this placed an additional burden on any family members experiencing violent behaviour from an adolescent.

Mum is going, "Well, I won't ring the police, because he's got this warrant." "Don't ring the police Mum, you're

going to get me locked up." I don't think that's a fair thing for a mum to carry round on her shoulder. [Participant 6, focus group 14]

Further to understandable fears about criminalisation, practitioners reported that Aboriginal and Torres Strait Islander communities also justifiably fear that contact with services or justice authorities will increase the risks of child removal. As noted elsewhere, practitioners also reported that a fear existed throughout their client base either that an adolescent using violence, or their younger siblings, would be removed by statutory child protection authorities. Given the devastating and ongoing impacts of child removal policies, this fear is particularly acute in Aboriginal and Torres Strait Islander communities. The following two excerpts are from staff of Aboriginal community-controlled organisations.

Most parents are too scared to report it. There's [civil protection orders] out but they're just like, "If I report it then my kid might run away and never talk to me again" ... So, there is fear in the communities that we work with that the kids will get taken ... Most of my ... clients will just refuse to talk to child protection, they'd prefer to be in the Youth Justice system ... [Participant 6, focus group 11]

I just really want to make that link for Aboriginal families about the Stolen Gen[erations] and all the past policies and the trauma that the families still live through. [Participant 5, focus group 11]

Practitioners further noted the particular failure of the service system to provide the support that families needed, or to take responsibility for older children, given that younger children were more likely to be removed by statutory authorities. The sense that child protection authorities were not going to take any responsibility for children in their mid-to-late teens was a recurring theme throughout the focus group component of the research.

Of course, the consequences of child removal and placement into out-of-home care—whether of an adolescent using violence or of their younger siblings—can increase the likelihood that children will come into contact with the

criminal justice system (Victoria Legal Aid, 2016). Where an adolescent is the subject of a civil protection order, which they then breach, or even criminal charges, while their younger siblings have also been placed into out-of-home care, this can potentially mean that *all* children in a family are at increased risk of criminalisation where the use of family violence by an adolescent has come to the attention of the justice system.

Kids will go into out-of-home care with no criminal record and they come out with huge criminal records. I mean, they're just traumatised before they go in ... they come out with huge criminal records and that's a terrible way to start at 18 ... [Participant 6, focus group 11]

Again, this trajectory of child removal can have a disproportionate impact on Aboriginal and Torres Strait Islander children.

Ninety-seven percent of young people in our [crisis accommodation] service are perpetrators of family violence ... 50 percent of young people we support in our services are Indigenous young people. [Participant 7, focus group 14]

Practitioners noted the ineffectiveness of what they saw as a blunt response of child removal, identifying that services should be making more effort to support families and communities prior to behaviour reaching crisis point.

I don't feel like the system supports Aboriginal families ... because we see child protection coming in and trying to remove the violent child when they can't sort of resolve it and while we believe that it's important to protect children as well ... I've seen child protection come in and remove the child as the solution to the problem when ... [the] behaviour's a problem not the child, and how do we just encourage the service system to work with that? [Participant 5, focus group 11]

Additionally invisible were the needs of families who were raising children without any welfare supports for fear of

child removal, or alternatively for fear of losing children to other family members who may not be able to care for the children or provide sufficient safety.

We have a really common theme of grandparents raising lots of grandkids ... might be bringing up six, seven, eight kids ... they're not even getting Centrelink benefits because they're too scared that if they ask for Centrelink that the parents will come and get the kids back ... so they're just absolutely surviving on no money ... these women are so strong ... they're so strong but how do you control eight adolescents? [Participant 2, focus group 14]

The system itself is abusing the grandmother more than the boys are ... if she does raise her hand she could lose them and she doesn't want to lose them. And then she is held responsible for the behaviour that they do ... [Participant 3, focus group 13]

Additional challenges faced by Aboriginal and Torres Strait Islander communities included the small size of culturally appropriate workforces, the tightknit nature of communities and complex cultural and kinship considerations. It also included the interrelated consequences of other factors, such as disproportionate criminalisation.

We've got [a] group of family violence workers through the refuge. But if they happen to be related to any, either or both of those families, that can impact on [the] ... response, in a rural area in particular. [Further] ... due to ... roles within the Aboriginal community, if there's a young girl who has an issue she's probably not likely to go and tell [Aboriginal male police officer] that, "Hey ... this is what the story is ..." [Participant 1, focus group 22]

The same participant commented further in relation to over-criminalisation:

So it might be that there [are] three or four really great Aboriginal males that could be great mentors [but] who have done time in prison, who are never going to get working with children checks ... child safety standards is very important for children but for the particularly vulnerable kids that are going to be off the rails and

running amok, to have someone who understands who's been there and who's made good, that can be invaluable ... [Participant 1, focus group 22]

Multiple practitioners noted the desperate need for outreach. This is discussed more broadly in Chapter 8, but was also observed in terms of a lack of effective and meaningful services to Aboriginal and Torres Strait Islander communities. Practitioners emphasised that it was unrealistic to expect young people to come to where services were and that services needed to go to young people instead.

[Describing the previous role of an Aboriginal liaison officer in an education context] ... no one's getting in there, it's just seen as an absent kid from school and they'll probably just cut mum off Centrelink and then it's even less food ... who goes to the home and goes, "Hey, what's going on?" And it can be a culturally appropriate family supportive role rather than the police or the principal or Centrelink. [Participant 4, focus group 22]

There was a good program ... but they didn't do outreach ... we referred lots of kids to them, they had a [worker] in court to get them in and it was very successful and talked to the kids at the court but ... the Indigenous workers who were at the court weren't allowed to run the program. They were meant to get them into the program, which was great, and we got them in, and when they got there we found that the people running the program weren't actually Indigenous either ... also it involved the kids getting into their building. In the city. And you're not going to get them. [Participant 2, focus group 18]

As discussed in Chapters 5 and 6, practitioners across all focus groups noted the impact of trauma on young people's development, on their responses to their surroundings, on their capacity to regulate their emotions and behaviour, and on their capacity to understand legal orders. Of course, the issue of trauma had additional layers and complexity in relation to the ongoing impacts of colonisation and dispossession, as well as contemporary racism, child removal and over-criminalisation in Aboriginal and Torres Strait Islander communities.

The system understanding of the impact of trauma is just not there, even for the professionals who dedicate their professional life to that kind of work, they don't have a full comprehensive grasp on what that means for families ... [Participant 5, focus group 11]

If parents also have trauma, that's really difficult ... I think particularly for ... [Aboriginal families], that process does not engage with [the] strength of community and family. [Participant 7, focus group 2]

Further, practitioners noted that the way in which an issue was understood could affect the kind of response—or resources—that it received.

We provide services to perpetrators and victims ... so we just try and service everyone we can. It doesn't always go well with our funders, because they don't always understand the nature of Aboriginal family violence, or family violence in general. [Participant 1, focus group 22]

Perhaps most importantly in the context of this research, practitioners noted the inadequacy of blunt responses that did not take account of cultural or community considerations.

If we see the over-representation of Aboriginal children now in [out-of-home] care ... The ongoing consequences of intergenerational trauma ... How do we understand what we then need to be thinking about when we have adolescents in front of us who are getting into trouble, violence and inter-family violence, sibling violence and just lateral violence. So I think there's a lot more work to be done to understand it but understand it from a cultural perspective. If we have one-size-fits-all responses, it's not going to work. [Participant 2, focus group 6]

These findings from practitioner observations indicate that, as previous chapters throughout this report have suggested, responses designed to address AVITH must take account of a much wider context and tightly woven combination of factors than just the presentation of AVITH if they are to be

effective. This includes support and funding for trauma-informed and culturally safe interventions developed by Aboriginal and Torres Strait Islander community-controlled organisations, as is occurring in Victoria.

CHAPTER 8

Gaps and opportunities across wider service systems— what else needs to be available to reduce the need for AVITH-focused interventions?

This chapter builds on the descriptions in Chapters 1 and 3 of the current service system response across the relevant jurisdictions.

It does so by highlighting the very palpable lack of service support that nevertheless exists—in particular, crisis accommodation or respite—in many contexts. It notes that, even where specific services are available, access to these can be limited and dependent upon relationships and awareness between services. Further, the chapter notes the need identified by practitioners for much earlier intervention, including additional support in schools, noting that universal services are relied upon to address AVITH in many instances. Importantly, it also notes how the spectre of other service system intervention—such as child protection—can have a hugely detrimental impact on the capacity of families to seek help (a high-level overview of statutory child protection responses is provided at Appendix A).

This chapter also describes what the research identified as elements of effective intervention beyond the existing AVITH service provision model—being engagement with young people that is based on building relationships and trust over time, and which includes a strong component of outreach and community-based interaction, rather than relying on compliance-driven service models. Finally, this chapter notes the critical importance of whole-of-family support—service provision and responses that assess and identify the needs of all family members, but are strengths-based and focused on keeping families together. As such, it is not intended to be a review of the specific AVITH-focused interventions that currently exist but, instead, to highlight what else needs to be in place for the service and legal response overall to be effective and to reduce the need for AVITH-focused interventions down the track.

Lack of AVITH-specific services and referral pathways

A range of AVITH-focused interventions exist across Australia, with no single intervention found to be effective (Moulds et al., 2016). The RCFV highlighted counselling and family therapy models that function in the community sector as preferable (State of Victoria, 2016d), while other interventions have been more recently evaluated in the youth justice context and have shown promising results (Moulds et al., 2019).

Specific to the jurisdictions in this research, a number of services in Victoria and, to a lesser extent, in WA, are specifically designed to respond to AVITH, while one was in development in Tasmania at the time the research was conducted. The PIPA team sought to include practitioners from all these services during the conduct of focus groups. In particular, we heard from practitioners delivering programs based on Step-Up, as well as practitioners working in longer-term outreach interventions, such as the multisystemic therapy model described in Chapter 1. Some of these practitioners were working in these services at the time of

their participation in the research, and some had worked in services previously where funding had not continued.

These practitioners obviously had valuable insights to offer that contributed enormously to the program. At the same time, however, many other participants had worked with adolescents who were not in any way connected with these kinds of programs. This included in Victoria:

So, with the families that I've worked with where there's been violence by adolescents towards generally the mother but also quite bad violence towards other siblings, none of those adolescents, from my memory, have been receiving services in relation to their violence. [Participant 7, focus group 12]

In WA, a limited number of specific AVITH services existed, but were not linked with criminal justice pathways through which adolescents could access services. Generic counselling or mediation services were reported by some practitioners as the first option that came to mind.

Participant 1: Referral pathways to help the kids—basically, for us, it'll be through the psychologists that we have. Or referrals to some of the other services ...

Participant 3: Yeah, [general] services that deal with mediation of conflict. [Focus group 8]

That said, practitioners lamented the small numbers of these services, and the complete absence of others.

We have 18-month waiting lists for school psych[s], there's no such thing as a social worker in schools in WA ... where often in other parts of the world you'd have a strong youth work approach that'll get your report, go to the home, and then walk with those children to the many clinical services that children won't access by themselves. Especially kids that haven't gone to school for bloody 4 years. [Participant 4, focus group 13]

Practitioners also noted that siloing between services meant that children with complex needs often missed out.

It's a problem trying to get them linked in with a specific one because it's always—we can't do it because of this X reason and—either drugs or something else. We are finding that there's not one specific service that goes, "Okay we'll take them on and deal with it." [Participant 6, focus group 8]

In particular (and as discussed in more detail in Chapters 9 and 10) practitioners noted the absence of accommodation options for children using family violence.

Participant 11: We've even had meetings with [child protection] where they actually didn't know what else to do with the young person, so let's send him back to dad.

[Multiple other participants]: Yeah. Right. Again and again. Again and again.

Participant 11: Because he was actually posing a risk to the younger children in the house ... and when I suggested, well, maybe secure care, because this kid was quite extreme,

I was told by the [child protection] worker that if we would have to go through the court it actually might ... work out that the other children would get taken away, and not the actual perpetrator. And that just baffled me. So, they suggested let's take him back to dad, who is where these behaviours kinda came from ... [Focus group 13]

In Tasmania, a range of generalised support services were responding to different aspects of children's behaviour, but with no specific focus on their use of violence in the home.

There doesn't seem to be much around, full stop, as far as I'm concerned ... the time of the day [that families need help] ... the mother will ring of a night and, "What can I do?" But there's not much out there. [Interview 1]

There's nothing much out there to help [parents], like it's not [child protection] and it's not police because they don't want them prosecuted but it's more of a ... I don't know what it is ... [Interview 2]

Participant 1: My feeling is it's more individualised counselling with either counsellors or psychologists ...

Participant 2: Or referral from youth justice once they [reach] the system ... there's a lot of reliance here on [the] school counsellor to deal with anger and aggression and all of the things that go hand in hand with that but the issue from a youth justice perspective is that the youths that really need to be engaged with that, don't attend school. [Focus group 9]

The PIPA team also heard that, where services were available, they were not necessarily working in collaboration or capable of information sharing, and that they were also not necessarily linked to a justice response. Further, we heard that services were at capacity.

Participant: They can't take on new clients so ... I think really [we need] some options for parents to ring up places and say, "help!" [Interview 2]

Participant: If you can give it some programs I'm sure we can get them engaged. We [just] don't have any programs. [Interview 1]

Need for early intervention/ recognition of impacts of family violence on children in early childhood

Across all jurisdictions, practitioners observed the very acute need for early intervention in the lives of children who went on to use violence against family members. Multiple focus group participants observed that interventions with adolescents were coming “10 years too late” in terms of addressing the impacts on children of prior experience of family violence.

Participant 10: The heart of really where we need to be intervening, is actually with children. Which goes to actually not talking about children as witnesses to violence, but children experience it, you know. And this idea of “in the best interest of children”, best interest? I mean, that’s ... the best interest, we would have, I don’t know, nice things. This is actually a right of children to live in safety. It’s this kind of language that just does my head in.

Participant 13: We’re just waiting for the lid to pop up and it all go wrong before we throw intensive interventions that cost a fortune at families. You try to address your years of crap where there’s no true early intervention. [Focus group 13]

Practitioners also noted that child protection services needed to develop a specific focus on the longer-term impact of family violence on children.

The view seems to be, get that family preservation order that excludes dad, problem solved. See ya later. And there’s not the remedial focus on kids ... Because he’s going to be back in 12 months and he’ll be possibly even more pissed off and alienated. The kids will have had 12 months without him. Or seen him in a contact centre, where it’s like visiting in prison, trauma, trauma, trauma, the cycle continues ... I don’t think I’ve ever seen on an order a recommendation that the parents have to provide the children with family violence counselling themselves. It’s always about mum go to family violence counselling, dad go to men’s behavioural change ... but it’s so rare, you see child-specific conditions. [Participant 7, focus group 2]

Support should be offered in schools

Another overarching theme throughout focus groups was the emphasis that participants put on the role of schools and education. Many saw schools as the pathway through which children and families could access services. They also saw an opportunity to provide education to children about family violence, as well as legal and service responses to it.

If you had a model in the schools, this is the approach the social worker should uptake, if they ... assist the family appropriately, and walk with the family ... [Participant 4, focus group 13]

As discussed in more detail in Chapter 10, practitioners referred to an increased use of civil protection orders between students in schools. This was particularly evident in Victoria, where many practitioners felt that schools had a responsibility to resolve the disputes themselves.

I’ve actually seen magistrates in the Children’s Court jurisdiction ... adjourn a matter and for the magistrate to say, “Well, you know what? I’m going to write a letter to the school principal letting him know that I don’t think that this is appropriate for this to be handled in this jurisdiction and I would suggest for the school principal to have a meeting with the parents to see if they can sort this out.” [Participant 1, focus group 12]

Some intervention orders ... and not all the time, don’t get me wrong, but some are used as a tool so I ... want to really get into the schools and look at giving some talks to the schools on why you take an intervention order out ... just educate people more. [Participant 7, focus group 2]

Other practitioners cautioned against an assumption that more education in schools about family violence, without the provision of services to back this up, was the answer.

So continually I hear that we’ve got to go into schools, we’ve got to do education programs. And if you look at it from a global perspective, we do ask the most vulnerable people who are experiencing the most disadvantage to

do all the heavy lifting, every single time ... So, you know, yes, we have school-based programs ... we ask kids to raise their awareness, to say that these behaviours are unacceptable. They go home, and they call it out, and then, what have we done? Without the range of supports that their families can connect to? So I just hold back on that one, because we're looking at minimising harm here, not creating more. [Participant 12, focus group 13]

Failure of services to step in—and back off—at the right time

Across jurisdictions, a theme that arose both consistently and spontaneously throughout discussions was the ineffectiveness of statutory child protection interventions. Practitioners were not critical of individual workers but, rather, of a system that functioned as a deterrent to families reporting in fear of child removal and which failed to provide effective support when intervention *did* occur.

Participant 6: If the family's had involvement with us already and they know the system, they will swallow it ... because they know if I ring the coppers they're going to come round and they're going to grab little Jimmy, and they're going to take him and he's probably going to end up in resi[dential] care and I don't want them to do that so I'll just sit here and I'll just suck it up, and I'll suck it up, and I'll suck it up because I'm the last hope for little Jimmy.

Participant 10: Even siblings that have been in the system and know it, they'll shut down so even if ... mum won't talk, you might go and talk to the siblings and the kids and say, "Hey, is this happening to you?" and because they know if [they] talk about this then [they] will get taken away, they will not speak ... [Focus group 4]

In particular (as noted elsewhere in this report), practitioners reported that statutory child protection authorities were unlikely to get involved with, or provide support for, children in later adolescence. This is reflected in other recent research (Douglas & Walsh, 2018) and was particularly relevant to the provision of crisis accommodation where children were

using violence and also had direct implications for any younger siblings of adolescents using violence, who were more likely to be removed instead, given that placements were more readily available for younger children.

[Child protection] will not become involved, in our experience, with any child who's really over 15. In fact, under 15, it's very difficult. They really have to be very young for [child protection] to assist them in any realistic way, as in terms of providing accommodation. They put the emphasis back onto youth justice. But often, youth justice doesn't have a continuing role. Once the matter's completed, that's it. [Participant 2, focus group 18]

I noticed that the minute the kids turn 12, [child protection] go for a runner. Often these kids were returned home if they were too difficult because [child protection] wanted to be able to wash their hands of it. So I think [child protection] are good for the younger ones at times but when it comes to teenager trouble ... they're hopeless. [Participant 4, focus group 8]

The lack of alternative accommodation or respite was a particularly strong theme. The PIPA team also heard examples in which the intervention of child protection did not seem to have mitigated risk, even with younger children, primarily because of a lack of resources.

We had one incident—a 9-year-old boy and he attacked the [crisis accommodation] staff—and I was one of them. He was saying I want a knife ... throwing pictures off the walls—he was really going crazy. We were trying to calm him down. The police came in, got down on his level. They were the riot squad, they've got the tasers—he just kneeled down and was calm as. They explained that he couldn't stay there because of his outburst. We got [child protection] involved and found out that after they sent him back to the perpetrator—they were with [crisis accommodation] because he had a knife at this kid's throat and they sent him back there. So, there's all these complex things these poor kids are going through and we've just got nowhere to put them. [Participant 3, focus group 8]

Focus group participants acknowledged that this and other challenges identified in relation to child protection were partially the result of huge demand felt by services working with vulnerable families.

Participant 4: At the moment there's so much demand in child protection, you're working, everybody, justice, we're constantly working in this space we're just responding, we can't get traction anywhere else because of the demand. Like you see the [child protection] reports, it's like 500 percent or something that's gone up in the past. It's phenomenal in terms of just demand and we're constantly in this space where we're chasing our tail at this really pointy end and we just can't, we need to focus down here ...

Participant 6: From the police perspective it's the same. Responding, responding, responding. We don't even have time to think about what we've just done ... [Focus group 2]

Elements of effective intervention

Developing trust and relationships in a therapeutic alliance

Where practitioners were able to identify examples of positive interventions or services, these were invariably services based on relationships and effective engagement models, rather than compliance. Practitioners described the importance of outreach or, as one participant expressed it, "old fashioned youth work"—practices that were based on long-term engagement and on developing relationships of trust with a young person and sometimes with the family as well. The PIPA team heard that this approach could rarely occur within the 6–12 week timeframe that practitioners observed was the norm in many service provision models.

If the government is telling professionals, "Alright, you've got 6 weeks", that's already setting you up to fail. Because sometimes building a rapport with the young person that is severely traumatised ... and is acting out, needs more than 6 weeks. They may need more than 6 months. [Participant 7, focus group 7]

Practitioners spoke of the time it took to develop trust with trauma-affected children, observations echoed in other research (Douglas & Walsh, 2018).

A lot of trauma results in getting incredibly heightened incredibly fast, because you're used to any little thing lead[ing] to a threat, so you're going to be straight away on the defensive. And then not being able to pull that back, not understanding some social situations, and so taking what's actually quite normal—like ... if someone's looking at someone in the eyes, that's a threat ... Sometimes that takes months to work on, someone can look at you and, "It's okay, you don't need to get defensive." [Participant 2, focus group 5]

I can give you an example of one client where he didn't go to school for 6 months. He had [child protection] trying to engage him in parent support, psychologists ... it took me 2 months to finally actually get this kid to engage with me, and it was really just through persistence ... every week I would come and meet with mum, and I would, you know, just knock on his room and say hey, how are you going, you know ... I would help mum develop some boundaries, consequences, rewards. If he didn't engage, he wouldn't really get a say in what the consequences and rewards would be, and so this stuff would be implemented without his input. And over time, he realised that engaging with me was to his benefit, and that I would actually work with him on his own goals that he wanted to do. And in time, we managed to get him into school. He's now actually working fulltime. He's no longer being violent towards mum ... [Participant 11, focus group 13]

These observations in relation to being mindful of trauma and developing a therapeutic relationship are echoed in wider literature regarding effective interventions in youth justice settings (Lipsey, 2009; Malvaso, Delfabbro, & Day, 2018; Malvaso Delfabbro, Day, & Nobes, 2018).

Outreach and engagement

Many practitioners across all jurisdictions noted the importance of being able to go to young people or families, rather than waiting for young people or families to come to

them. Some noted this in terms of acknowledging the challenges of getting young people to engage in services.

Getting a 15-year-old boy who had very little support ... to go to the doctor and get a mental health plan ... it's not particularly difficult to get them to go to the GP [general practitioner] ... but getting them to go through with the counselling is very difficult. [Participant 2, focus group 9]

Some noted that an outreach approach might be easier in a small community or regional area but also that, overall, models of practice often suffered from too many administrative burdens.

We work on a country model. I don't let them sit on the desks all day ... they were all sitting behind their computers writing court reports and I said, "What are you doing?" "I've got to write [a report]" ... and I said, "Get out there and see these families. Go to the homes." "But we'll get attacked, we'll get murdered." And I had to really push to change that thinking. [Participant 1, focus group 8]

I just roll up, I don't make appointments or whatever, I just knock on the door ... people just [say] "Oh, it's you, come inside." I just deal with whatever I have to deal with inside the house ... And just focusing on [my area of engagement] and trying not to make them feel like I'll be involved in anything else, in what's going on in the household. [Interview 1]

Practitioners noted the importance of a young person being able to feel that they were safe and respected, as well as that a service or worker was there specifically for them.

We had a young [person] who ... was having quite difficult behaviours in custody ... when being asked to go back to [their] cell—[they were] laying down on the floor having full 2-year-old tantrums, wetting [themselves], soiling [themselves], punching out and spitting—staff were wearing spit hoods when dealing with [them]. And my staff went out to see this young [person] and refused to wear spit hoods. They sat down and spoke to [them] for

40 minutes—not one problem. So sometimes how we treat these young people as well ... I mean, the example that was fed back to me from the youth justice officer was, [the young person] said to [her], "I'm not going to talk to you if you wear a spit hood." And she said, "I'm not going to talk to you if you spit on me." Then [they were] fine. So it's about relationships as well. But, certainly, there needs to be more focus on family violence. [Participant 1, focus group 8]⁶⁰

A lot of services are family [focused] ... but it's nice that they can have that one-on-one sort of rapport with someone they can trust and sort of start divulging what's happening in their lives so ... you get quite close to what's happening in the family accidentally because you're dealing with this, then you might go meet mum and dad and so you actually end up seeing quite a lot of what happens in the home, which is a unique role ... so we can do some good work and link people in and make some referrals ... [Participant 11, focus group 4]

Practitioners engaged in youth-specific work also spoke of the importance of working at a young person's pace.

It's all about relationships. Especially if there's complex trauma, the only way you're going to get through to that young person is by trying to build rapport ... They're probably not going to come to your office that's ... looking all clinical. You might have to take them out for [McDonald's], or find out what it is that they enjoy doing ... I'll even ... take them for a game of pool, and, you know ... focus, even on the first couple of sessions, on just getting to know this young person, instead of coming in there with an agenda of this is what I need to achieve, these are the boxes that I need to tick. Because the young person is going to see straight through you ... And, yeah, and work with what they want to achieve ... [Participant 11, focus group 13]

⁶⁰ From mid-2016, policies changed in juvenile justice facilities in WA to prevent spit hoods from being placed on young people in detention. This changed to staff wearing protective gear instead, here referred to as a "spit hood" (Western Australia, Office of the Inspector of Custodial Services, 2017).

That said, practitioners also reported that they were more likely to have success—not only in terms of engaging young people in services but keeping them engaged—where those young people had additional support, either from family or from a respected person in their lives. In fact, the topic of “mentoring” arose spontaneously in a number of discussions when participants were asked to nominate any effective relevant interventions they had seen.

I would argue that everybody in their adolescence that makes it has had some kind of mentor, whether it was through sport or a family friend or the neighbour or someone that they got kind of, helped along and advice and you don't want to disappoint your mentor ... our leading care mentors have been there while kids are giving birth. They've been there at court, they've been there in all the successes and all the failures and it would be something that would be brilliant seeing replicated ... [Participant 5, focus group 2]

I've had young people who have committed quite serious family violence, especially one comes to mind where he was under the influence of alcohol and he had some quite significant mental health issues, and mum would actually come to his appointments and see how he was going and wanted to know how he was going with his treatment and was really sort of proactive in that sense. And then we've seen like really positive outcomes for him. So, he completed ... a 14-day detox ... he's got his [probationary driver's licence] like next week, he's doing mental health treatment ... you know there's been no family violence. And you know just with a really sort of supportive family background and with services working collaboratively we've seen really ... positive outcomes for that young person. [Participant 2, focus group 12]

It should be noted that the above example was offered by a participant in a region with no AVITH-specific program available. This participant was not necessarily suggesting that AVITH could be addressed through AOD or mental health services but was describing an example of a positive intervention that they had seen where available services were drawn upon to support improvement for the young person.

As such it sits somewhere between the benefits of AVITH-specific services and the lack of any support at all, which the PIPA team heard was common in the lives of many children and young people.

Whole-of-family support

Just as crucial as services that effectively engage young people was the need identified by practitioners for services that provide support to whole families and which, returning to an earlier theme, do so at a much earlier point. This echoes earlier evidence in wider youth justice contexts (Borduin et al., 1995) that points to the value of multisystemic therapy, which works with whole families in these settings.

Practitioners in the PIPA research identified the need for services that work with a flexible approach and can accommodate the needs of families in different ways, as the following example describes.

So they work evenings with families, trying to engage kids with positive interventions such as sport, take them to footy, take them on the weekends. All that sort of stuff that often disadvantaged families can't connect with for various reasons but having that support there but bringing it as a family unit ... any ... [service that] wants to reach out and grab those kids [would be valuable], because I'm sending them off with phone numbers, referrals and appointments and depending on what the situation is with the parent ... So here's some fliers, I can make some phone calls about that. But all of that is contingent on them picking it up and taking it. [Participant 2, focus group 2]

The PIPA team also heard that stigma around disclosure was a real challenge.

Participant 1: Often, parents don't want to be involved with MST [multisystemic therapy] because they come into the home and they work with all the family ...

Participant 2: Lots of families don't want somebody coming into the home, don't want to work on some of

these issues. I still think there's a lot of shame around adolescent violence. [Focus group 8]

A systemic failure nominated by practitioners throughout the focus groups was that families need more support, and support that plays to their strengths, before situations reach crisis point. This was summed up by one practitioner:

Children are taken into care and then placed in foster care, and [child protection] spend enormous amounts of money and resources running those kids around and getting them to appointments, and the parents say, well, "Why the fuck didn't you do that for us? Because if you'd helped us get kids to appointments, we would have been able to do that a lot better." So, you're spending this huge amount of money that could have been reinvested into actually supporting kids in staying with family and community. [Participant 8, focus group 18]

The question of whether earlier service system identification and support would have changed the trajectory of the young person featured in Case study 12 is worth considering in this light.

Case study 12 and the overall themes throughout this chapter suggest that a narrow emphasis on AVITH-focused interventions is, as many practitioners in all three jurisdictions told us, "coming 10 years too late". Rather, many of the families whose stories featured in the case files or with whom practitioner participants worked needed services and support much earlier—services and support that may have prevented their adolescents from coming into contact with the legal system for their later use of AVITH.

Case study 12⁶¹

The respondent/defendant was charged and granted bail in relation to a wide range of non-family violence offending. His bail conditions included residing at home with his father as he was not able to be bailed to his former address with his mother, due to recent incidents of being violent towards her at home. This violence had never been reported and was not the subject of the charges. During the pre-sentence period the court requested evidence to be provided about the respondent/defendant's background. Evidence was presented that the respondent/defendant had historically been exposed to family violence and was at ongoing risk. While on bail, a case worker referred the respondent/defendant to a flexible learning program as the respondent/defendant had been excluded from school 2 years earlier for behavioural issues. The respondent/defendant was also referred to an intensive program for families where there is violence and conflict occurring at home, but while waiting to find out if they were accepted into the service, the respondent/defendant committed further non-family violence offences and was remanded in custody.

⁶¹ This case study is constructed from a composite of multiple features taken from aggregate case file data to avoid the risk of re-identification. It therefore does *not* represent an individual person or family's story.

Police responses

This chapter canvasses police responses to AVITH.

It highlights the way in which current risk-averse and non-discretionary approaches may be entrenching harm to adolescents and their families, rather than addressing it. This includes the tendency of police to respond to incidents, rather than patterns of violence. It also includes the challenge faced by police when they are presented with an immediate risk to family members, but have nowhere to place an adolescent where this does not simply disperse or displace the risk for a period of time, if not escalate it further. Reinforcing the findings from Chapter 8 regarding relationship and outreach-based approaches, this chapter also discusses the value of proactive and youth-focused policing responses.

The following discussion aims to highlight the way in which a variety of police practices are being imposed upon the complex AVITH scenarios that the previous chapters have attempted to describe. It also signals the way in which policy settings—including within police operational and wider system policies where police function as the primary “front-end” response—can contribute to a conceptualisation and visibility of an issue, as well as to the nature of the response that this issue receives. Further, it indicates that, where more nuanced and considered responses are occurring, these are the result of decisions by particular individual practitioners who are able to take account of broader family scenarios or patterns of behaviour, or of availability and awareness in relation to particular services that may exist in certain areas.

Police as first responders

In Victoria, where a broad definition of family violence has been in operation for more than 10 years, existing data—as well as the data from the PIPA research—indicate a strongly proactive response to AVITH by Victoria Police. Indeed, as indicated earlier, the most recent Victoria Police Code of Practice recognises use of family violence by adolescents and acknowledges the vulnerabilities of adolescent respondents. It does not offer any direction, however, as to how police practice should differ in this context. This is notable given that the Code of Practice also lists, under compulsory police action,

making perpetrators accountable by pursuing criminal and/or civil options where there is sufficient evidence to do so and regardless of whether an arrest has been made and/or where the AFM is reluctant. (Victoria Police, 2017, p. 19)

Diemer, Ross, Humphreys and Healey (2017) interviewed 125 members of Victoria Police about the Code of Practice and found some discrepancy between members’ views as to the degree of compulsion, versus discretion, related to the Code of Practice “Options Model”, as well as in relation to utilising options such as issuing or seeking protection orders. Tellingly, however, Diemer et al. (2017) found that one of the two most commonly identified limitations in terms of applying the Options Model from the perspective of members was in relation to responding to child and adolescent perpetrators.⁶² Members attributed this to lack of appropriate referral and support services.

The fact that the PIPA project heard repeatedly about police in Victoria feeling compelled to seek orders suggests that there is likely to be a link between the sense of compulsion to impose a punitive legal response—*any* response—and lack of service infrastructure to make referrals at all, or to make them with confidence that there will be capacity within the system to respond adequately.

Far from the complaint that used to abound in the family violence sector about police “doing nothing” or dismissing an incident as “just a domestic”, the PIPA team heard that Victoria Police is proactive in pursuing protection orders against child respondents, as well as criminal charges where it sees this as warranted. This is despite the limitation that Victoria Police cannot, in fact, impose a short-term FVSN or equivalent upon children in the same way as police can impose similar short-term notices in other jurisdictions, such as WA. Police applications for interim FVIOs, however,

⁶² The second limitation was in relation to the same concerns around responding to family violence in “ethnic minority communities”.

are a regular feature in the Children's Court of Victoria and in Magistrates Courts when convening as the Children's Court in outer metropolitan and regional locations. Police-led applications generally progress very quickly following a call out to an incident.

On the whole, Victorian practitioners recognised that the imperative to address risk and maintain safety put police in a difficult position.

I feel really sorry for the police because I think they go in there thinking, "We don't want to make things worse here." But they're damned if they do and damned if they don't. If they take a heavy hand the parent is likely to go, "I didn't want that to happen." If they're too nice to the young person, which they're trying to engage ... that parent may think, "Well that was just a waste of time" ... So you really need an opportunity for parents to be able to engage with the police in a way that makes them feel like it's a partnership rather than just I'll ring and hope for the best. [Interview 4]

Similarly, police members told the PIPA team that they felt they had no choice but to seek an order because keeping people safe was the police's responsibility. They further commented that, upon attendance at an incident, police were ultimately responsible for managing risk.

So from our perspective it is a bit of a balancing act as to how we do actually treat juvenile respondents and the type of orders ... we're kind of in the middle because we're damned if we do and we're damned if we don't. If we walk away, do nothing, and then if something either happens to the [victim/survivor] or for that matter to the child respondent as well, there's going to be a lot of questions asked of police as to why they didn't act. [Participant 1, focus group 12]

Police participants also described the challenge facing them where there appeared to be no safe option for the relevant parties.

We dealt with [a matter] ... where the respondent was a 16-year-old and she was perpetrating family violence against the mother and this was quite serious. There'd also been criminal charges ... because of breaches and certainly the intervention of police was to the benefit of the mother but it really didn't do much to change the behaviour at all of the child and basically all parties in that case wanted the child to be excluded which is quite drastic ... And the only body that didn't want the child excluded was [child protection]. Now, it's quite rare for police to take a position contrary to [child protection], but in this instance we had grave concerns for both the safety of ... the mother, there was also ... younger siblings as well and we also had safety concerns for the respondent ... because the mother had indicated she'd just about had enough of the child and she couldn't guarantee the child's safety anymore ... [child protection] ... actually made a submission to the court and their view was, "If the child were to be removed and placed into a residential care facility, then they couldn't guarantee the safety of the child." So, kind of didn't leave the magistrate with too many options after he heard that ... However, from a police perspective, the risk factors are huge. They haven't diminished for the child. They haven't diminished for the [mother], either, so it really is a recipe for disaster. [Participant 1, focus group 12]

Participants in another focus group discussed this challenge as a source of frustration.

Participant 6: So, it is tough for us, we're bound, our hands are tied and as much as sometimes we might agree with [a respondent lawyer] in court, we don't have a choice. But we have to do what we have to do ... In an ideal world, it would be great for us to assess each situation as it presented rather than going, "That situation's different from that situation but we have to follow the exact same procedure." Which I think is stupid ... [A] lot of police have in the back of their mind when they go out that it's their job on the line. If they go and we don't do exactly what we're bound to do, walk away and something happens ...

Participant 7: There's no room for initiative ...

Participant 6: People carry that risk, but they've lost their jobs ... because something has happened after they've gone or whatever it may be. And that's a shit situation for us all to be in. [Focus group 4]

Participants in another focus group similarly acknowledged the policy imperative and risk-averse landscape in which police now found themselves, but with greater criticism of police practice.

Participant 4: With the understanding of [civil protection orders] ... They're just very poorly understood by everybody. Even the police, [the orders are] poorly understood by [the police] if they're not a specialised family violence unit. They're taking out orders for things that should never make it to court ...

Participant 6: Or [police are] breaching [respondents].

Participant 4: They've literally written on the application that there's no risk to anybody.

Participant 6: Nobody wants to be that [newspaper] headline. They're just going for it now, the pendulum has swung. [Focus group 7]

Some file reviews similarly indicated an inflexible response by Victoria Police in terms of seeking protection orders, often without much indication about the history or narrative behind the incident, of the risk factors in relation to potential future conduct, or whether there had been any risk assessment conducted. This does not necessarily reflect an abdication of responsibility by individual police but, rather, a system that has developed to deflect decision-making (and perhaps even risk assessment) from sworn members to other parts of the legal response. Here the inclusion of AVITH-specific considerations in Victoria's risk assessment and management framework, the MARAM, may begin to have an impact.

The deflection of decision-making and risk assessment, however, was also reflected within the spectrum of cases described in Chapter 4 in terms of the diverse scenarios that were experiencing a family violence legal response from police. As revealed through this spectrum, while some cases

clearly involved serious family violence, others involved one-off incidents or remained unclear in terms of where risk might really lie. This is also reflected in Case study 13, which reveals the sometimes limited level of information often included on applications, coupled with a case outcome, leaving significant ambiguity around family dynamics and the nature and extent of risk, as well as the impact of the legal response, if any.

In WA, the PIPA team heard that police do not routinely apply for civil protection orders on behalf of victims/survivors in cases involving children using violence. Instead, police issue 72-hour police protection orders⁶³ to manage immediate risk and provide "breathing space" in a crisis. Practitioners expressed some ambivalence about this.

I know of ones that have done a police order, but then the child goes back a couple of days later once they've done their 72 hours and everything happens again ... Then the child has more anger against the mum because of getting the police involved, so mum cops it a second time around. [Participant 4, focus group 8]

Certainly in terms of issuing a police order ... obviously officers have to consider the welfare [of everyone involved] ... and you phone crisis care and everybody's [located far from services] ... it's like, well, what do you want to do? What do you want us to do at 10 o'clock at night with a child in [region] or a child in ... somewhere more remote or anything? So then the police are like, "I have a duty of care, I have to do something, I've got [no idea]." So I think sometimes that's why children are just pushed from pillar to post, and often from one dysfunctional family to another who doesn't want them, or they tend to just cause more harm than good. [Participant 13, focus group 13]

Where the predominant other response available to police in WA was criminal prosecution, the PIPA team heard different views about the approach of police. In some instances, we heard that it is very much treated as a "last resort" and that police try to intervene to support safety without escalating a situation through criminal prosecution.

⁶³ See Division 3A, *Restraining Orders Act 1997* (WA).

Case study 13⁶⁴

The parties in the case are the adolescent respondent and her parents. On the night of the incident (the first incident reported to police by this family) the young person's father confiscated her mobile phone because he did not like the friends she had been associating with recently. The young person became angry at this and punched the wall and made verbal threats to continue damaging property. The respondent's mother then called the police. The young person was angry and punched the wall again. Police arrived and spoke to the parties.

Police attended and applied for a safe contact protection order. An interim order was made in the parties' absence, and when the matter later returned to court, the respondent was not present, but a very brief final safe contact order was made.

⁶⁴ This case study is constructed from a composite of multiple features taken from aggregate case file data to avoid the risk of re-identification. It therefore does *not* represent an individual person or family's story.

Participant 3: The police is the last resort for a family. And especially if it's a young child. I had a mother who [was] threatened by the child who, only 10 years old, grabbed a kitchen knife and cornered her ... she got the police involved, and it was really good inasmuch as the [domestic violence unit] came over and had a conversation with the child, so ... And that happened on two different occasions. The last I heard, the child is [travelling] well ... So it's been a journey of over a year now where mum is probably tapping into the police department every time she needs to, but there are no police orders given because she looked at his age; he's very young. But that conversation the child has with the police seems to set in ...

Participant 4: I've found it a rarity in youth justice that the police will charge the child—they could be back there many, many, many times to charge the child but the parents don't want you to press charges. So even though they have that ability to take that action, and they know the risk is there, very rarely will they say ... "Take the responsibility away from traumatised, compounding traumatised, mum, probably surviving with drugs, poverty, the shit beaten out of her for years on end, the kid's now doing the same thing ... " They're very reluctant to do that, and when they do finally do that, [it's often with the] diversionary approach, which is, "Write a letter and say sorry to mummy." And then we go back to that a few times before we go to court orders, and by that time very, very pointy end. [Focus group 13]

In other circumstances, however, practitioners described observing police responses that were disturbingly heavy-handed. This was often context dependent; for example, such responses were more often described in relation to children in out-of-home care. In one workshop, police participants explained that decisions to prosecute were primarily based purely on available evidence, rather than attitudinal differences with respect to different children. To this extent, and echoing other research (Douglas & Walsh, 2018), out-of-home care workers were more likely to be willing to provide a statement that supported prosecution than a family member would be.

The PIPA team heard very clear examples in which the initial decision by police about the nature of a charge—as well as whether to proceed with it at all—had significant consequences

for a child's trajectory, often over a lifetime. For example, a legal practitioner described an example in which a young client had picked up a blunt knife and chased his brother with it while in the sight of police.

So, there was no injury. [My client] didn't actually use [the knife]. And the police intervened ... at that point, they had a choice about how they responded to the situation ... The police's response to that situation was, tasers out, arrested, as they're getting in the car, that's it, you're done, attempted murder. [My client] spent 3 months in detention [with] hardly any record at all ... so, the police had an opportunity. They didn't have to charge [my client] with anything at that point ... there's some discretion to say this kid's actually been the victim of violence from [the] brother and exposed to family violence for years, [they're] so vulnerable, [they're] FASD, [they're] cognitively impaired, and this is all the information that we [even know about ... my client was] put in detention because there're no bail options ... [Participant 2, focus group 18]

In Tasmania, the police manual mandates a "pro-intervention" response to family violence to hold offenders accountable for their actions and directs that "where substantive charges are identified and there is sufficient evidence to proceed, offenders should be arrested and prosecuted" (Tasmania Police, 2018, p. 115). However, AVITH sits entirely outside this protocol. Therefore, as the PIPA team heard from participants, the primary option that is open to police centres around criminal prosecution and the various informal and formal diversionary steps that can lead to prosecution. In particular, an early intervention policing unit focuses on preventing formal criminal prosecution and involvement, with a comparatively large range of diversionary orders and options available, including informal and formal cautions, community conferencing run by police and the use of undertakings. However, police also noted the lack of support options where diversionary options were unavailable, including where children were not considered to have legal capacity.

Realistically, if we turned up and [a child] was out of control the only thing we could do is transport him to the hospital, then because he's got autism or whatever else he's probably not competent enough to be charged by police,

so therefore, yeah, there would be no repercussions from us. If the kids have got a lot of issues or mental health and that sort of thing usually we don't go down the charging line. We'll just try and refer them through Mental Health or something else, and yeah, the legislation here ... it's got to be a significant relationship in order for it to be family violence. [Interview 2]

The PIPA team also heard that police in Tasmania will provide advice to parents about seeking their own civil RO. In some cases, police apply for them on behalf of the victim, although we heard that this was uncommon. Certainly, it appears that this may be reserved for cases considered to be at the “pointy end” (as one participant stated in Interview 2), as our review revealed a higher proportion of police-led applications (compared with the Children’s Court of Victoria) that featured particularly serious violence and indicators of high risk, such as strangulation.

When reviewing all RO applications against child respondents from the Magistrates Court of Tasmania during the 2016–17 financial year, we found five out of 19 applications relating to AVITH were made by police, with the remaining 14 made in person by the individual seeking protection for themselves and/or other children. Of these, nine applications were made in person by unrepresented mothers seeking orders against their children, with the remainder made by other relatives.

Interestingly, all AVITH-related police applications were made on behalf of female primary caregivers (almost exclusively mothers of the respondents) as the principal protected person. This was despite in-person applications by male caregivers that appeared to involve very serious violence, noting that police had reportedly given advice to the applicant to seek their own RO. It is important to note that the sample size is very small, making it difficult to draw any strong findings about the significance of this or possible reasons.

The quotes below, drawn from in-person RO applications by parent victims/survivors in support of their requests to police to serve the applications/interim orders on the respondents, highlight the associated lack of service support:

I fear for my life.

I am so scared at what [the respondent’s] reaction will be [when] served. I know [they] will be violent towards me once [they find] out.

[They are] likely to assault me. The only safe way to serve it is for the police to give it to [them].

If I serve the order [the respondent] is likely to bash me and abuse me.

Removing adolescents using AVITH

In family violence policy settings across Australia, temporary removal of the perpetrator by police is an increasingly common first response used to ensure the immediate safety of those experiencing the violence. Though designed as a response to adult perpetrators of family violence, the PIPA research revealed that it is also employed with children using violence where seen as necessary. The next chapter, on court responses, discusses in further detail the frequency and impacts of court-ordered exclusions, which often serve to give formal extension to a situation already imposed by police. In this section, however, we address the mechanisms by which police temporarily—both formally and informally—seek to remove adolescents using violence from the home, either prior to or in lieu of a formal civil protection order application.

Various legal mechanisms serve to facilitate the removal of an adolescent who is using violence at home, including jurisdiction-specific police orders, which are usually a brief emergency order intended to keep the parties safe while the victim/survivor or police themselves lodge a formal application for a civil protection order. In some jurisdictions police orders are relied on more than in others. In Victoria, they can only be used in relation to adults, although police will attempt to identify temporary accommodation for adolescents where they consider the risk to be sufficient and while an application for an interim civil protection order is prepared.

From a police point of view, when it comes to, like, wanting a child to be excluded it's not something that they would apply for at a whim; it really has to be quite serious for it to get [to] that stage where police would be supportive of applying for that type of order whether it be on a final

basis or on an interim basis. [Participant 1, focus group 12]

Conversely, in WA, police orders appear to be more commonly relied upon than court orders, and can be used in relation to adolescents. Police participants in WA, however, commented that they were not a particularly effective mechanism, other than to separate the parties briefly.

If we go to an incident where we can identify that somebody is the aggressor, then we have the option of issuing a police order, and that can be issued for up to [a] period of 72 hours to separate the parties. So if a young person is the aggressor ... it's a little bit tricky sometimes because mum might have to take them to school or appointments and we'll go, "Oh ok, you need to be apart for the eight-and-a-half hours because in eight-and-a-half hours, you've got to drive him to his next appointment." So we do make some concessions around the times ... [but] the whole idea of the police order is to separate them and give them that time, breathing space to allow and reassess what's going on and just have a bit of time apart. [Participant 2, focus group 3]

Other mechanisms include arrest for the purpose of interviewing and charging in relation to any criminal offence, which can result in a night spent in police custody. Curiously, in Tasmania, the PIPA team heard that arrest is commonly used to *commence* the application for an RO.

Across all the jurisdictions, the PIPA team also heard about, and observed in case files, the use of transport to hospital voluntarily for medical assessment or on a non-voluntary basis pursuant to relevant mental health legislation. Other approaches involve voluntary informal removal to a youth shelter, friend or family member. As indicated by other examples featured throughout this report, an overwhelming theme was the frustration of police and other practitioners that there is often simply nowhere appropriate to take young people in a crisis situation. This could result, as highlighted in previous chapters, in children being placed with an adult perpetrator.

Where youth refuges have been able to provide immediate assistance, the PIPA team also heard that there were bed shortages. We also heard that, in the medium to longer term, these refuges were at times unable to continue to accommodate adolescents with serious behavioural problems, due to the need to protect other residents.

The following exchange between WA practitioners highlights the complete lack of accommodation options for children who use violence and are excluded from the family home. It also demonstrates how this sits within a broader systemic failure to support families early on, or to support young people to engage.

Participant 4: There's no such thing as [child protection], foster parents that take on teenagers. They don't exist. So then we have to go to the youth hostel system, which is if you behave and do everything right—like you've never done in your life—you can stay here.

Participant 10: Set you up there.

Participant 4: You can stay here for 3 months. If not, get out. And I've heard of kids kicked out at midnight. You know ... it's the most insane system you can possibly imagine, in a sense, from a developed, westernised nation that actually understands the mountains of research, and can look at what the rest of the world is doing. WA just do not want to address the early need or fund the early need. And then we keep returning to the very expensive end of the court, and we come backwards and forwards to Magistrates for getting breached for next to nothing. And the kid going back, and then the orders keep getting higher, and higher and higher, and eventually they're placed at Banksia Hill detention centre, where they learn more of this stuff. [Focus group 13]

This was the case in Tasmania as well:

So that's a concern for me because you don't need to be arrested and held in custody for the purpose of making a restraint order and really if you look at the Youth Justice Act, it says that you shouldn't, but the police officers don't know what else to do, probably rightly so because they don't want to leave the kid in the house overnight with

the mum or the younger siblings or whatever. So they hold them in the remand centre overnight. And then that often means that there's accommodation issues going forward if it means that the child can't then return to the family home. [Interview 2]

When the matter comes before a court for a civil protection order application, usually a day or two later, that exclusion is often formally sanctioned and continued. This is then accompanied by the consequences of the child having to stay with an adult perpetrator, who may perpetuate and heighten the child's own risk of continuing to use violence—or may result in the child facing outright homelessness. To this end we heard that discretion is more likely to be used the younger the child is because of the more limited options for alternative safe accommodation.

Yeah a big consideration for the attending police is the age. So if you're looking at 12/13 year olds, they'd be reluctant to put them on police orders ... unless there was no other solution to the problem. But 16/17 year olds, they can go stay with a friend or something like that. [Participant 2, focus group 3]

Proactive and specialist responses

Despite these pressures, the PIPA team heard examples in which interactions with police did not result in a “default” legal response. Positive accounts were predominantly reported in relation to specialist family violence teams, or community-based policing approaches, where dedicated officers could spend more time developing rapport with young people and get to know the context in which they were living. This echoed the benefits of relationship-based practice taken by youth and family services workers discussed in the previous chapter.

One of the girls I worked with, who was charged for the sixth time with family violence ... she can remember the police officer coming out and saying, "Hey, we think you need some assistance, here's this program we think will help, this is the [community support organisation] service." And she can still remember that 2 years later ... But then

there's other ones where it's just like, "Oh, no, they just came and they've said they're going to arrest me and they're going to do this, and they're just pigs and they held me in the cell." [Participant 2, focus group 5]

As explained in Chapter 3, the expansion of the role of Youth Resource Officer (YRO) in Victoria was recommended by the RCFV as one of the improved responses to AVITH. However, the extent to which this was occurring, or perceived to be related to the RCFV where it was occurring, differed across regions. Nevertheless, where this role was in place, particularly in smaller communities, the profile of the YRO was identified as incredibly valuable, including by other police.

I just want to mention that it's also that engagement and rapport because a lot of young kids I work with [are rude] to us in general ... and I'm like, ["I'll pretend] I didn't see your finger up"... I'm always up against that, but then when I say, "Oh, so [YRO's name] is alright?" [The answer is] "Oh, yeah, [YRO's name] is alright." [Participant 10, focus group 4]

Some YROs described some of the activities they undertook.

Yeah so we attend the criminal court sittings. We essentially are amassing a lot of information, talking to people, linking people into services by way of making recommendations for diversions and that comes because we have an intimate knowledge of who these kids are, who they're associating with, what they're doing ... If they come into police custody obviously we can see why, what's happened and ... then make recommendations ... appropriate diversions. [Participant 10, focus group 21]

Non-police practitioners also praised the role of the YRO in their region.

Participant 6 [police participant describing a recently appointed YRO]: I mean she's flat out, she's one person ... but she is out all day every day going to different families.

Participant 5: Huge benefits to kids in resi[dential care].

Participant 6 [police participant]: And they absolutely love her.

Participant 4: She's doing amazing things with kids in resi[dential care]. [Focus group 2]

Many of the strong relationships that proactive policing teams demonstrated involved informal approaches, such as regular visits to schools or meeting with children out of uniform. This was in acknowledgment of the fear and stigma that many adolescents felt about the role of police.

There's a ... very complex young guy that we've got ... [YRO] had been coming to see him but not in uniform ... that's a very different way that you wouldn't have seen 15 years ago ... so building up a relationship, it's me as a person and then one day coming and saying, 'Look, next time I'm coming, I'm going to be coming in uniform' ... It's breaking down an assumption for [the child] that's been programmed into him by his violent father. So it's a very different thing. And I think that's how we get change. [Participant 5, focus group 2]

Police spoke about how important it was to break down barriers and build up trust where police were seen by children only as a threat.

Participant 7: I walk into a school and most kids will say, "Hi", but there will be some that will just be horrified that I'm there ...

Participant 10: There's also been [child protection involvement] so they've generally spent 2 years, "I've been taken away, actually, by police" ...

Participant 7: Yeah, we have a police officer per each school so we're trying to go at lunch time and play footy with them, play stop/go, just go there for half an hour, skip with the girls or something, whatever and then leave and they're like, "Oh, he didn't come to take anyone today?" ... You come back in a week's time and maybe do the same thing ...

Participant 9: Building up a rapport, like building up a trust, showing an interest in them as well, because

probably at home no-one shows an interest. [Focus group 4]

This proactive approach was not limited to Victoria. Similar examples of relationship-building heard in WA and Tasmania explained that part of the objective was to develop trust by demonstrating to children that there were multiple people who cared about them.

Whether or not police were specialist family violence or dedicated youth officers, participants spoke of the need for common sense assessments of the circumstances faced by young people and families in any given situation. However, formal and informal diversionary practices employed by police varied significantly between jurisdictions, depending on the legislative schemes and on internal police procedures and directives.

In Victoria, the PIPA team heard that police generally follow the directive to seek an FVIO at court wherever there is apparent risk, and do so routinely with adolescents using family violence. However, where a criminal offence is identified in the child's conduct, we heard that police will recommend formal diversion for these children in the criminal stream, while simultaneously proceeding with the FVIO. This means that, while the child may have avoided a finding of guilt for criminal charges (which could in turn be regarded as a diversionary approach), the child has not been kept out of the court system in a broader sense and, in fact, is on a trajectory towards further criminal justice involvement by virtue of being on a *civil* protection order.

Although there were a handful of examples where the unique circumstances surrounding AVITH led to a different response from police, this was described as a rarity that could not be predicted, and which depended on the individual skill of specific members. Practitioners reflected on an ongoing contradiction about the effectiveness of police attendance, including a perception that police responses deterred reporting in some cases, but were over-utilised in others.

Participant 7: I find that the parents will often use the police as a secondary parenting strategy ... I had one

recently where the report said, “Police arrived at scene. Parent was agitated that it was two female police officers.” They wanted a male police officer to speak to their son ...

Participant 1: I feel as though the effectiveness [of police attendance], if anything, is probably quite minimal and very, very short lived. Young people at times don't really have the ability, based on their brain structure, especially if they've experienced trauma in the past ... to make the connections between their behaviour and the consequences and thinking about the long term, that kind of thing. It's not addressing the root causes, it's just a bandaid ... the parent will say, the child was remorseful, they were intimidated by the police, but there's always a reason behind the behaviour and having a policeman talk to you for 5 minutes is not going to address the causes behind it.

Participant 2: So with the trained [police], the parents have a very good outcome, but if it's just the available "on the beat" police, they can be a little agro with the parent.

Participant 3: There's been many parents that I work with that have told me that the police have told them off for calling them because they've got more important things to deal with and that it's just a family matter, and it's your son or your daughter and you need to deal with them ... So when you hear responses like that from police, it's really, kind of puts a hole through some of the safety planning with the families. [Focus group 7]

The PIPA team heard examples in which practitioners had seen discretion used by uniformed officers, in which the matters had arguably not been escalated, or where the police had taken as much care as possible to support the adolescent respondents.

I've had two kids where the actual informants have become very involved and they've ... helped to write up ... a safety kind of plan with the kid and made them sign it to be, like, "I will not do this kind of behaviour and if I do then I'm responsible to Constable whoever" and ... that's been really positive.

And the other one where I had a matter actually where a kid was there for family violence, he didn't have [a

protection order] in place, but the police had attached to the brief to be given to the magistrate a full printout of the violence that this kid had suffered as a result of the parent ... a whole lot of bad stuff had happened, and attached it to the brief. And then I became aware of it and I got instructions to let it be handed up because obviously if it doesn't go directly to the case then they shouldn't be able to, but for the magistrate to read it and not to—we wouldn't speak about it in open court, just what happened. And he was referred to diversion with that material provided because then it gave this entire context ... [Participant 5, focus group 12]

I had one informant, or one police officer ... that knew this particular family of both the parents and the young person being the perpetrators of domestic violence. He knew the family quite well and he had been working with them quite often and when there was [a protection order] wanting to be put out against the young person, he actually intervened and said, "No, sorry, you're being ridiculous, this is why this is happening" ... He put his foot down and said, "This kid's 14 years old ... has an intellectual disability ... doesn't know what [they're] doing." [Interview 3]

The use of discretion and, arguably, common sense approaches by police has been identified in some qualitative studies (Holt, 2016a; Howard & Abbott, 2013; Condry & Miles, 2014) in which parents have described the value of police members giving their children a good “talking to”, and even of their children spending a few hours in police cells while attending officers looked for alternative accommodation for them (Holt, 2012). This arguably echoes the desire of the parent, described in the earlier exchange, to have male officers attend the home following a reported incident—presumably in the hope that the officers would either relate more effectively with, or even intimidate, their child.

The PIPA team also heard about examples of police providing informal advice to parents who rang for assistance, including referring them to generic parenting programs. It is difficult to know whether this advice was well placed or misdirected in these cases and on what basis it was provided. The intent, however, was to avoid escalation of violence in relevant

families. Examples of similar informal or discretionary approaches, however, were limited.

I actually am not that hopeful. I don't think that as a society we deal with young people very sensitively at all ... Probably the best thing I've seen in recent times was we had a young fellow who [had] a lot of behaviours of protest. He was intellectually disabled and his mum just got to the point where she applied for [a protection order], there were lots of flare-ups in the house and then she was worried about the impact of his aggression on the younger sibling, so valid concerns. She needed a lot of help in managing him, she applied for and received [a protection order] and then there were multiple flare-ups over the next little bit ... and his teacher at school would support him through court and remained a consistent point for him and the police on the three occasions where they attended didn't charge him with breach of [the order]. They just took a protective response. At the end of the day it was finally triggered through into a more specialist mental health and disability assessment and they got better assistance ... but geez there's a bucket load of trauma to get to that point. [Participant 3, focus group 11]

Seeking court protection for victims

As indicated at the outset of this chapter, ultimately police attend incidents that represent a crisis for families and have an obligation to protect those involved. As indicated in Case study 14, this means that police often feel that ongoing risk is present and that they must either advise a victim to apply for a civil protection order or apply for that order on their behalf. While the PIPA team recognises that a legal response is frequently not the most appropriate response to AVITH, given that it can propel adolescents towards criminal justice system involvement (Hunter & Piper, 2012), this chapter demonstrates that, in some cases, police responses are the most appropriate responses where they are able to increase safety and reduce risk. As this chapter also demonstrates, however, these responses need to involve discretion and flexibility, tailored to individual circumstances. They also need to be supported by expert service referrals and support, as well as specialist risk assessment. As the next chapter indicates, this is equally the case for court-based responses.

Case study 14⁶⁵

Police were called to a family violence incident at the respondent's home where he lives with his parents. There were multiple previous callouts and a previous order in place. The mother stated that the respondent's behaviour was increasingly uncontrollable, and that he would cause significant damage to the house and threaten to physically assault his mother when he did not get what he wanted or when she tried to impose rules regarding behaviour. On one occasion the respondent picked up a knife during an argument and held it up. Police indicated that the family had said they needed a range of additional supports and services and had been unable to access these. Police applied to the court for a safe contact order, stating that it was necessary to ensure that the family was protected from the respondent's behaviour.

Police attended and applied for a safe contact protection order. An interim order was made in the parties' absence, and when the matter later returned to court, the respondent was not present, but a very brief final safe contact order was made.

⁶⁵ This case study is constructed from a composite of multiple features taken from aggregate case file data to avoid the risk of re-identification. It therefore does *not* represent an individual person or family's story.

Court responses

This chapter explores the impacts of court responses, including the implications of interim orders that formalise the exclusion of an adolescent from the home.

The chapter also considers the capacity of children to understand and comply with civil orders and compares and contrasts the lack of attention given to this issue with requirements to consider children’s capacity in criminal justice contexts. The PIPA team has also endeavoured to highlight promising indications of approaches that can make a positive difference. This includes an example of promising practice and innovation of the implementation of a specific recommendation from the RCFV, as well as an informal example of good practice that was reported to us during the course of the project.

This chapter explores the responses that adolescents and their families receive when a matter reaches court. Much of this discussion is linked with the trajectory of broader justice responses, although there are obviously significant ways in which a court can alter or redirect this trajectory, given appropriate tools.

As explained in Chapter 3, substantial differences exist in the legislative frameworks across the participating jurisdictions which could lend themselves to quite detailed comparative legal analysis. However, the PIPA team has elected to explore court responses through discussion of broad themes, with distinctions then made at each jurisdictional level where relevant, or where findings are available. This is because this report is concerned with the context of family violence systems and the resulting “front-end” of contact with the legal system, rather than with a detailed analysis of the implications of different legislative and legal practice frameworks.

The use of civil protection orders in the context of AVITH

The fundamental objective of civil protection orders in the context of family violence matters is to prevent future family violence where a court is satisfied that a protected person is in fear and that their safety is at risk. The use of civil protection orders has become increasingly common in family violence responses around Australia—and has certainly been the predominant response in Victoria—in part because of challenges involved in prosecuting family violence-related offences and because the full scope of family

violence is much broader than behaviour that satisfies the criteria of criminal offences (Wilcox, 2010).

The challenges of prosecuting family violence matters include the fact that criminal processes are focused on incidents, rather than patterns, of behaviour. Further, criminal prosecution relies on evidence from witnesses, with the most relevant witnesses being the victims/survivors of violence. In many cases victims/survivors do not wish to provide a statement to police for fear of repercussion from the perpetrator or, alternatively, because they do not necessarily wish to see the perpetrator—in most cases, their current or former intimate partner—criminalised, but simply for the violence and abuse to stop (Douglas & Godden, 2003).

That said, historically the burden of bringing a civil protection order application has fallen to the victim/survivor of violence, meaning that they may still need to encounter the respondent at court and be pressured either to discontinue the application for fear of reprisal or withdraw or vary the order at a later date. For these reasons, police have begun to assume the responsibility of applying for civil protection orders so that the “blame” from the respondent can be directed towards police, as well as towards the court (Wilcox, 2010).

Overall, the use of civil protection orders in the context of adult respondents is regarded as effective, although a consistently high number are contravened or “breached” during the course of any year. Certainly, an increasing body of research points to the fact that many adult respondents to protection orders simply do not understand either the basis for the order, the authority of the court to impose an

order in a civil context or the particular conditions that the orders contain (Chung, Green, Smith, & Leggett, 2014). Further, research also points to the high breach rates from respondents with cognitive impairment, including acquired brain injury (Victoria Legal Aid, 2016b). Where children are involved, the capacity to understand, let alone comply, is likely to be even more limited—particularly when children are likely to be dependent on the affected person, not only for their welfare, but for their ability to attend services to which they may have been referred by a court.⁶⁶

In addition, while the cultural shift from police has been dramatic in recent years—from the historical complaint that police will regard a family violence matter as simply “a domestic”, to family violence occupying a significant proportion of their workload⁶⁷—arguably the zero tolerance approach now being taken by police in some jurisdictions has left little room for discretion or flexible approaches where vulnerable respondents are involved. Conversely, the nature of the legislative and policy landscape impacts on police and court responses in a variety of ways. The question for this research, therefore, is whether the stated objective of civil protection order mechanisms—being to prevent future violence and ensure safety—is being met.

Victoria

As the previous chapter signalled, aspects of a proactive policing response to family violence are mirrored in the Victorian court response. Courts encounter FVIO applications fairly swiftly after police attendance at a family violence incident, but without a police order in place as the Victorian legislative regime does not allow this. Given that police are directed to apply for an FVIO in *any* situation in which they determine that risk may be present, and on no account to direct the victim to apply for it on their own accord (Victoria Police, 2017), this inevitably leads to a significant number of applications against children being made by police.

As the Victoria Police Code of Conduct essentially removes discretion from sworn members in terms of electing *not to* apply for an FVIO, this arguably leaves the bulk of decision-making to courts. The question, however, is the extent to which courts assume this responsibility in any detail or instead—and somewhat paradoxically—defer to the police decision to apply for an FVIO as sufficient indication that an FVIO is warranted.

As further subsections in this chapter explore, the resources and systems are often simply not in place for adequate risk assessment to be conducted or for children and families to be supported by appropriate services. This means that, where risk assessment has not been conducted, or where courts defer to the police decision, arguably all that is occurring when a child is brought before a court as a respondent to an FVIO is that risk is handed back and forth between different parts of the justice system, rather than addressed.

In the vast majority of cases, FVIO applications are adjourned at first instance, while parties are contacted and further information is sought in relation to the application. However, the research process showed that an interim FVIO seems to be imposed at this adjournment whenever police apply for an FVIO. In this respect, the customary response in Victoria is for some sort of civil order to be imposed at first instance in the vast majority of cases.

While ostensibly of a temporary nature and legally distinct from a final FVIO, interim orders have the same legal consequences for the parties, and contravention of the interim order constitutes the same criminal offence as contravention of a final order.

The following quote from a lawyer depicts this reality and the perception of the high stakes for adolescent clients facing an interim order:

The best outcome is, let’s adjourn for 3 months, fight like hell to avoid an interim order, which again for the police you just have to go so hard to try and avoid an interim, because that’s the guidelines, they have to. [Participant 6, focus group 2]

⁶⁶ While there is limited information available about breach rates for child respondents, Purcell et al. (2014, p. 561) conducted a review of protection order applications against children in the Children’s Court of Victoria spanning 3 years and identified a breach rate of 32 percent.

⁶⁷ In Victoria, in particular, approximately 70 percent of all protection order applications are brought by police (Victoria Police, 2017).

Overall, the vast majority of Victorian practitioners—both from legal and from wider service sectors—were highly critical of the use of civil protection orders against children, as well as the default response of police in terms of seeking an FVIO, even where courts may have doubts.

The magistrate made a very eloquent speech to the [police civil] prosecutor saying you should really take into account the difficulties in exposing young people to criminalisation ... and the prosecution just would not move, they were just like ... “Nup.” [Participant 6, focus group 1]

[I] would never recommend it [the imposition of protection orders on children], I really wouldn't ... kids start racking up criminal charges that way and it builds up from that ... I can't recall seeing anything good come from [a protection order]. [Participant 6, focus group 11]

Western Australia

In WA, where police can impose short-term orders on children and where civil VROs have theoretically been able to be imposed on adolescents for some time, courts can potentially encounter applications for VROs—and now family violence-specific VROs—against children, including where police orders may already be in place. In most cases these VRO applications will not have been brought by police, although the recent reforms may potentially be changing this.

With the shifting legislative environment in WA during the project and the fact that LAWA is not resourced to provide assistance in civil matters, the PIPA team did not have an opportunity to look at the use of civil VROs against adolescents. That said, our case file audit of criminal cases suggested that VROs are rarely used against young people. Only three cases in 100 involved VRO breach, and just one of those three was for a case that the PIPA team could classify as “potential AVITH”, being between sisters. However, it was very difficult to determine the circumstances in enough detail, as there was no detail about the nature of the conduct that had led to the VRO being imposed. In addition, one of the AVITH cases involved a 72-hour police order being issued against a 17-year-old male using violence at home, and his criminal charges related to breaching this order.

In general, we heard from practitioners that VROs were uncommon in AVITH situations, but some practitioners felt that an increase was occurring. This was generally in relation to non-family violence matters, however, such as school bullying.

It happens every now and again that a parent will very unusually take out a restraining order against their own child. In my experience, it's only done in circumstances of extremity and it's only done for a short basis because the parents actually have just come to the end of their tether ... They haven't been able to get the relevant help ... The other thing, which happens much more frequently, is that parents with children [in a fight] with other children, say 8-year-olds at school, they take restraining orders out for their child against the other child ... [Participant 14, focus group 18]

Practitioners in WA had strong views about the inappropriateness of imposing VROs on adolescent respondents. Some felt that parents' concerns about criminalisation would act as a barrier to reporting and seeking orders, as well as accessing service system support.

You tell the parent you need to go and get a family violence order or go to the police against their child and they almost invariably say, “no, no, no, never, never, never”—unless they're really in fear for their life. And that just seems to be something that applies right across the board, socio-economically speaking. And so there needs to be something else that had a little bit of legal teeth but didn't involve quite the disincentive of going to the police or getting a restraining order. [Participant 4, focus group 19]

Some also observed that a protection order can sever the supports on which young people depend to address underlying issues. Where the conditions of a protection order or the legal response in general do not replace the support, challenges facing a young person can spiral.

There's a small percentage at least who ... they're not involved with Juvenile Justice. Their parents have, or their

parent has tolerated the difficult behaviour. Then they get to the point they want the restraining order ... the department won't take them into care. And they're going to be quite difficult to help because ... the parent might still be able to contact them, or they can still have dealings with them. But the parent's then lost or isn't in a position to help them access the services they need. [Participant 2, focus group 18]

Practitioners' concerns also related to the implications of the new legislation. As referred to in Chapter 4, this included concerns for children exhibiting problematic sexual behaviour, but it also included children caught up in the out-of-home care system. As discussed earlier in this report, civil protection orders or criminal charges may be more likely to be brought against children in out-of-home care because staff in these facilities are more likely to be willing—or even obliged—than a parent to make statements or to otherwise support an application.

Bringing it back to the restraining order, the legislation—at this point, the department is seeking advice and a review of the legislation as we understand it, because they are not sure whether, as the department, they should be seeking restraining orders on behalf of staff when they're *in loco parentis*.⁶⁸ And there's nobody else to take the children anyway. And potentially, if a VRO was imposed by the victim of an alleged assault, whether the child would have to move, or the worker would have to move, and invariably it's the child who's shifted all over the place. [Participant 2, focus group 18]

Tasmania

As explained in Chapter 2, the PIPA team reviewed the court files for all RO applications against child respondents received by the Magistrates Court of Tasmania for the financial year 2016–17 across the whole of Tasmania. Ultimately, 52 court files were examined, relating to 45 individual child respondents (some of whom were the subject of multiple separate appli-

cations).⁶⁹ Of the 52 applications, 19 (36%) involved conduct that could be considered AVITH.

The PIPA team also reviewed eight files from Legal Aid Tasmania that were able to be identified as relating to breach of an RO by an adolescent in the context of circumstances that would satisfy the definition of family violence. The Legal Aid Tasmania cases, which have informed the development of some case studies featured in this report, demonstrate that, while the numbers of children who are respondents to ROs are low, the complexity of their matters is very high.

In contrast to the Victorian FVIO system, in the Tasmanian AVITH cases, police seemed to apply for ROs not as a fairly immediate/early response but in cases of extremely serious physical violence or where they had already been called out many times over a long period. It seems to be seen as a last resort where other police involvement has had no impact and the violence has continued to escalate. Some applications contained notes by police regarding extensive efforts at linking adolescents with support via school or other community links prior to taking the course of applying for an order.

As noted in the previous chapter, a lack of respite or crisis accommodation meant that practitioners in the Tasmanian context were seeing children placed in custody, even where charges had not been laid, as police had no other options.

Participant 2: I have youth clients with parents that have protective orders against them from as young as 11 or 12 ... Frequently they'll come in because the mother has taken out a restraint order against them. So, the problem for youth justice is that police don't know what to do with them, so the night that the incident occurs, or is alleged to have occurred, they file an application for a restraint order but they don't know what to do with them that night, so they lock them up. And that's how I become aware of them because they're brought to court for the purposes of making the restraint order ... Strangely enough in my experience in violence inflicted against parents, it's often their first introduction to the youth justice system. So there might be some cautions for cannabis use or something like that, but quite often it's the first time that they've actually been brought into the system.

⁶⁸ The legal responsibility of an individual or organisation to take on the responsibilities of a parent.

⁶⁹ Overall, RO applications against child respondents made up 4 percent of the total RO applications for the court in that year.

Participant 1: Because they do try to keep them out. But then when it gets to that stage, that's the thing that breaks, there's nothing in the system to cope with it. [Focus group 9]

What happens when a protection order application comes to court?

The bulk of the discussion in this subsection is drawn from the Victorian and Tasmanian components of the research, given the small number of VRO matters featured in the WA case file audit. The discussion includes an analysis of where interim, as opposed to final, orders are made and the circumstances in which this may occur. It also explores the limited options available to courts or to legal practitioners who represent adolescents once the matter comes to court.

Victoria

From the merged sample of Victorian cases, excluding some in which a final outcome was not recorded, there were 105 cases with final outcomes available. In 37 percent of cases, a final order allowing for "limited safe contact" was made. These are generally orders that have no conditions regarding where the respondent must live and do not aim to separate the parties. In this context, a safe contact order allows the adolescent respondent to continue living at home, while most often explicitly prohibiting the use of family violence against the affected person or from getting others to do so.

The potential AVITH cases that the PIPA team reviewed often also included a separate condition specifically prohibiting damaging the property of the AFM. Almost all applications that resulted in a final safe contact order being made also involved an initial adjournment period with an interim safe contact order in place. In a very small minority of cases, where the respondent was present at court and consenting to an order, a final safe contact order was made without any adjournments.

In more than half the cases reviewed (54%), the application was ultimately withdrawn or struck out, due to not being

supported by affected persons and no longer being pursued by police. In 72 percent of those cases, this withdrawal occurred after an adjournment period of one–6 months, during which time the adolescent respondent was subject to an interim FVIO. In 6 percent of cases, the matter was withdrawn or struck out upon the respondent entering an undertaking not to use family violence, either at first instance or following an adjournment period during which there was no interim order in place. There were a further very small number of cases that also resulted in undertakings after a period of time with an interim order in place.

An undertaking is a formal written promise, in this case to the affected person, as well as to the magistrate, not to commit family violence. Contravention of an undertaking does not carry criminal penalties, but the applicant in a family violence matter, in this context, must agree to the undertaking for this outcome to be acceptable to the court. Given that police are the applicants in most FVIO matters involving adolescent respondents, this likely presents further barriers to adolescent respondents avoiding the risk of criminal penalties as police may be less likely to agree to an undertaking and insist instead on a formal order.

The PIPA team heard slightly contradictory accounts in focus groups about the likely outcomes for adolescents appearing in the Children's Court jurisdiction, particularly in terms of whether an interim FVIO would be imposed or whether an undertaking would be accepted. Legal practitioners told us that, while it had been fairly commonplace for the court and Victoria Police to accept undertakings in the past (and therefore not impose an interim FVIO), this was not such a common occurrence anymore.

In terms of the under 18s in the kids' court what we would do on duty with kids who are turning up as respondents is usually to adjourn it into Melbourne to the Children's Court there because then there are appropriate services in the Children's Court ... and that the Children's Court potentially could make a request for [the relevant department] to do a ... review to make sure that, you know, there's not something else happening for the young person. So ... our general practice is that we would send kids into Melbourne if it can't be sorted to an undertaking

on the day, and that's usually what our lawyers will stop at. [Participant 5, focus group 12]

Based on notes available on court files and lawyers' file notes of appearances, the PIPA team determined that, in a little more than one-quarter of cases, the reason given for an adjournment explicitly involved asking police to conduct a risk assessment (11% of cases) or the court itself to monitor the respondent's compliance with interim FVIO conditions and/or engagement with services to which the court may have referred or directed them (a further 15% of cases).

In one case, a condition of an interim FVIO was that the whole family should engage in counselling with a specified provider. It is difficult to imagine how a respondent could legally be held accountable for contravention of such a condition. However, this might instead indicate that courts are struggling—with the limited and inappropriate tools available—to steer whole families towards addressing their complex issues.

In another case, the respondent disclosed that the affected person, his father, was violent. The court issued an interim safe contact FVIO to the adolescent respondent, but simultaneously asked the father to enter into an undertaking not to use family violence. Again, it is difficult to conceive how such an undertaking could have any legal effect, but it appears to reflect the magistrate's struggle to shape the process to offer a meaningful or useful response to the reality of the complex situations coming before the court.

Despite the reluctance of police to accept undertakings referred to above, the PIPA team heard from some participants that the status quo of undertakings being routinely opposed by police in favour of FVIOs appears to have been affected by the introduction of youth diversion. This was because, where there are also criminal charges in place and a diversion plan is prepared and agreed to, this may be starting to inspire confidence that an undertaking may in fact be appropriate.

Participant 1: I know from previous experience that we would always try to get undertakings for kids instead of

formal intervention orders, just so it protects them a little bit from having heaps of breach of [protection orders].

Participant 3: There's certainly been a shift at [location] ... now we've got diversion it creates a pathway that allows you to do that and up until recently, the police would absolutely say no to undertakings, when [they are] the applicant but, over the last ... probably only ... 3–4 months, on a couple of times the police prosecutor has offered an undertaking which surprised me, I thought, "You don't do undertakings", I gave up asking. So certainly over the last few months, I've had a couple where we've been able to work out an undertaking. [Focus group 1]

That said, practitioners further reported that practice varied at different court locations—in terms of what particular police teams were prepared to consider, as well what particular magistrates were prepared to accept.

Participant 5: I had an instance where ... a kid was removed from the family home ... and she was put on a child protection order and there was an intervention order in place and then the intervention order said she couldn't go home, but in the meantime [child protection] returned her to the family home against the [protection] orders. So she'd been living in this home for about 5 months before anyone realised what was going on ... I made an application with mum there to vary the [protection] order on the basis that she'd been returned home by the department. The magistrate didn't want a bar of it ... he just flat out wouldn't do it. So now the kid that had been returned back home had to leave home before we could get it figured out. I sent the matter to the Melbourne court the next day because that's where the [protection] order was sitting. The magistrate varied the order ... I just worked out what happened and he did a [variation]. So they take a much more pragmatic approach ...

Participant 2: You find courts that make the [protection] orders will just make them without thinking twice about it, without either worrying if there's actually been any family violence or if it's needed to prevent family violence from happening, they just make the order. And then you're stuck with an order in place that a kid is likely to breach and it perpetuates. And the risk averse nature of not only the police, but also the magistrates.

Participant 6: I think it's a real reluctance to talk about undertakings at all with the police sometimes. Even to get them to sit down and really discuss it. They just go, "Nup." [Focus group 1]

The overall intention of most courts, however—and certainly of lawyers acting for children who were represented—was to use an adjournment period to enable respondents to be linked with appropriate services to address their behaviour. The PIPA team heard that, where this cannot occur for lack of service availability, this is an opportunity lost, a concern echoed in wider literature about legal responses to adolescents using family violence (Gebo, 2007).

Like everyone knows, this is an informal process where we sort of try and we see the kid initially who's perpetrated violence in the home and we'll often negotiate with the police to have a short adjournment of a couple of months and ... sometimes there's already an interim order in place. If there's not, we'll try and argue there shouldn't be one, but, you know that's variously successful. And in that intervening period we try and put all the supports in place around the kid that we can and get them linked into services and hopefully when they come back to the court, there's been a period where things have been going well at home now that steps have been taken to address the underlying reasons for the violence and hopefully when it comes back to court, there's more of a chance that everyone decides the order isn't needed anymore. [Participant 4, focus group 6]

The PIPA team heard that the lack of available services—including, in many cases, a lack of awareness on the part of practitioners where services were available—had an impact on the capacity of legal or other practitioners to support their clients with appropriate referrals and engagement during this adjournment period.

Let's put the gun to the head of the child for 3 months, or try to avoid that with no interim and in that time let's go to the [local AVITH-specific] program ... the magistrates love it ... [so] I make ... the panicky phone call to [the AVITH-specific service] or ring down to Headspace and

go, "What have you got?" That's not my area of expertise and even if I can get something done in that 3 months, [it's] like, "See ya at the adjournment date, I hope everything's ok, ring me if anything goes wrong." I can't be sure that that family is going to be able to get into that service. [Participant 7, focus group 2]

Exclusion provisions

In Victoria, where courts hear police applications for civil protection orders against children, the PIPA team heard from practitioners that exclusion was fairly common. The case file audit of Children's Court of Victoria applications⁷⁰ revealed that some form of exclusion condition, whether on an interim or final order, was imposed in 31 percent of cases in which the respondent was excluded from an address where they usually or sometimes lived. For example, cases where they were excluded from the home of a separated father where they lived part of the time were included. In a small number of cases, exclusion was attached as a condition to a full and final FVIO, but three-quarters of the orders that had an exclusion condition attached were interim orders, most of which ultimately ended with the application being withdrawn.

Further, and as above, the very limited requirements of the Victorian legislation regarding where children can be placed outside of the family home in this context means that only fairly cursory inquiries appear to be made in relation to the suitability of the person with whom the child will be residing, especially during the period of an interim order. This means that no formal assessment is mandated in relation to how risk may simply be displaced by the exclusion, rather than minimised, whether it be in relation to the risk the child poses or faces.

Consequently, of the almost one-third of children who were the subject of an exclusion clause on an FVIO, the case file

⁷⁰ In this context we have only looked at the Children's Court of Victoria sample rather than all Victorian samples because only the Children's Court of Victoria sample consistently contained clear notations of the conditions on interim orders, as well as final orders. There were too many data missing on this point in other samples and therefore the legal practice files were not included.

audit revealed that children are most commonly placed with their grandmother (21%), a separated father (12%) or a girlfriend (8%). In these cases, no formal risk assessment was conducted in relation to what risk the adolescent might pose or face in relation to these placements.

The proportions of these particular exclusions are likely to be higher, but it was not always clear from the information available on files reviewed who the adolescent respondent was staying with when excluded: files sometimes noted that the adolescent was staying with a “relative”; on occasion referred to a friend, residential care or (on one occasion) a motel; and sometimes provided no information. With no AVITH-specific risk assessments in place at the time, the PIPA team’s conclusion was that, in all likelihood, this meant that the risk had simply been dispersed, or at best delayed, rather than addressed in any meaningful way.

In some cases, the risk that an adolescent poses to his or her mother may, in fact, escalate as a result of removal. This may be because of resentment towards the mother for calling the police or because an order removing the child to a separated father who may be a perpetrator risks fuelling the child’s behaviour in a number of ways. This can include exposing the child to further abuse directly targeted towards them, as well as exposing the child to negative discourse about the mother, which can serve to undermine the mother–child bond further (Douglas & Walsh, 2018). Here the application of the AVITH-specific considerations in the revised Victorian risk assessment and management framework (the MARAM) will be relevant.

Another example of this potential displacement or shifting of risk was seen in a case reviewed in which information indicated a possible history of family violence from the father towards the mother, and the two had separated from each other. The adolescent was living with the father when police were called in relation to the adolescent assaulting the father and damaging his property. An interim order was imposed and excluded the adolescent from the father’s home and the adolescent went to stay with their mother.

Of course, where family members fear for their own or for other children’s safety, interventions need to be available. We also found that exclusion interim orders were often used for a shorter period of time, measured in weeks rather than months, suggesting the court seeks to monitor them closely. Because of all the risks described above, however, focus group participants across *all* jurisdictions identified a desperate need for appropriate therapeutic services in which children could be placed for a short time.

Further, in Tasmania, practitioners observed that adolescents who were supported by a family member—usually the mother—were less likely to be subject to exclusion clauses in relation to ROs, whereas children living in more chaotic circumstances and already more vulnerable to criminalisation were more likely to be excluded from the home.

As discussed in Chapter 3, the acute need for crisis accommodation for children using family violence was the subject of a recommendation by the RCFV, which recognised that adolescent perpetrators need dedicated and specific accommodation beyond the additional accommodation that was also recommended for children experiencing family violence. In particular, the RCFV recognised the need for this accommodation to be linked with therapeutic support so that children could immediately be linked in with services that could provide assistance and address co-occurring factors such as mental health issues or substance misuse (State of Victoria, 2016d).

However, this recommendation has yet to be implemented specifically or allocated any specific resourcing, with the government pointing instead to an increase in funding for accommodation for women and children made homeless as a result of family violence, without targeted recognition that the needs of children using family violence may be different for a variety of reasons (State of Victoria, 2018a). Until adequate and appropriate services are available in these circumstances, children will continue to be placed in potentially dangerous situations by police simply because police have no other options.

Consequences of contravention or breach

Regardless of the referrals and service engagements that practitioners were able to facilitate as a result of interaction with the court, the PIPA team heard almost universal condemnation about the usefulness of civil protection orders in relation to adolescent respondents. This is echoed in existing literature, which highlights the way in which the imposition of an order can function as a source of further tension, or damage the relationship between parent and child in the long term, despite reducing AVITH in the short term (Howard & Abbott, 2013). Other studies, however, indicate that parents find protection orders useful in some circumstances (Gallagher, 2004).

In terms of the feedback from practitioner participants in the PIPA project, practitioners had concerns not only in relation to children with disabilities, but also in relation to children's overall capacity to understand or comply with civil protection orders, given their age and developmental stage.

I'm just going to preface this with it's not personal, the system doesn't work ... Firstly in terms of ... capacity of kids and the way, adolescent brains in general plus trauma plus developmental delay, all the things we know are happening with our kids, the Act [*Family Violence Protection Act 2008* (Vic)] in no way recognises or considers whether a person who is a respondent to a [protection order] has the capacity to understand it. In the *Personal Safety Intervention Orders Act* [2010 (Vic)], the magistrate is specifically required to consider for an interim order whether, if the person is a child, do they have capacity? Or if they have an intellectual disability or some sort of cognitive disability, can they understand the order? There's no provision in the Act [*Family Violence Protection Act*], which is insane ... And sometimes depending on the bench draw ... though it's not in the Act, you can go, "Your Honour, I can't take instructions. I don't deem this person capable of having capacity." Certain magistrates will go to the prosecutor, "You want to push on with this really? This kid doesn't understand." And the police will eventually withdraw. But a lot of magistrates won't, [they] go, "Look, is there family violence? Is it likely to keep

happening?" Boom ... So I don't want those kids in court even for a [protection order]. [Participant 7, focus group 2]

As referred to by the practitioner quoted above, it is important to remember by comparison that children's capacity to understand the charges brought or orders made against them in *criminal* contexts is an issue that courts consider.

We've had a few cases where the parents have still contacted the young person, so they get confused. They think, well hang on, my parents are calling me, they're breaching the [protection order], I'm breaching the [protection order], but then if it goes back to court, I get in trouble, but my parents don't, even though they're the ones that have initiated it ... [Interview 3]

It is important to note that practitioners, other than legal practitioners, regularly observed problems with their clients' lack of understanding regarding civil protection orders, including needing to locate the order for them and then explain the basic concepts.

I'm not a lawyer, but these are general terms that you need to know, so going to Nan's house when it says you're not allowed go to Nan's house, even just to pick up the mail, that's breaching the order. That's a whole other level again. That's a different court. And they'll ... they've lost the bit of paper ... I've had clients with [intellectual disabilities] who don't understand. No-one's explained it to them and if they have, they've forgotten that, so who's their advocate there ... ? [Participant 10, focus group 4]

Case study 15 represents how, in some cases, considerations about a child's comprehension of, or capacity to follow, an order are explicitly raised and deferred until such time as they come into contact with the criminal justice system. Legislatively, this is correct because possible lack of capacity to understand orders—due either to immaturity or disability—does not prevent the making of a civil protection order across any of the jurisdictions included in this research. This is in contrast to criminal law across all Australian states and territories, where, for children aged 10–14 years, a rebuttable presumption that they lack capacity to form the requisite

Case study 15⁷¹

Police applied for a safe contact order on behalf of the respondent's mother in relation to the respondent's use of violence in the home. The mother did not want police involvement, but told police that she was hoping that attending court regarding her son's behaviour would lead to some supports being put in place. An interim safe contact protection order was made while the matter was adjourned. Police persisted with seeking a protection order, as they did not believe that an undertaking by the respondent not to use violence was sufficient to protect the mother.

The respondent's lawyer submitted that the respondent was not capable of understanding the ramifications of a protection order due to his young age—he was under 14 at the time. File notes record that the Magistrate observed that the respondent's capacity to understand the order was only relevant if he breached the order and was charged with an offence. Ultimately, after an extended period of time with an interim order in place, the matter was withdrawn with an undertaking that the respondent would continue to engage with existing medical treatment for a mental health condition.

71 This case study is constructed from a composite of multiple features taken from aggregate case file data to avoid the risk of re-identification. It therefore does *not* represent an individual person or family's story.

intent to offend (*doli incapax*), and therefore to be prosecuted, applies. While it is correct that *doli incapax* is not recognised in the civil protection order schemes examined in this research, simply deferring the relevance of capacity on the ultimate outcome is arguably an unnecessary drain on public resources and on the court's time. It also undermines the important policy reasons for the *doli incapax* rule's application in criminal law (AIC, 2005).

Practitioners described flow-on effects as occurring when civil protection orders are imposed on children who may not have capacity to understand or comply.

Some practitioners also specifically expressed concern about the impacts of protection order breaches on adolescents from communities already experiencing criminal justice system contact at disproportionate rates.

[A protection] order ... criminalises behaviour that either the child can't help or doesn't understand ... I think that's an issue with the way that it's sometimes dealt with by police. It's sold to parents as, "This will stop him from hitting you ... why wouldn't that be a good idea?" And parents are desperate and go, "Yeah please make that stop." And it's not explained that, "Well, mum doesn't have to call the police. The neighbour can call the police or someone walking past the house can call the police." And then they're in the [divisional] van and I'll see them in the cells tomorrow. [Participant 7, focus group 2]

So they'd be breached on an order so they couldn't be back home with mum or dad or whoever and then they essentially become homeless which puts them in a whole other trajectory and although child protection is meant to step in then, that often doesn't happen for various reasons ... A lot of it is actually breaches of family violence orders. [Participant 4, focus group 2]

I think that [protection] orders should only be put in place in the most extreme situations for people under 18. Like the most horrific, terrible situations when you've tried everything else and you've adjourned and you've come back and you've done referrals and it's all whatever, and then it goes to shit, and then you still need an ...

order. That should be the situation ... if for some reason their lawyer is saying, "Yeah, you should agree to [a protection order]" I think magistrates should be saying, "Well, that is the absolute last option, so let's try some other stuff first." [Participant 5, focus group 12]

In WA, too, practitioners expressed concern about the trajectory of civil protection orders, which they essentially saw as criminalising, when families actually needed other kinds of support.

I think that's one of the limitations with the legal responses that we've got. One is a police order, which on the one hand can be a better tool for parents because it's someone else telling their child that they can't be there, rather than a parent saying they can't be there. And it might be short-term if there was somewhere for them to go. But a restraining order that is one as a parent applying against a child is really difficult when it happens. And I think the [protection] order isn't always the best tool ... they can be used as a ... behavioural management tool with criminal consequences. So, it is criminalising behavioural management approaches, really, and that's not ... it wouldn't be what I expect most parents would want to be the answer in that really complex situation. [Participant 10, focus group 18]

In Tasmania, involvement in AVITH-type RO applications seems potentially to be one of the earlier indicators that the adolescent is likely to become heavily involved in the criminal justice system, with escalating seriousness of offending. Further, the RO system seems actively to accelerate the process of criminal justice involvement without achieving much else.

The PIPA team heard that adolescents were unlikely to be legally represented in most RO cases, as there was no public legal assistance available in these circumstances. Legal Aid Tasmania practitioners provided informal duty lawyer services and advice in civil RO matters, so were able to make observations based on this broad experience, but they only formally opened files in a small number of cases. Lack of legal representation may decrease an adolescent's

comprehension of an RO and *increase* the likelihood of breach or complications in the event that families return to court for a variation or revocation.

[Regarding comprehension] I have my doubts about that. They understand “don’t assault”, for example. But often ... you’ve explained the order to the child that they can’t abuse or harass or stalk or whatever ... and you go through each element of it and explain what that means but you’ll later hear about the child saying to their mum, “I’m not breaching the order if I don’t assault you” ... [Participant 2, focus group 9]

In Tasmania the case file audit also revealed that, of all RO matters in which adolescents were respondents, the majority of children were not legally represented. Legal Aid Tasmania appeared on the record as duty lawyer in eight out of 52 applications, but with some of those applications being multiples pertaining to one single respondent. In all Legal Aid, Tasmania represented six out of 45 individual adolescent respondents in a duty lawyer capacity.

Of the 19 RO files identified as AVITH related, six (32%) proceeded to final orders being made without the adolescent ever attending court. A further three cases involved no attendance at any stage by the respondents and then the matters were dismissed because the applicants were also not present or represented.

Further, correspondence on one file indicated that some individuals connected with the matter believed that an adolescent subject to a final order who had never attended court and had never been represented did not have capacity to understand or comply with the order due to intellectual disability. The court had no way of knowing this, however, when making the order.

Of particular interest to the PIPA team was a contradiction we discovered between an explanation regarding the policy basis for the limited Tasmanian legislative definition of family violence and the consequences of the differing legal responses for matters that fitted this definition. These observations were not made consecutively, although they were made in

the same focus group, and only stood out to the PIPA team as contradictory on analysis.

Participant 1: So there was a decision made not to bring any other forms of family violence into the definition under the Family Violence Act, when it was recognised that a criminal justice response probably isn’t going to be the best one in other circumstances, such as elder abuse and adolescent violence, because probably what they want to look at it is more therapeutic ...

Participant 2: [On distinction between ROs and family violence orders] ... The penalties do tend to be about the same but technically they’re less for the restraining order than the penalty assigned for a family violence matter and the restraining orders don’t have any of the therapeutic stuff or support services attached. [Focus group 9]

When read together, what these two observations seem to suggest is that, while policy-makers may have preferred a more therapeutic approach for family violence matters that did not involve intimate partner violence, in practice, adolescents, at least, are experiencing a *less* therapeutic intervention by virtue of a different, albeit generic, legal response to their use of violence against family members.

By contrast, the PIPA team heard that an increasing number of older adolescents were becoming respondents to specific family violence orders under the legislation in the context of intimate partner violence. Arguably, this means that these adolescents are experiencing a different legal response and pathway for use of violent behaviour against different people.

When legal service responses increase risk, rather than address it

Most concerning in terms of the civil protection order system meeting its objectives, as flagged in Chapter 4, the PIPA team heard about or reviewed cases in which the legal process was escalating risk, rather than addressing it. This included practitioner observations that legal responses generally “individualise” the problem to the child/accused/respondent, when it is the whole family that needs help. It also includes

cases when the legal process puts the label of “perpetrator” on a child alone, where multiple members of a family were using violence—a label which can then propel adolescents down the path of criminalisation and involvement with youth justice systems, which can continue to compound and entrench harm (Malvaso, Delfabbro, & Day, 2018; Malvaso, Delfabbro, Day, & Nobes, 2018).

The criminal process or the [protection] order is often the precipitating event for an intervention. And then, because of the nature of the legal process, it’s often very individualised. So, the kid gets [the order or] charged with a criminal offence. The kid gets the counselling. And of course, there’s the whole family dynamic often, because the parent can be an issue, and then parenting ... or disrupted attachment or trauma. It could be the parent causing the trauma. It could be neglect. So, it needs a whole family approach. You can’t just deal with the kid. [Participant 11, focus group 18]

Multiple practitioners in the majority of focus groups reported observing examples in which families were turning to the use of civil protection orders to impose boundaries upon, or police, their children’s behaviour. In some cases, this was where multiple members of the family were affected persons and respondents on multiple protection orders in multiple directions across the wider family and community structure. In others, this was where families had been provided with no other supports and did not fully appreciate the consequences of breach. These situations were then further complicated when they attempted to apply for a variation or revocation.

If there’s already an order in place, a lot of the time you’ll have a parent that’s called them out as a parenting strategy, not realising that the child is going to breach [a protection order] and they get to court and they just want to drop the entire thing but it’s already in the police’s hands ... so then you’ve got a child or a young person with criminal charges because the parent’s called for something that didn’t even need it in the first place. So it’s a slippery slope. [Participant 4, focus group 7]

The [parents] have got [protection orders] against other people or are the respondent to other orders so the concept

of the [protection order] isn’t new to them. They’re all very familiar and ... it’s seen as a way of managing behaviour whether it’s people down the street or the child or your parent, it just seems to be the fallback position at the moment, so yeah ... if it’s [protection orders] concerning family members usually there are other [protection orders] floating around. [Participant 3, focus group 1]

In others, practitioners believed protection orders were used as more of a deliberate controlling mechanism, either by parents or by older siblings, as reflected in broader research (Howard & Abbott, 2013).

And you see that a lot too, you know parents, for whatever reason or motivation, you know it would just be easier if the kid’s locked up, so why don’t they breach the [protection] order ... [Participant 6, focus group 12]

I’ve got, like, a young person at the moment whose mum had [a protection order] out on him for punching a hole in the wall, not against her but it was enough ... she’s got some alcoholism issues and stuff but she actually uses it against her son, like, I think one of the conditions is ... you can’t harass for money and stuff and say, “Well, can I have \$10 to go and get some food for dinner or whatever?” She’s, like, “No, you can’t harass me, I’ll call the cops at you for breaching the [protection order]”—that comes up as well. [Participant 11, focus group 4]

Well there was violence between two kids who were saying, “The last thing we need is [a protection order] because he’ll be waving it around at the brothers all day.” One brother was the protected person in the police application, so he’s set up a situation where ... the police have been called, the younger brother’s named as the respondent, the manipulative brother has been named as the protected person in the order ... So the mum ends up in court with all the kids saying, “Please don’t give an order to this one because he’s going to walk around the house waving it at his brother saying, I can do anything I want to you and you can’t touch me.” [Participant 5, focus group 10]

Of further concern, the files included matters in which the civil protection order system was being used to perpetuate the abuse that a child was experiencing from his or her parents—a system colluding in family violence, rather than preventing it.

I've got one that's even worse. Like the mother is consistently trying to provoke the child into breaching the order, not just at home but even in court. She did it on several occasions and it's completely out of control because the mother is really mentally ill but there's no real intervention there and the child is now on diversion and ... I'm negotiating ... so we can actually extend the diversion period so that we can keep somebody involved ... everyone else that is involved is really terrified ... you look at it and go, there are levers you can use in the system but none of it seems to work ... Because they're abusing it. Because mum gets it and knows how to use it. [Participant 6, focus group 1]

This “abuse” of the protection order system was not limited to cases in which parents were already identified as having co-occurring needs. The PIPA team reviewed cases where the FVIO process appeared to be used by adults to perpetrate emotional abuse against children, with the court process then enabling this abuse to be identified in a very small number of cases. Even where the court process ultimately leads to the surfacing of the respondents' victimisation as a live issue, and sometimes facilitates appropriate supports and intervention, the adolescent respondent may well be on an interim order for months as this all unfolds.

The adolescent is not only labelled as a perpetrator during this time, but attracts all the attendant risks of criminalisation—which can itself be used as a tool of coercive control by adults and which, as wider research indicates, is a pathway towards compounding and multiplying harm (Malvaso, Delfabbro, & Day, 2018; Malvaso, Delfabbro, Day, & Nobes, 2018).

Conversely, the RO process in Tasmania can also potentially increase the risk for parents who are genuinely in fear for their safety. As the discussion in the previous chapter identified, where victims are told by police to apply for an RO and do so in person, notes on the case files revealed the fear of many parents (the majority being mothers) relating to a child

learning that the mother has sought and been granted an RO. Given the extremely serious nature of the physical violence evident on the relevant RO AVITH cases—violence that was potentially lethal in some cases—this is a further example of how the civil protection order process is arguably increasing risk, rather than addressing it.

Criminal matters

Although the PIPA team heard examples in which police definitely seemed to opt for a punitive response to children for their use of family violence, on the whole, practitioners reported that police generally tried to identify a path to keep children away from further criminal justice system involvement by virtue of a diversionary approach. This is somewhat paradoxical in light of the concerns expressed about the blunt instrument of the civil protection order response.

In Victoria, the diversion scheme was recommended for legislative state-wide expansion as one of the AVITH-related recommendations of the RCFV. This was for the reason that the availability of diversion is recognised as offering children greater options and more support. This is one of the relevant RCFV recommendations that has been implemented in full, with dedicated Youth Justice Diversion Coordinators now based at all Victorian headquarter courts, although formal pathways from diversion programs to AVITH-focused interventions should also be developed.

To this end, the PIPA team heard a range of examples in which the criminal justice system offered greater flexibility and nuance than the civil context through these Diversion Coordinator roles. In fact, a number of legal practitioners indicated that, where their clients had been charged with family violence-related offences—including eventual breach of a civil protection order—more levers became available to help set young offenders on a different path. Importantly, this included youth diversion, now available on a state-wide basis.

[For young] people who are early on in their contact with the criminal justice system ... [diversion] provides an opportunity to put targeted supports and services in

place and if the young person completes those activities on their plan then their offences are discharged to avoid ... a disclosable offending history. [Participant 6, focus group 12]

If we've got a kid who's got charges and an application for an intervention order often we'll do a referral to ... diversion if they've got no priors or it's low-level and use that as the thing that the magistrate can put their hat on, and then come back on the return date, and "Have they gone and seen whoever?" "Have they made the referrals?" ... "Have they gone to school?" ... and therefore ... the [protection] order risk has gone down. [Participant 5, focus group 12]

I had ... [an] experience of knowing not to go near family violence matters for diversion because it would always be "no", whereas because it's now a formalised diversion process ... it's a little bit easier because you don't necessarily have to deal with the police. I mean you have to get their approval, but you can just talk to the diversion coordinator. [Participant 1, focus group 1]

Practitioners called for more flexibility at all points along the legal process, including the decision-making process by police and by courts.

Come up with diversion options, don't say no to cautions, like now kids can't get cautioned any longer if they've been charged with breaching an intervention order. [Participant 5, focus group 1]

Further, practitioners from a wide range of service sectors identified that diversionary options still depend on the availability of relevant services—something that varied significantly across different regions in the participating jurisdictions, and which is particularly relevant to consider in light of the lack of specific AVITH-focused services.

It becomes an issue in the diversion space because we're a targeted, brief intervention; it's not a Court Order supervised monitoring role, it's, "We're going to hook you up with services." We might make the [child protection] report, engage with case management services that can provide the more intensive, holistic ongoing support if required, but if those services then don't exist or the young

person doesn't want it, then that's up to them and either they don't do the diversion; it goes back into the court stream ... So, you really need to depend on there being an appropriate service there and a service that will really be proactive in that space to engage the young person. [Participant 6, focus group 12]

A common concern from Victorian practitioners was that the referral pathways between justice and community sector services were usually unclear at best and non-existent at worst. This means that the potential of existing court or justice pathways to make the most of what was available was limited, with AVITH practitioners in some areas having had no clients participating in the AFVP as part of a diversion plan. The state-wide expansion of the AFVP as recommended by the RCFV would go a significant way towards addressing this issue.

In WA and Tasmania there were even fewer referral pathways in terms of specific programs to address the needs of adolescents using family violence. This was in part because of a policy setting that, at the time of the research, had not formally recognised the existence of AVITH until recently in WA, or at all in Tasmania. Where programs did exist in WA, however, there did not appear to be any existing relationship with formal justice pathways, though some police officers in the relevant locations were aware of their existence.

Opportunities for positive intervention at court

As identified in previous chapters, lawyers indicated that children were often disclosing their own experiences of violence for the first time when they were attending court as respondents to protection orders. This disclosure, as well as identification of the use of family violence, should function as a doorway to positive intervention, including contact with services that can conduct appropriate risk assessments and provide appropriate referrals.

In Victoria, this can include court-based specialist staff whose role it is to hold conversations, conduct assessments and provide referrals. Participants in some focus groups were

aware that the RCFV had recommended the resourcing of dedicated applicant and respondent workers in the Children’s Court of Victoria to respond specifically to AVITH. The model that was ultimately developed to respond to this recommendation is featured later in this chapter.

At the time the research was conducted, however, these positions had not yet been funded and participants expressed doubts about the usefulness of *generic* applicants and respondent workers to respond appropriately to children, based on their existing experience.

Participant 6: Yeah, and I really, I don’t know if there’s a lot that they get from seeing a respondent worker, that’s just my opinion.

Participant 4: It depends a lot on the particular respondent worker. There are some who are much better at what they do than others ...

Participant 6: The other day I was asked, “Ok, this gentleman needs an interpreter, so therefore does the men’s behaviour program ... they’ve given the pamphlets to him, do they provide for the interpreter?” I was the one ringing the three services and finding that out. And I think, “Really? I’m on the busy duty list and the respondent worker’s sitting there, that’s their job.” So, it’s really a bit of a chat and a few pamphlets. [Focus group 7]

Without necessarily drawing the connection with the relevant RCFV recommendation, legal practitioners observed the need for youth-specific respondent workers to whom they could actively refer clients at court. However, these practitioners noted that this worker would need to conduct outreach, as well as follow-up work with the whole family.

Because there’s a lot of people that can do referrals, but people that actually go and do the proactive work—and follow the person and engage with the family when child protection throws up their hands and says, “This doesn’t need protective orders and/or [family services], this is not a mandated service and they don’t want to voluntarily accept our services. And you know, they’re a perpetrator so they can’t have our resources.” [Participant 6, focus group 12]

On some occasions, however, the PIPA team heard that persistence from magistrates and court staff alike could make a difference.

The one that I constantly think of is the one that [Magistrate] dealt with, and we did so much work with that whole family. Basically, the adolescent was like, “Fuck it; I don’t care. Everyone thinks I’m a fuckwit anyway.” So he was just running with that ... No one was willing to engage with him because he had been pretty verbally abusive ... Normally, a civil matter would be one or two. He had [many more] court appearances. The other thing that came out for him was that ... I had my own little office to have chats with him about what’s going on, and he gave indicators that there was, somewhere in his world, sexual assault happening ... So that’s how—[youth support service]—he had been really briefly linked with them, and then they had to shut down that service because he was escalating really quickly. Then [after the court hearings] they were willing to have a look at re-engaging ... [Participant 2, focus group 15]

This opportunity for safe and supported disclosure at court is crucial. As referred to in previous chapters, however, lawyers face challenges in terms of what to do with disclosures from clients where these occur in the context of legal privilege. In fact, various examples highlighted throughout this report indicate circumstances in which adolescents who have been identified by the legal system as being perpetrators of family violence have disclosed prior or ongoing victimisation as an indirect result, or by-product, of legal system intervention.

In the PIPA team’s view, however, any disclosures should be part of a comprehensive risk assessment process—one in which, where possible, a whole-of-family risk assessment is conducted to understand the history and dynamics of the parties appearing at court, and to inform magistrates making decisions. Where disclosures are made, they need to be supported by appropriate service provision.

So that was always one of my concerns, now you’ve opened, you’ve told everyone this, have we actually referred enough to make sure things are in place to keep you safe? So not

only the fact that you've been a victim but also that you're perpetrating some of these crimes and what do you do to change these behaviours. [Participant 3, focus group 2]

Many practitioners believed that there needed to be more scrutiny and more inquiry from courts overall. The value of judicial monitoring and procedural justice is well established and the PIPA team heard that this scrutiny occurred in some cases, with some magistrates assuming more responsibility for risk assessment than others. More broadly, however, practitioners also reported that efforts by some magistrates to engage adolescents and “hold them to account” may be counter-productive in terms of the ways in which they speak to children.

Participant 1: In theory, [judicial monitoring] sounds really good, but the lawyer side of that is that we don't want to have further court intervention if children don't participate, which is what is going to happen if you bring a kid back and [say], “Oh well you haven't done well on your deferral” ... I'd hate for that to be then channelled into more final orders.

Participant 3: And it's very much dependent on the magistrate.

Participant 1: Also, it has to feed into what the magistrates tell them because magistrates are incredibly disparaging of our clients, rude, and I don't think that clients will associate positive interactions unless it's all the way through to the prosecutors, judges, Magistrates and, yeah sure, if [non-government community-based service provider is] respectful towards them, great.

Participant 5: And we work in a kids' court that has specialist magistrates, and even they are not very nice to the kids. Some are great, some are awful. [Focus group 1]

In Tasmania, the PIPA team heard an example in which a civil protection order application brought before a court presented an opportunity for therapeutic intervention, despite the lack of formal therapeutic pathways. This appeared to depend more on the individual magistrate involved, however, than any established referral options.

In Victoria, the PIPA team heard about one particular locality where, after observing the lack of appropriate perpetrator interventions for AVITH, the court, police and local service providers worked closely together over a number of years to develop a local version of an AFVP. The relationships and the stake of each party in this process meant that referral pathways were forged and a program was provided to which the court and police would have confidence in referring adolescents, and thereby in both recommending and approving diversion for AVITH offenders.

This is one example of a dynamic and meaningful interaction between each stakeholder in the community and justice response to AVITH that can leverage the court process as a valuable driver in connecting and motivating young people using violence to change behaviour. As some studies have shown, opportunities are lost when adolescents using violence against their family members are brought to court but then not referred to relevant services (Gebo, 2007). As discussed in further detail in Chapter 8 regarding service system responses, however, while a discrete behaviour change program is likely to be compatible with court timelines and expectations, there is still a need for a more diverse range of interventions that work intensively and flexibly with whole families, not only on perpetrator accountability.

Conferencing options and restorative practices

Related to the recognised need for diversionary and therapeutic responses for children, the RCFV also recommended that the Victorian Government develop a model to link the (as yet unfunded) expansion of the AFVPs with the restorative approach taken in existing youth group conferencing programs already operating in Victoria.

Youth group conferencing has been in operation in Victoria for some years and involves the parties affected by a young person's offending behaviour being brought together to discuss the harm caused by the offence and how it may be repaired. This approach is designed to be highly flexible and may involve the direct victim/survivor and the offender, but can also potentially involve the families and communities

impacted by the offence, including family or community members who may represent the victim/survivor.

In many respects, the Step-Up model of AVITH programs already involves a restorative element. This is because, unlike adult perpetrator programs, which keep victims/survivors and perpetrators separate, other than to provide distinct support through the program to partners or former partners, Step-Up-based programs are designed to bring victims/survivors and perpetrators together to discuss and repair harm (Correll et al., 2017; Routt & Anderson, 2011). Although this presents challenges on a pragmatic level in terms of young people's attendance and engagement, as discussed in Chapter 3, the objective is to recognise the desire of many families in this scenario to repair relationships and remain living together.

Arguably, the RCFV sought to recognise this objective—as well as the limitations of AVITH programs provided in a community setting—by creating a pathway or formal link to youth group conferencing in relevant cases where this is appropriate. This is being piloted at a small scale over the course of 2019, as part of an initiative led by the Department of Justice and Community Safety, with the results keenly awaited in the Victorian service provision context. In addition, however, the Children's Court of Victoria and a separate community service provider chose to develop a restorative conferencing program linked to the court environment and to which adolescents and families could be referred when they presented in the dedicated family violence court list which exists at the Melbourne Registry of the Children's Court. A description of this program from the relevant provider is featured in Appendix B.

Outside the immediate Children's Court of Victoria context, the PIPA team heard of other examples in which flexible court approaches were used in relation to AVITH. In these cases, a formal model was not necessarily applied, but responses were adapted to the circumstances of each case. This was particularly important, given the diversity and complexity involved in so many AVITH cases, including the complexity of identifying where risk lies and whether it is possible to distinguish children as perpetrators.

The big question was, is it appropriate to run a conference in that situation when there's family violence, and I don't think we came up with an answer, however we understood that there was the potential in the restorative justice processes that we call group conferencing to address this. [Participant 2, focus group 10]

I don't think the intervention order process is well designed for young people. It seems to break down for any young person who doesn't fall into the mainstream adult category, or also if someone's got any disability, brain injury or cognitive issues or even just is immature and doesn't feel like they've got the supports around them, the process just doesn't seem to fit really well and I think when you can take a step into the space of the more non-adversarial dispute resolution and work with services I think ultimately it protects both the person and the perpetrator. [Participant 4, focus group 10]

These concerns are mirrored in recent research by Daly and Nancarrow (2010), which examined a restorative justice program being run in the context of AVITH and could not determine clear benefits and disadvantages overall, in part because of the complexity in the power dynamics between the parties.

How can restorative practice work when there has been perpetrator misidentification?

Restorative practice has long been the subject of some reticence and caution in the context of family violence for a wide range of reasons, including reservations by the family violence sector that restorative approaches will re-privatise an issue that took so long to be brought into the public policy sphere. Reservations also include the power dynamic between victim/survivor and perpetrator—including the use of subtle tactics of control, such as a raised eyebrow or a seemingly innocent and mundane comment, which may mean nothing to an observer but can convey to a traumatised victim/survivor, after many years of experience, that they are likely to be targeted for retaliation (Daly & Nancarrow, 2010; Stubbs, 2004; VLRC, 2006).

For this reason, the separate recommendation by the RCFV (State of Victoria 2016d, p. 145, Recommendation 122) that a model for restorative conferencing be made available in the context of adult family violence was approached and developed with caution in the Victorian policy landscape. This is now providing restorative practice services in a range of different contexts (State of Victoria, 2017a).

In the context of *any* restorative approaches, a great deal of preparatory work must be invested before parties are brought together. This work arguably may allow for the conduct of appropriate risk assessment and the identification of where risk genuinely lies. Given the relationship of complete dependence between adult and child (as well as indications in this research that adolescents may be experiencing a family violence system response where, in fact, they have been longstanding victims/survivors of family violence themselves), restorative practice in relation to AVITH needs to be supported by *particularly* careful and comprehensive risk assessment and management.

The PIPA team believes that it is crucial to avoid situations where an adolescent may be asked to apologise or hold themselves to account to someone who is in fact the perpetrator of violence and abuse against them.

A lot of the time with my cases ... the young person is identified as the perpetrator ... I have some cases where it's both the parents are the perpetrators, not even realising they're the perpetrators and which is why the young person is retaliating but instead of the parents being parents and going, well let's look at why, they press charges. So these young people are getting in trouble with the law for behaviours that are just laid upon them every day ... [The young person referred to youth conferencing] was so anxious about [their] parents not wanting to listen ... about why [they were] committing violent behaviours towards them that [they] didn't go ahead with the conference. [The young person] said, "Well, they're not going to listen to me anyway because all they see is this monster" and it creates anxiety and that creates paranoia that just made [them] ... "I can't sit in a room with them, I can't face them, they're not going to listen anyway" and unfortunately in that particular situation this was quite a well-to-do family

in that situation ... and I found out later on it's because the dad actually physically assaulted [the young person when they were] young ... and [they haven't] forgotten that trauma ... [And] the dad goes, "I didn't do that, I didn't do that" ... and the [young person] says, "You did ... when I was [a small child] you almost killed me and I remember that physical pain and that feeling, that fear." [Interview 3]

Outside the immediate realm of AVITH-specific programs, practitioners from wider sectors also noted the need for therapeutic responses that took account of the likelihood that an adolescent could potentially have experienced violence themselves.

[I would like to see] some sort of therapy-based program ... not like ... your stock-standard men's behaviour change program [but one] that addresses also the trauma and exposure that the children already have had with family violence, which is the issue with the mediation type [of interventions] ... they're sitting in front of a perpetrator generally and you know that violence that they've started to commit is retaliation or rebellion or just a re-enacting of that. [Participant 7, focus group 12]

For this reason, existing research (Condry & Miles, 2014) argues—and the PIPA research further confirms—that responses to AVITH, including court responses, must take a whole-of-family ecological approach to risk assessment, support and accountability. This whole-of-family approach is demonstrated in Promising practice and innovation example 1.

PROMISING PRACTICE AND INNOVATION EXAMPLE 1

Problem-solving responses to AVITH at the Collingwood Neighbourhood Justice Centre

The Collingwood Neighbourhood Justice Centre provides wraparound services to court users delivered by a multidisciplinary team of court employees and workers and clinicians from mental health, drug and alcohol, and other community support agencies that are co-located within the court precinct. The design and resources available mean that a variety of different problem-solving and restorative approaches are able to be trialled with strong support around those taking part, in dynamic relationship with the court and its formal processes. The PIPA team heard about responses to AVITH cases developed by Neighbourhood Justice Centre staff, in which a flexible, problem-solving approach considering the safety and needs of all family members impacted by family violence was able to emerge.

In one case related to the PIPA team, police were called by a neighbour in relation to an adolescent male assaulting his older brother, also an adolescent. Police immediately sought to apply to the court for a protection order against the younger brother to protect the older brother, who they considered the affected person in relation to the assault. The respondent met with a lawyer at court and disclosed that he had been acting to protect his mother from his older brother, who had been increasingly violent and erratic at home, causing other family members fear and distress.

With the client's consent, the respondent's lawyer took the opportunity to discuss the situation with the Neighbourhood Justice Officer, a position unique to the Neighbourhood Justice Centre. The family members were then individually consulted about their needs and wishes, which included a potential opportunity to speak openly between each other in a supported environment.

After a period of engaging in supports accessed through the court, the family participated in a restorative conference where those affected by the violence could articulate the impact that it had on them, and also convey their concern and need for the older brother to address his mental health and substance use issues. It was also possible to acknowledge, in this context, that the older brother had experienced significant trauma prior to the birth of younger siblings and required very specific supports to address the impact that this had had on him.

At the conference, the family formulated a plan for each member to receive dedicated support from an appropriate agency with relevant expertise. They also created an agreed list of expectations about behaviour at home. The protection order application was adjourned to a later date.

What transpired was a victim-centred family violence-informed process that delivered what family members most affected by violence said that they needed, and successfully engaged those who had used violence. At the return court date, around 2 months later, the police were satisfied that the family's safety needs had been met, such that they withdrew their application.

This whole-of-family ecological approach is further reflected in the implementation of one of the relevant RCFV AVITH-related recommendations. As described in Chapter 3, Recommendation 126 of the RCFV identified the need for dedicated applicant and respondent practitioners to service the Children’s Court of Victoria, which have been placed in the court’s dedicated family violence list in the Melbourne Registry. In this particular case, the PIPA team notes that these positions were not replicated along the lines of equivalent positions in the adult jurisdiction, which largely operate as individual employees of the court who may share information, particularly in triage and risk assessment, but do not necessarily operate as a formal team.

Rather, the model was developed in conjunction with local service providers and with a focus on outreach, as well as ecological approaches. In line with a number of reforms that were adapted during the PIPA research, the development of the applicant and respondent practitioner team was informed by early findings of the PIPA project, particularly in relation to the high numbers of adolescent respondents with disability, as well as the high likelihood that these children were victims/survivors of family violence as well. The model is outlined in Promising practice and innovation example 2.

While the PIPA research is highly critical of existing court responses, this does not lead us to conclude that legal responses to AVITH are never appropriate. As these examples of promising practice and innovation demonstrate, where families do need support and assistance, which they have not received from other parts of the service system, legal system responses that are functioning well and can respond to risk across the whole-of-family environment can function as a positive intervention.

PROMISING PRACTICE AND INNOVATION EXAMPLE 2

Family Violence Applicant and Respondent Support Service, Melbourne Registry of the Children’s Court of Victoria

The provision of applicant support workers (ASWs) and respondent support workers (RSWs) attached to the Family Violence List at the Melbourne Registry of the Children’s Court of Victoria is still in the very early stages of implementation, and it is not yet possible to consider the outcomes of the service. The PIPA team understands that an evaluation funded by the Department of Justice and Community Safety is pending at the time of writing. However, the design of the program has been developed with an awareness of some key similarities between adult intimate partner violence and AVITH, but also some significant differences. The service model responds not only to the different contexts in which AVITH emerges, but also the different characteristics of adolescents compared with adults from a service engagement perspective. As a result, the service model developed for ASWs and RSWs at the Melbourne Registry of the Children’s Court of Victoria introduces some truly innovative features that exist nowhere else in Australia.

The agency engaged to design the service model worked to develop an intake and risk assessment process using a whole-of-family safety lens, which seeks to map family relationships and take account of the possibility of more than one active perpetrator of violence within the family. Prompts in the process ensure that RSWs remain aware of, and responsive to, the range of factors that may be contributing to the AVITH or in relation to which adolescents, and their whole family, require specialist support. These go beyond mental health and drug and alcohol issues, which lend themselves to a siloed, discrete referral approach, but are often interconnected with a whole range of more complex issues. These include disability recognition, service and support challenges, and the effects of trauma and past exposure to family violence, possibly complicated by ongoing contact with the original adult perpetrator (who, in a small number of cases, might also be the affected person in a protection order).

A particularly important feature of the Family Violence Applicant and Respondent Support Service model is the provision of outreach services in recognition of the particular challenges of engaging adolescent respondents. This sits within a tiered response in which different streams of service intensity are delivered depending on the level of risk identified, so not all clients receive outreach, which is reserved for respondents assessed as requiring intensive support. The PIPA research underlines the need for the integration of a youth work, outreach-based service delivery model combined with strong family violence expertise and an “ongoing safety lens” (Howard & Holt, 2016).

Discussion and recommendations

This chapter offers further discussion of the themes and findings from the research, as well as project recommendations and reflections on the reasoning behind them.

This includes flagging where certain areas have either not been the subject of specific recommendations or where the recommendations have remained at a fairly high level, given the underdeveloped context of some service and legal system landscapes.

As discussed at the outset of this report, the PIPA team embarked on this research process expecting to examine quite a specific and targeted issue. What we found was much more complex and diverse than we had imagined, with a very wide range of children and circumstances being captured by the legal response, particularly in Victoria. We also hoped to improve on understandings about prevalence of this issue. However, the complexity and diversity we uncovered complicated—rather than clarified—these understandings, and our findings indicate that justice statistics in Victoria may only tell us about who is experiencing a family violence legal response, not who is *using* family violence. Meanwhile, the case file audits in Tasmania and WA each revealed in different ways that children are experiencing a legal response for their use of family violence, but that this is not necessarily recognised by the legal and policy landscape.

The PIPA team also anticipated that, as imperfect as the Victorian legislative and policy landscape remains, the simple recognition of violence used by adolescents within legislative definitions of family violence was a fundamental step towards best practice. Moreover, we anticipated that we would be able to analyse the implementation of all relevant RCFV recommendations, given that the implementation deadlines for these recommendations were within the research project timeframes. Unfortunately, only four out of six of these recommendations had been implemented in full at the time of writing, in part due to a lack of specific funding allocations. Meanwhile the project findings reveal that a policy “net widening” in relation to who is captured within legislative definitions is not necessarily a safe approach in a zero-tolerance policy environment. Rather, this needs to be supported by a certain amount of discretion by police and courts (which ensures that time and resources are not wasted further along the path of the legal system process),

by adequate risk assessment at all points in the process, by access to services and by a whole-of-family approach.

The PIPA team believes that these findings have implications for all Australian jurisdictions, regardless of their definition of family violence or the stage that they have reached in recognising and responding to AVITH. While emphasising this diversity and complexity, however—as well as the unintended consequences of proactive family violence frameworks—the PIPA team does not in any way seek to minimise the experiences of those experiencing violence at home by adolescents. Certainly, existing research establishes the very real fear and isolation of many families, the majority of whom are likely to be dealing with an adolescent’s use of family violence *outside* a justice response, given that the current justice response may be perceived as unhelpful and may instead be acting as a deterrent to help-seeking. Likewise, the PIPA team does not suggest that, because some figures on which we are currently basing estimates of prevalence may be unclear, this means that AVITH is less of an issue than policy-makers might think. Rather, what this complication means is that better data collection and further research is needed. Further, if the legal response can be improved, reporting may increase, leading in turn to better understanding about genuine prevalence.

Similarly, by emphasising the multiple vulnerabilities of adolescents experiencing a family violence legal response, the PIPA team does not suggest that adolescents who use family violence should not experience an intervention or be supported to change and be accountable for their behaviour. Instead, we believe that this project’s findings indicate a need for earlier and more intensive, multifaceted intervention—but intervention that is tailored to the needs of each adolescent

and family, rather than applied as a one-size-fits-all approach. In other words, the intervention needs to ensure that the system, as well as the adolescent, is held to account and also that the objective of this system is met in terms of addressing risk, rather than simply shifting, dispersing or displacing it.

The PIPA project has only touched upon what needs to be understood about the kinds of legal responses that children and young people are experiencing, including as a result of their use of family violence, or potentially as the result of simply being identified as a perpetrator, despite their own profound and ongoing victimisation. In particular, the PIPA team believes that more research is needed to explore the direct experiences of children in relation to these legal responses. Throughout this project, we were particularly struck by the *absence* of adolescent voices on notes on case files or in the legal process. This is because, in Victoria, the application for an FVIO is generally made by police, with files therefore recording police accounts of an incident and, on occasion, instructions from the young person to their lawyer (but written in the legal practitioner's words). In WA, legal files include clients' instructions to their legal representatives in criminal matters, but in these lawyers' own words as well. Further, in Tasmania, the voices of applicants featured, this time in the account of victims/survivors or affected persons who were applying in person. The fact that so few children were legally represented, and even the fact that matters were often decided completely in the young person's absence, meant that their voice was inevitably absent. Even where adolescents do appear in court proceedings as respondents to civil protection orders, or potentially to family violence-related charges, it is unlikely that the opportunity to voice their experiences always presents itself. As our findings indicate, often it is only in the context of a confidential legal discussion—or, less commonly, an assessment by a court clinician or psychologist, or a longer-term relationship with a youth or family services worker outside the legal context—that the young person's story emerges. In some of these cases, disclosures can be acted upon and supported but, in others, legal practitioners, in particular, can struggle to know how to respond when they cannot reveal a client's instructions.

The paradox here, in Victoria in particular, is that children aged under 18 who are affected persons themselves, or who are the relative of an affected person or respondent, are specifically prohibited by legislation from appearing in court when a protection order application is being heard because of the risk that being present at a hearing will compound their trauma. Recognised as the “silent” and “invisible” victims of family violence by the RCFV (State of Victoria, 2016c, pp. 101–102), this means that children who are treated by the family violence system as victims/survivors often remain both silent and invisible. Children who are treated as perpetrators, however, may remain silent but become highly visible as the focus of the legal system's response.

Comments by some practitioners in focus groups and interviews also suggested that the value of therapeutic or procedural justice was not always being harnessed, even by magistrates who deal exclusively with children. This is an opportunity lost in terms of using the legal response as a positive intervention and is consequently a focus of additional research by members of the PIPA team in another context.

Further, specific research in relation to the experiences of children and young people with disabilities who use violence should be an urgent priority, as should research into the intersection of PSB and AVITH. Community-led research into the impact of intergenerational trauma—including trauma in refugee communities, as well as Aboriginal and Torres Strait Islander communities—and its relationship to the use of family violence by adolescents should inform the development of culturally appropriate and strengths-based interventions in these contexts, as indicated below.

The PIPA research also revealed examples of promising practice, or points of intervention, which could be maximised to increase safety for all family members. The examples of promising practice and innovation featured at the conclusion of Chapter 10 are two such indications, while the full implementation of the RCFV recommendations in relation to AVITH—linked with other RCFV recommendations—will go further towards providing some essential supports and bridging the gaps between interventions. As noted in Chapter 3, however, these recommendations do not necessarily address some of the more unexpected issues arising in this research

or even the primary legal response that adolescents have been experiencing in Victoria for more than a decade. Though understandable in the face of such volume and in such a short period of time, the RCFV missed an opportunity not only to articulate how the current legal response could be improved, but how it could be linked to the other recommendations it was making. As a result, the PIPA team makes its own recommendations below—some applicable in all legislative contexts and some specific to each participating jurisdiction—which we hope can inform the ongoing development of more nuanced and flexible service and legal responses to AVITH in the future.

It should be noted that this report's recommendations are highly targeted and take into account the different stages of policy development in each jurisdiction, as well as the current availability of services. This is because it is not useful to make sweeping recommendations about broad legislative or other reform where the current policy or service environment is potentially years away from being able to match the reform's resource or workforce implications. For this reason, our recommendations call for a tiered response to AVITH in Tasmania and WA, where it is less recognised than in Victoria and where specific services are not as well established or are just beginning to emerge.

The PIPA team therefore calls for a more detailed inquiry by policy-makers in WA and Tasmania into the way in which AVITH may be connecting with the service and legal systems. We also call for broader consideration of service and court-based responses that can take into account the vulnerability of children and strength of community in different contexts—including the provision of disability-specific support, as well as support for Aboriginal and Torres Strait Islander and CALD communities to engage with and respond to the use of violence by children against family members in ways that best meet the needs of community.

Given the different service environments, the PIPA team also recommends the provision of publicly funded legal advice and assistance to children appearing in civil protection order matters, as well as service links that can properly assess risk and the needs of the wider family. We believe that reforms of this kind would be an important first step before any

consideration can turn to the expansion of the legislative definition of family violence in Tasmania, for example, given the significant resource implications that inclusion of children as perpetrators/respondents in the Safe at Home service system would have. That said, it is also relevant to consider the relative sophistication of the Safe at Home service system when compared with family violence service availability in other jurisdictions.

The recommendations in relation to Tasmania and WA sit a step back from the more specific and detailed recommendations in Victoria. This is because there is currently a high-volume, overt and proactive response to AVITH in Victoria, but it is a response that this research suggests is not necessarily functioning as a positive intervention. The recommendations in relation to Victoria are therefore intended as a call for very pragmatic and targeted reform—much of which could be achieved relatively quickly—of a system that is already geared towards recognising AVITH, but which does this in a blunt and often punitive form.

Beyond the jurisdiction-specific recommendations, the report has also deliberately limited itself to recommendations for initial or “first steps” reform in service areas outside the legal response to AVITH. For example, though disability emerged as a strong theme throughout the PIPA research, the project was not designed as disability focused, and therefore a limitation is the relatively small participation of specialist disability providers. The PIPA team therefore recommends that disability-specific research in this area be undertaken as a matter of priority and also that links be made in relation to recognition by the National Disability Insurance Scheme (NDIS) and justice systems alike regarding the prevalence of neurodevelopmental disorders and impairments in children coming into contact with the justice system. It also recommends that family violence literacy be a focus of professional development in the disability sector.

Further, the lack of a helpful response from statutory child protection authorities was a strong theme throughout the research in all three jurisdictions. The PIPA team heard that child protection frequently did not support families to stay together; would not provide support or assist where children were over a certain age; and may be more likely to

remove younger siblings of an adolescent using violence, rather than provide intervention with the adolescent. Where this intersects with disability, the complexity and absence of service support appears to be even more acute. It is therefore clear that statutory child protection authorities must develop and adopt a policy focus on the use of violence by adolescents, including adolescents with disabilities, and build a service response that can respond to this. Doing so, however, will take considerable time and investment and for this reason the PIPA team makes overarching recommendations in this regard.

Additionally, the recent comprehensive review of the federal family law system has implications for the PIPA research (Australian Law Reform Commission, 2019). This review made significant recommendations, which, in combination, called for much greater and more sophisticated recognition by the family law jurisdiction of the impacts of family violence on children when considering their best interests and the time they spend with their parents. The PIPA team endorses those recommendations and, based on our own findings, makes recommendations for additional refinements to the legislation that recognises the impact of family violence experiences on a child's development, as well as the impact of family violence on a child's relationship with the parent who is the victim/survivor of family violence.

We also make specific recommendations calling for better recognition of the way in which contact with a perpetrator parent post-separation can contribute to perpetration of family violence by children, including against the victim/survivor parent. We also call for urgent consideration of the potential for escalated risk to children—and ultimately to their other family members, such as siblings or a sole parent mother—where a child may be excluded from the home by formal or informal means and placed with a perpetrator parent.

Finally, though some researchers on the PIPA team are involved in other projects that explore the use of restorative justice, this report stops short of recommending the use of restorative justice responses to adolescents using AVITH, aside from better harnessing the clear restorative principles of any Step-Up-based models. This is partly because restorative justice in the context of family violence is still a relatively

contested subject. The RCFV's recommendation for the development of a restorative justice response in relation to adult family violence was one of the few in which the RCFV recommended a pilot program, rather than a more permanent reform.

Meanwhile, the RCFV recommendation to establish a program linking AFVPs with Youth Justice Group Conferencing (which is a restorative model) is only in the initial stages of implementation, with a small pilot operating for the duration of 2019. Findings from this pilot will be highly relevant to the use of restorative approaches in the context of AVITH beyond the remit of Step-Up-based programs. Findings from an evaluation of an important restorative conferencing-based model currently in operation at the Children's Court of Victoria, which was developed outside the RCFV recommendations (see Appendix B) but with considerations in relation to risk firmly in mind (including being informed by some of this project's early findings), will also be relevant.

As our findings suggest, however, additional complexities and risks need to be considered in relation to any program delivered in the context of AVITH. Further, existing research regarding the use of restorative justice responses specifically in the context of AVITH could not draw firm conclusions regarding their value, given the attendant risks (Daly & Nancarrow, 2010). For these reasons, the PIPA team formed the view that it would be premature to make a blanket recommendation for the use of restorative justice in the context of AVITH and that further evidence needs to emerge from these current and other reforms, which we will continue to watch with great interest.

With these caveats in mind, the PIPA team makes the following recommendations for reform, which we hope will support the development—or refinement—of a legal and service response to AVITH and which can privilege system effectiveness rather than system activity. As indicated at the outset of this report, rather than a blunt, one-size-fits-all-approach, families experiencing AVITH in any of its diverse manifestations require a response that links them with necessary support and, as a result, functions as a positive intervention that can ultimately increase safety and reduce risk.

Just as importantly, adolescents using violence—as well as families who are experiencing it—require a policy landscape that not only holds people using violence to account for their behaviour, but which also holds the *legal and service system to account* for the response that is ultimately imposed.

Recommendations

The PIPA team makes 21 recommendations and further accompanying sub-recommendations. Sub-recommendations outline steps towards implementing the 21 recommendations and are provided by jurisdiction. Some sub-recommendations include explanatory or background text to provide further context. Recommendations in relation to state governments relate to the three participating jurisdictions only, as other state and territory governments were not the subject of detailed examination in the research. Policy-makers from these environments, however, may identify recommendations for reform that would be equally relevant for their jurisdictions.

RECOMMENDATION 1:

Develop expertise in the family violence sector

State governments should invest in developing, or continue to develop, expertise in adolescent violence in the home within the family violence sector to provide practice leadership. Where relevant, this should support the process of updating common risk assessment and management frameworks to offer guidance in responding to diverse forms of family violence, and support training in relation to frameworks once updated.

In WA and Tasmania, in particular, this requires greater investment in developing, delivering and evaluating AFVPs, investing in court support workers, and possibly establishing new positions or portfolios within relevant government departments. For Victoria, Recommendations 2.c.ii and 2.c.vi. are closely related to this recommendation and should be read in conjunction with it.

RECOMMENDATION 2:

Ensure that support is provided to child respondents in civil protection order applications

State governments should ensure that support is provided to child respondents in civil protection order applications, including any subsequent applications for variation or revocation.

In WA and Tasmania, courts should identify and map the need to link adolescents and families who come before courts for civil protection matters with support workers who have expertise in family violence and working with children, young people and families. These support workers can assist and make recommendations to the court and can broker community services and develop support and safety plans. In Victoria, courts should continue with the implementation and refinement of this existing policy, adopted in relation to Recommendation 126 of the RCFV (State of Victoria, 2016a).

a) Western Australia

- i. Child respondents to civil protection order applications (FVROs in the WA context) should always have legal representation made available to them, whether or not there is a related criminal matter. The WA government should fund legal services to deliver duty lawyer representation for child respondents.⁷²
- ii. The Magistrates Court of Western Australia should conduct a comprehensive file review of FVRO cases to identify where, and to what extent, AVITH is appearing; assess the family violence-related support needs of child respondents; and consider attaching dedicated support services to this court list for respondents. This should have a particular focus on capacity to support and conduct risk assessments with child respondents.

Given the extent to which the PIPA team heard that legal responses to AVITH in WA are predominantly criminal, such a service should be able to provide consultation and support to Children's Court criminal defendants with

⁷² The PIPA team notes the existence of a family violence support service attached to the Magistrates Court of Western Australia, but that there is no correlating respondent support worker/service.

AVITH-related matters or where AVITH is raised as a contextual issue for a young person's offending.

b) Tasmania

- i. Child respondents to RO applications should always have legal representation made available to them, whether or not there is a related criminal matter. The Tasmanian Government should fund legal assistance services to deliver a dedicated allocation of duty lawyer resources for all child respondents in RO applications.
- ii. A comprehensive file review of the RO list in the Magistrates Court of Tasmania should be conducted to identify the nature of cases before the court; to assess family violence-related support needs of child respondents in particular; and to consider attaching dedicated support services for both applicants/protected persons and respondents to this court list.
- iii. The Tasmanian Government should establish an interdepartmental project taskforce to develop justice and service system readiness to expand the definition of family violence in the *Family Violence Act 2004* (Tas) so that it does not exclude AVITH. This includes the continued resourcing and, pending evaluation, expansion of Tasmania's first pilot AFVP, which may ultimately be able to be integrated into the Safe at Home program. It also includes updating relevant risk assessment screening tools to include information and guidance on assessing and managing risk in relation to broader family violence types/relationships.
- iv. Subject to Recommendation 1.b.iii, PIPA recommends that the Tasmanian Government develop a timeline to ultimately amend the *Family Violence Act 2004* (Tas) to expand the definition of family violence and recognise family violence within non-intimate family relationships.

c) Victoria

- i. The Children's Court of Victoria should continue with its implementation of the RCFV's Recommendation 126 regarding dedicated ASWs and RSWs in the Children's Court. The Victorian Government should support this with funding for an expanded model that allows for the

provision of support to a greater number of families who come to court, and potentially an expanded role in relation to providing risk assessments and written reports for the court. Consideration should also be given to extending this model to provide support in the Families and Criminal Divisions, as well as the dedicated Family Violence List.

- ii. The Magistrates' Court should support existing ASWs and RSWs across wider Magistrates Courts to develop better understanding and knowledge of AVITH and strong relationships with local family violence services that offer programs targeting AVITH, to be able to respond to it. The Children's Court of Victoria ASW and RSW service at the Melbourne Registry should be extended to the Broadmeadows Registry as the other dedicated Registry of the Children's Court and provide practice leadership for other ASWs and RSWs across the state in responding to AVITH.
- iii. There should be a strong presumption of the need for a proactive referral to the court ASWs and RSWs in all child respondent cases across Magistrates Courts sitting in the Children's Court jurisdiction. This should reflect the findings in this and other research about the likely significant complexity of the family violence issues and support needs of families in such cases.
- iv. When Victoria Police or an in-person applicant applies to a court for an FVIO in relation to a child respondent, a protocol should be established to enable the relevant court to request a risk assessment (relating to risk to the AFM, as well as the whole family) from either Orange Door or another form of Support and Safety Hub,⁷³ a court ASW or RSW, or another specialist family violence practitioner (a court-referred family violence practitioner or team). However, this risk assessment process should involve prompts to consider separately whether the child respondent is themselves a victim/survivor and any possible existing risk to them.

A tiered process must be developed in relation to steps taken when a disclosure or other evidence of current

⁷³ We note that Orange Door is the current iteration of the Support and Safety Hubs, as recommended by the RCFV, as they have been implemented in certain locations.

risk to the child respondent emerges. The court-referred family violence practitioner or team must be able to provide the court upon request with a written report that addresses the impact, if any, that an FVIO may have on family safety. This report should include whether the imposition of an FVIO could escalate risk (for the AFM or another person) or cause harm, and should also include recommendations as to what conditions would be appropriate if an FVIO were made. Such a process could not be implemented or mandated without the workforce development required to support it, as recommended below in Recommendation 2.c.vi.

- v. The Victorian Government should consider changes to the FVPA that would import an explicit risk assessment requirement into the process of dealing with FVIO applications against child respondents. An FVIO should not be made against a child respondent without a risk assessment taking place. While the FVPA (s. 74[1]) requires that the court be satisfied of the likelihood of family violence re-occurring when making an order, this is not the same as an expert family violence risk assessment, informed by the revised MARAM, that could consider any risk to the child respondent themselves and could take into account the likely impact of any order made and how that would relate to appropriate risk management and safety planning.

If a risk assessment cannot be conducted on or before the first listing date of the application because the parties are not present or could not be contacted by the court-referred or police-referred family violence or child, youth and family practitioner or team, then the matter should not be adjourned for more than 2 weeks unless there are exceptional circumstances. The adjournment must be explicitly for the purpose of risk assessment. If the court is satisfied that an interim order is necessary to protect the AFM(s) during the pre-risk assessment adjournment period, an interim order should not be issued for a period in excess of 2 weeks and should only be done explicitly for the purpose of obtaining a risk assessment. A final order should not be made in a child respondent's absence unless the child is represented. An interim order should not be made in a child respondent's absence, other than in the manner outlined above—that

is, for no more than 2 weeks pending a risk assessment, in the event that the court is satisfied that it is necessary to impose an interim order.

- vi. The President of the Children's Court of Victoria should consider issuing a practice direction to assist with managing adjournments, so that lengthy adjournments in excess of 2 weeks are not made, with or without an interim order in place, in the absence of a risk assessment and recommendations from the court-referred family violence or child, youth and family practitioner or team.
- vii. Family Safety Victoria should work together with the Children's Court of Victoria, Orange Door or another form of Support and Safety Hubs, as well as Victoria Police, to identify the most appropriate arrangements to enable timely risk assessments to be conducted by family violence practitioners and child, youth and family practitioners and provision of written recommendations regarding use of FVIOs against children. This should build on and be informed by the considerations in relation to AVITH in the newly developed MARAM.

Family Safety Victoria should work with these and other relevant stakeholders to develop readiness and adequate resourcing for such a risk assessment support system to be implemented. Ultimately, the same system should be expanded to be applied to all child respondent FVIO applications across Magistrates Courts sitting in the Children's Court jurisdiction.

- viii. Family Safety Victoria should continue with current efforts to develop AVITH-specific expertise across the family violence sector. As such, all Orange Door (or other Support and Safety Hub) providers should be supported with specific AVITH training regarding the complexities of AVITH, as well as the additional risks to and vulnerabilities of children and young people using family violence. In addition, Orange Door or other Support and Safety Hubs should employ AVITH practice leaders who form a community of practice with the Children's Court ASW/RSW and AFVP providers.

RECOMMENDATION 3:**Ensure that common risk assessment and management tools guide responses to adolescent violence in the home**

State governments should ensure that common risk assessment and management tools are available for use by community services and first responders to guide responses to adolescent violence in the home, as well as other forms of family violence. Training in relation to these tools should be made available to all court-based staff and police.

a) Western Australia

- i.* The Western Australian Common Risk Assessment and Risk Management (CRARM) framework (Western Australia, Department for Child Protection and Family Support, 2015) needs to be updated in order to guide community services and first responders in risk assessment and risk management for all the forms of family violence that are recognised in WA legislation.

At present, the CRARM does not reflect the existence of AVITH, nor any other form of family violence other than intimate partner violence. Content regarding AVITH needs to reflect the complexity of this form of family violence and the likelihood that an adolescent may be both a perpetrator and a victim/survivor simultaneously, and that the support needs of adolescents using violence and their family members are likely to be complex. Effective risk management is likely to require prioritisation of supported referral to relevant services even more so than in cases of adult-perpetrated family violence.

b) Tasmania

- i.* See Recommendation 2.b.iii.

c) Victoria

- i.* The Victorian Government should ensure ongoing training and professional development in relation to the updated MARAM, which includes considerations to support risk assessment and risk management for AVITH, as well as considerations regarding the vulnerability of children and adolescents and the need for therapeutic responses.

RECOMMENDATION 4:**Improve policing responses to adolescent violence in the home through policy and procedures**

State police should work to improve their policing responses to adolescent violence in the home (AVITH) by developing internal policy manual content on responding to AVITH that sets out distinct procedures and options. This should reflect the distinct considerations regarding AVITH as compared to adult-perpetrated intimate partner violence and include ongoing training for police in relation to the diverse and complex nature of AVITH presentations.

While responses to AVITH should not necessarily be more diversionary or therapeutic than responses to other offending by children, police should ensure that as policing of family violence grows progressively more pro-intervention, the response to children using violence at home does not become disproportionately punitive. This principle should be reflected in any policy and procedure addressing AVITH. The inappropriateness and ineffectiveness of harsh punitive responses to children who offend remains pertinent across different offence types, because it relates to the inherent psychological immaturity and vulnerability of children. In addition, where children are using violence at home, this and other research has shown that it may be a flag for significant complexity and therapeutic and support needs within that family. Police have a role to play in ensuring that affected families get the intervention that they need.

a) Western Australia

- i.* Police officers need to be supported to develop local referral plans and awareness of the range of relevant therapeutic, disability and family support services that may be relevant for AVITH cases, and any specific AVITH protocol should emphasise the importance of making referrals and connecting adolescents and multiple affected persons with a range of relevant supports, where these are available, regardless of what decision is made in relation to the most appropriate legal pathway. Any policies or framework for improved responses to AVITH will rely on updating the CRARM (see Recommendation 3.a.i. above.)

b) Tasmania

- i. Police should work together with the interdepartmental project taskforce on developing service system readiness for an expanded recognition of family violence, as outlined in Recommendation 2.b.iii. Police officers also need to be supported to develop local referral plans and awareness of any relevant available services for AVITH and prioritise service connection as an essential outcome of contact with families experiencing AVITH, regardless of what decision is ultimately made in relation to whether there is an appropriate legal pathway. This will necessarily be guided by an updated Risk Assessment Screening Tool.

c) Victoria

- i. When Victoria Police are called in relation to a potential AVITH incident, the Victoria Police Code of Conduct should clearly provide the option of referring the matter to Orange Door or another form of Support and Safety Hub for risk assessment and triage as an alternative to applying for an FVIO.

Victoria Police should be able to obtain timely written recommendations from Orange Door or another form of Support and Safety Hub about whether an FVIO should be sought and which conditions would promote family safety (see Recommendation 2.c.v. above). The process of seeking expert advice on whether to seek an FVIO and then following through with relevant recommendations may necessitate additional attendances and additional contact with the victim/survivor and/or adolescent using violence. This should be viewed as an important part of the process of keeping the adolescent and the family in view and disrupting the use of violence.

RECOMMENDATION 5:

Amend legislation governing civil protection orders to include safeguards around child respondents' safety and welfare and to prevent orders being made against children with diminished capacity

State governments should amend legislation governing civil protection orders to include safeguards around child respondents' safety and welfare, and to prevent orders being made against children with diminished capacity. These amendments would require safeguards to ensure that orders are not made in the absence of child respondents at court, and in the absence of legal representation. These amendments should be supported with relevant training for all court-based staff.

a) Western Australia

- i. Part 6 Division 1 of the *Restraining Orders Act 1997* (WA) should be expanded to require that courts considering an application to impose an FVRO upon a child should have regard to the child's capacity to understand and/or comply with the terms of an order.

This consideration cannot reasonably be made without the attendance of the child respondent, or without appropriate legal representation. Accordingly, additional resources should be made available for representation of children subject to FVRO applications and to ensure, wherever possible, that such orders are not made in a child's absence. FVROs should only be made in a child's absence in exceptional circumstances, where there is sufficient knowledge of the situation for a risk assessment to have been conducted, and the court must record reasons for deciding that it is necessary to impose an order.

- ii. Section 53G of the *Restraining Orders Act 1997* (WA) addresses arrangements for the care and wellbeing of children bound by restraining orders.⁷⁴

⁷⁴ The PIPA team notes that any recommendations around strengthening requirements upon the court to be satisfied regarding child respondents' wellbeing are ultimately shaped by the availability of safe alternative accommodation, care and support for children subject to civil protection orders, by legal representation and by the court-based support services recommended above.

Insufficient data was gathered regarding the operation of this section and the process by which courts make decisions in this context for the PIPA team to make specific recommendations on this point. However, a comprehensive review of FVRO court files, as recommended above, would assist with this.

b) Tasmania

- i. Currently, the *Justices Act 1959* (Tas), which governs the issuing of ROs, is silent on the matter of children as respondents to RO applications. The Tasmanian Government should consider whether it is desirable for children to be respondents to ROs at all. If this is viewed as desirable, the government should further consider importing appropriate safeguards relating to the welfare of children subject to RO applications and requiring the court to have regard to their capacity to understand and/or comply.⁷⁵

c) Victoria

- i. The FVPA should be amended so that it replicates sections 61(2)(a) and (b), and ss. 35(2)(a) and (b) of the *Personal Safety Intervention Orders Act 2010* (Vic). These sections require the court to consider the capacity of child respondents to understand and comply with the terms of an order when considering imposing either a final or an interim order. This assessment also cannot reasonably be made in the absence of the child respondent or without appropriate legal representation. As articulated in Recommendation 2.c.v., FVIOs should not be made in the absence of a child respondent unless they are legally represented. Recommendation 2.c.v. articulates a process whereby an exception to this would be for interim orders, restricted in their duration, and made only for the purpose of risk assessment and for ensuring

that, where the court is satisfied that a final order should be made, the respondent attends or is represented.

- ii. Section 83(2) of the FVPA should be expanded to provide that, if the court is considering imposing an exclusion condition upon a child respondent, the court must have regard to whether there is potential for future risk of the child being exposed to family violence at the proposed alternative accommodation or with the proposed alternative carer, as well as whether the proposed placement of the child would place another person at serious risk of being subjected to family violence.

Subject to implementation of Recommendation 1.c.iv., the court should be able to request that these matters are addressed in a court-ordered risk assessment report. Prior to receipt of such a report, the proposed amendment would require the court to have regard to the matters identified based on the information available to the court at the time of the application.

RECOMMENDATION 6:

Give specific consideration to the development of strengths-based, culturally appropriate and trauma-informed responses for Aboriginal and Torres Strait Islander children

Specific consideration should be given in each jurisdiction to the availability of a strengths-based, culturally appropriate and trauma-informed response for Aboriginal and Torres Strait Islander children who experience a legal response in a family violence context.

a) Western Australia

- i. The WA Government should consider the development of a culturally safe and appropriate court response that harnesses the strength of Aboriginal and Torres Strait Islander communities in relation to young people who come into contact with the justice system. This should include children who are using family violence. Such a process is more likely to provide a meaningful intervention for AVITH where there are appropriate programs available

⁷⁵ These considerations include ensuring that the child is in attendance at court so that their capacity to comply can be assessed. They also include provision for legal representation of children aged under 18 who are respondents to RO applications, given the additional vulnerability of this cohort. The PIPA team notes that any recommendations around strengthening requirements upon the court to be satisfied regarding child respondents' wellbeing are ultimately shaped by the availability of safe alternative accommodation, care and support for children subject to civil protection orders, by legal representation and by the court-based support services recommended above.

in the community, as per Recommendation 10.a.i., that can be integrated into the court process.

b) Tasmania

- i. The Tasmanian Government should consider the development of a culturally safe and appropriate court response that harnesses the strength of Aboriginal and Torres Strait Islander communities in relation to young people who come into contact with the justice system. This should include children who are using family violence. Such a process is more likely to provide a meaningful intervention for AVITH where there are appropriate programs available in the community that can be integrated into the court process.

c) Victoria

- i. The existence of the Koori Court youth diversion program should be promoted among police and lawyers to ensure the opportunity to utilise this process is taken up in Victoria. Victoria now allows youth diversion matters to proceed in the Koori Court (see s. 519[1][c][iv] *Children, Youth and Families Act 2005* [Vic]). However, PIPA heard that this option has not yet been widely taken up. Importantly, this process is far more likely to provide a meaningful intervention for AVITH where there are appropriate programs available in the community, that can be integrated into diversion plans where appropriate.

RECOMMENDATION 7:

Invest in community-led research regarding the experience of adolescent violence in the home in refugee and migrant communities

All state and territory governments should invest in community-led research regarding the experience of adolescent violence in the home in refugee and migrant communities. This research should include a specific focus on the impact of trauma related to refugee experiences, as well as the impact of displaced family structures and increased vulnerability to criminal justice system contact within newly arrived communities. This research should support the development of community-specific workforces.

As noted in this report, the PIPA team was unable to reach specific findings from the case file audits regarding the experience or prevalence of AVITH in specific CALD communities. In particular, the PIPA team noted that it was not appropriate to homogenise CALD experiences, such as to conflate the experiences and cultural norms of established migrant communities with the potential trauma of some newly arrived communities in certain contexts. Practitioners reported, however, that a complex array of factors made it even less likely for victims/survivors of AVITH from CALD communities to report the use of family violence by their adolescents. Like other interventions in relation to family violence in CALD communities more broadly, therefore, interventions in relation to AVITH experienced in newly arrived and established CALD communities should be led by and within specific communities and take a whole-of-family approach to ensure that all members of the family feel safe and supported in disclosing and addressing the use of family violence by an adolescent.

RECOMMENDATION 8:

Consider introducing a form of therapeutic treatment order as a formal legal response to adolescent violence in the home

Consideration should be given by participating state governments to introducing a form of therapeutic treatment orders as a formal legal response to adolescent violence in the home.

In Victoria, Therapeutic Treatment Orders (TTOs) are available for children using SAB, but not non-sexual violence. In this state the process of considering a TTO is initiated through the early stages of a criminal prosecution pathway, but civil protection order applications could also trigger consideration of a TTO as an alternative outcome.

An important difference between a TTO and a civil protection order is that there is no breach-related criminal prosecution mechanism attached to TTOs. This is because it is not an offence to fail to comply with a TTO, while parents/guardians can also be bound by a TTO to facilitate the therapeutic

treatment. While in some circumstances this feature of TTOs is an advantage, it needs to be approached with great care in a context of safety planning and support, where the primary carer is also the victim/survivor of the adolescent's violence. TTOs are not structured around the individual responsibility of the adolescent outside any context, but around facilitating supports to end the violence.

This response is primarily therapeutic and the court's involvement and oversight contributes to keeping the affected family in view over a period of time, as well as to maintaining the service system's accountability. It is important to note that TTOs cannot be implemented without an adequate community support and services infrastructure underpinning them, particularly disability support services with expertise in behaviours of concern. This is relevant to remember given that there is variation between jurisdictions in terms of the severity of service gaps, and therefore in terms of where the greatest need lies.

Eligibility criteria should be based on identifiable therapeutic need and the desirability of implementing a predominantly therapeutic response to the behaviour/violence. A predominantly therapeutic response will not be suitable for all cases and in some cases a greater emphasis on individual responsibility, compliance and consequences will be more appropriate. While it is not recommended that eligibility criteria be restricted to child respondents with diminished capacity related to disability, we envisage that TTOs would be a useful process for ensuring families and adolescents are connected with and receiving NDIS support.

Subject to trial and evaluation regarding the effectiveness of TTOs for AVITH, all three jurisdictions should consider the long-term goal of reducing the use of civil protection orders for adolescent children who use violence and moving towards greater reliance on and resourcing of the TTO process, with a balance between these responses. This is dependent on the availability of appropriate services and interventions that can respond to families in these circumstances.⁷⁶

⁷⁶ While the PIPA project has not had an opportunity to explore the policy and legislative settings in relation to AVITH in all Australian states and territories, and thus does not explicitly address this recommendation to states and territories other than WA, Tasmania and Victoria, this recommendation is likely to be relevant and applicable for

Service responses and gaps

Across each of the participating jurisdictions, the PIPA project identified service responses and gaps, which could begin to be addressed by the recommendations below.

RECOMMENDATION 9:

Develop and roll out evidence-based adolescent family violence programs

Evidence-based adolescent family violence programs (such as, but not limited to, Step-Up-based programs) need to be developed and rolled out across Western Australia, Victoria and Tasmania. These do not necessarily need to be group programs, but need to include care coordination, casework and therapeutic work conjointly, with the adolescent and/or with the parent/carer. They must also be significantly tailored to meet the needs of specific communities and resourced to ensure that they can improve accessibility. These programs should also be regularly evaluated.

Evaluation should include use of measures such as flexible outreach-based case management built around the program provision. AFVP provider organisations must also be resourced to enable year-round case management roles, with urgent/rolling referral uptake capacity outside of school terms, when existing programs are usually run. AFVP providers should also be resourced to continue working individually with adolescents and families who do not meet group program eligibility requirements—for example, for homeless/transient young people; young people who spend time in and out of care or custody; and those with a cognitive disability, significant trauma or engagement issues that impact suitability for group work.

Further, AFVPs should be resourced to ensure that opportunities for restorative engagement within the context of a comprehensive risk assessment and specialist family violence response are harnessed where appropriate. This should be led by a trauma-informed approach. Finally, AFVPs must also have the resources to provide individual support for siblings in the family affected by the violence to

other states and territories.

address their trauma and the impact it has on them or have relationships with other services that can provide this.

The significance of developing capacity for urgent and rolling referral uptake outside the group program term is crucial to the ability of courts and police, via Orange Door or another form of Support and Safety hub, to confidently refer adolescent child respondents and accused to AFVPs, including by making participation a condition of bail or part of a formal youth diversion plan, or integrating it into risk assessment and decision-making about the need for a civil protection order. While ultimately it would be desirable for courts in a civil context to be able to mandate AFVP participation by an adolescent respondent more formally, this will not be fair or practicable without the required service system infrastructure development as recommended.

a) Western Australia

- i. Comprehensive consultation is required with remote communities and communities with a significant or majority Aboriginal and Torres Strait Islander population, where we heard from practitioners in WA that AVITH may be conceived differently or not regarded as a priority. For these reasons, the most appropriate and culturally safe response may not be a Step-Up-style AFVP, but a response integrated with other community-controlled, led and designed family violence responses (see also Recommendation 10). Given that in WA, the PIPA research suggests that reported AVITH is mostly dealt with through criminal prosecution, consideration should be given to the development of an adapted version of the AFVP as a program (which could be delivered, or have its delivery facilitated, by Youth Justice) that can be completed by young people either on a youth justice order in the community or in custody. As this research found, it is likely that the framing and experience of AVITH as a problem is culturally, geographically and economically specific and, in particular, Aboriginal and Torres Strait Islander communities need to be consulted and practitioners from Aboriginal community-controlled organisations supported and resourced to design and lead any response that would be implemented for Aboriginal and Torres Strait Islander young peoples.

b) Tasmania

- i. Given the particularly acute need and disadvantage featuring in the review of files conducted in the PIPA research, the development and delivery of emerging Step-Up-based AFVPs should take account of the potential that children and families referred to the service may be experiencing a range of complex needs, which may function as a barrier to engagement and participation (see also Recommendation 10). The Tasmanian Government should also ensure that any AVITH model does not assume responsibility for the provision of counselling and other service support for adolescents displaying other challenging behaviour. This includes intimate partner violence by adolescent perpetrators, which the PIPA team heard was an increasing feature in the Tasmanian justice system.

c) Victoria

- i. When expanding the provision of AFVP-based models in Victoria as per the RCFV's recommendation, Family Safety Victoria should establish a rigorous set of standards, as well as a process of ongoing evaluation (see also Recommendation 10). This is to understand the ongoing challenges that AFVPs face in terms of engaging young people in general, as well as specific communities. Adherence to these standards should also take into consideration the variation in the delivery of service models across different locations and the relevance of this variation in terms of understanding the effectiveness of this particular approach. The PIPA team expects that this will be informed by work being conducted by the Centre for Family Research and Evaluation at Drummond Street Services during 2019.

RECOMMENDATION 10:**Explore and develop family systemic-type therapies and ecological models of intervention**

There should be further investment across all participating states in developing and exploring the potential of family systemic-type therapies, such as multisystemic therapy and other ecological models of intervention and treatment that offer outreach and 24-hour phone assistance for parents, and that can be adapted to support families with diverse structures and circumstances.

Family systemic therapy is particularly needed for families who might struggle to engage with a structured AFVP outside the home and have more complex, multifaceted issues of intergenerational trauma, parenting skills and capacity.

a) Western Australia

- i.* The existing multisystemic therapy program in WA has been positively evaluated and consideration should be given to expanding its availability in order to address unmet need.

RECOMMENDATION 11:**Aboriginal community-controlled organisations must be resourced to design and provide their own adolescent violence in the home responses**

Aboriginal community-controlled organisations in all jurisdictions must be resourced to design and provide their own adolescent violence in the home responses that are strengths-based and culturally safe and appropriate for their communities.

a) Victoria

- i.* Victoria should continue to pursue and fully resource its stated policy that services designed and delivered for Aboriginal adolescents as part of the expansion of AFVPs in Victoria will be led by Aboriginal communities through the Dhelk Dja Family Violence Partnership Forum (formerly known as the Indigenous Family Violence Partnership Forum [State of Victoria, 2018b]). Current resourcing for development of culturally specific

AVITH-interventions by Aboriginal community-controlled organisations should be continued and expanded, subject to positive outcomes.

RECOMMENDATION 12:**Develop additional crisis and longer-term supported accommodation for adolescents who use violence in the home**

PIPA endorses Recommendation 124 of the Royal Commission into Family Violence (State of Victoria, 2016c, p. 30) and proposes that each of the participating state governments should develop additional crisis and longer-term supported accommodation options for adolescents who use violence in the home. This should be combined with therapeutic support to end the young person's use of violence in the family.

RECOMMENDATION 13:**Develop a formal child protection policy response to adolescent violence in the home**

In each state, crisis and longer-term supported accommodation facilities or added capacity needs to be fully integrated into a formal child protection policy response to adolescent violence in the home. Child protection services in each state need to develop a comprehensive documented policy for responding to adolescent violence in the home, which emphasises keeping protective parents and siblings impacted by the violence of an older sibling together, and offering support to access therapeutic services to address the impact on the younger siblings. Ongoing training and professional development should support workforce capacity and capability to implement this policy.

Child protection policy must prioritise temporary removal of the adolescent using violence, paired with a therapeutic intervention (for example, AFVP and appropriate individual therapeutic treatment) to address the use of violence. This policy cannot be implemented without implementation of the first part of the previous recommendation regarding development of crisis and longer-term supported accommodation options.

RECOMMENDATION 14:**Adopt the recommendations of the Victorian Government related to its investigation into Victorian Government school expulsions**

PIPA endorses all recommendations by the Victorian Ombudsman related to its investigation into Victorian Government school expulsions (Victorian Ombudsman, 2017). PIPA in particular highlights the importance in the context of addressing and preventing adolescent violence in the home of the Victorian Ombudsman's Recommendation 7, which calls for strategies to prevent school expulsion, including to assess the impact that expulsion would have on the wellbeing of students and others. We endorse this across all three jurisdictions.

Recommendation 7 by the Victorian Ombudsman (2017, p. 93) is reproduced below in edited/adapted⁷⁷ form so as to address all jurisdictions:

[Education departments should] develop and pilot a model to support schools to develop challenging behaviour prevention and early intervention strategies for all students with high needs and complex behaviours (including students with disabilities) that have an impact on the safety and wellbeing of themselves and others. This should involve a multi-disciplinary approach with expertise, support and advice from appropriate allied health, clinical, safety, human rights and regional staff provided to the school to support the student, and a support service for principals to access when considering expulsion.

⁷⁷ The original recommendation by the Victorian Ombudsman is directed specifically to the Victorian Department of Education and Training. The original recommendation also refers to "the apparent success of the Education Justice Initiative, Navigator and LOOKOUT pilots" within Victoria (Victorian Ombudsman, 2017, p. 93). LOOKOUT involves centres that provide "support to schools, carers and child protection practitioners to improve educational outcomes for students living in out of home care" (Victorian Ombudsman 2017, p. 88). Navigator and the Education Justice Initiative (EJI) both involve flexible and outreach-based support for young people disengaged from education, with the EJI focused on young people appearing in the Criminal Division of the Melbourne Children's Court of Victoria (Victorian Ombudsman, 2017, p. 88).

Knowledge gaps

The PIPA project identified knowledge gaps, which would benefit from further research.

RECOMMENDATION 15:**Conduct further research regarding the lived experience of children in the court system and adolescents using family violence**

Further research is needed to produce evidence regarding the lived experiences of children in the court system in general, and adolescents receiving a legal response to their use of violence in particular.

This should include exploration of the extent to which adolescents attend court when made the respondent to a civil protection order application. It should also include the extent to which this relates to compliance with civil orders and/or diversion from further contact with the justice system.

RECOMMENDATION 16:**Conduct further research regarding people with a disability who use family violence**

Further research is needed to produce evidence regarding people with a disability who use violence and go through the civil or criminal justice system in relation to this.

This research should be conducted in collaboration with organisations who work with and advocate for people with a disability.

Federal reform

The PIPA project identified areas for federal reform, which would contribute to improved understanding of the links between trauma and use of AVITH, as well as the links between trauma, neurodevelopmental impairment and AVITH.

RECOMMENDATION 17:

Reform the language and presumptions in the Family Law Act 1975 (Cth) to ensure that parenting orders adequately reflect the serious impact of past or ongoing family violence on children's development and relationship with their victim/survivor parents

PIPA endorses the recommendations of the Australian Law Reform Commission's (ALRC) inquiry into the family law system in relation to recognising the impact of family violence on children, in particular Recommendations 4-8 (ALRC, 2019, pp. 40-41). PIPA also endorses Recommendations 51-52 (ALRC, 2019, p. 22), which call for increased expertise and professional development concerning family violence among the judiciary and legal profession working in the family law jurisdiction respectively. As such, the federal government should reform the language and presumptions contained in the *Family Law Act 1975* (Cth) to ensure that parenting orders are made in ways that adequately reflect the serious impact of past or ongoing adult intimate partner violence on children's development, as well as on their relationship with the non-violent parent who is the victim/survivor.

This should include where the child may be residing or in contact with a violent parent and therefore at risk; where the child may be learning/replaying behaviour from the violent parent; or where the impact of exposure to family violence may be contributing to their own use of violence.

RECOMMENDATION 18:

Reform the *Family Law Act 1975* (Cth) to include considerations of the serious impact of family violence on children's development and their relationship with the victim/survivor parent when determining the best interests of children

The PIPA team recommends additions to Recommendation 4 by the Australian Law Reform Commission in its inquiry into the family law system (ALRC, 2019, p. 15) to include considerations when determining the best interests of children in relation to parenting arrangements; the serious impact of past and ongoing family violence, abuse or other harm on children's development; and the impact of family violence on the child's relationship with the parent who is the victim/survivor of family violence.

The PIPA project:

Positive Interventions for Perpetrators of Adolescent violence in the home (AVITH)

RECOMMENDATION 19:

Commission an inquiry at the federal level into the over-representation of children with cognitive impairments and trauma in criminal justice systems

At the federal level, an inquiry is needed into the over-representation of children with cognitive disability, neurodevelopmental impairments and trauma backgrounds as accused/respondents in Australian criminal justice systems.

Although universal screening has not been implemented in any jurisdiction, existing evidence across Australia (and beyond) already confirms the high prevalence rates of cognitive and neurodevelopmental disability and learning difficulties among justice-involved children, as well as the strong overlay of trauma histories in this cohort of children (Bower et al., 2018; Hughes, 2015; Human Rights Watch, 2018). A federal inquiry should focus on two key areas: resourcing and access to services, and appropriate system design.

The first key area involves identifying the changes that are needed to ensure children and their families are connected with adequate practical supports from a young age, including changes to the NDIS and child protection systems. The second key area involves identifying a framework for designing civil and criminal procedure in state courts that is procedurally just and does not unfairly disadvantage or entrench the criminalisation of children with complex needs.

Consideration should be given to how a universal screening and referral process should be implemented at the point of children's entry into the justice system (see Recommendation 20 below).

RECOMMENDATION 20:**Consider universal screening for fetal alcohol spectrum disorder during infant health assessments, child protection and justice systems**

PIPA endorses Recommendation 1 made by the Coroner's Court of Western Australia in relation to the inquest into the deaths of 13 children and young persons in the Kimberley region (Western Australia, Coroner's Court of Western Australia, 2019, p. 267), which proposed universal screening for fetal alcohol spectrum disorder during all infant health assessments and upon any child entering the child protection system or the justice system for the first time.

We endorse this recommendation across all states and territories but recommend consideration be given to universal screening for all neurodevelopmental impairment, including but not limited to FASD. Further, we would recommend that screening is always attached to a supported referral process into the disability service system. This could potentially be incorporated into the role of court-based respondent support workers, discussed in Recommendation 2 of this report. In the absence of a fully supported referral into the disability service system, the value of screening is greatly reduced. Recommendation 16, above, proposes a federal inquiry that would consider the best way to implement such a screening system and ensure it is linked to better service connection outcomes for justice-involved children.

RECOMMENDATION 21:**Formally recognise neurodevelopmental impairment and fetal alcohol spectrum disorder as disabilities for the purpose of clarifying eligibility for National Disability Insurance Scheme funding**

PIPA endorses Recommendation 2 by the Coroner's Court of Western Australia in relation to the inquest into the deaths of 13 children and young persons in the Kimberley region (Western Australia, Coroner's Court of Western Australia, 2019, p. 270) regarding the need for formal recognition of neurodevelopmental impairment and fetal alcohol spectrum disorder as disabilities for the purpose of clarifying eligibility for National Disability Insurance Scheme funding.

Conclusion

Overall, the PIPA team acknowledges that our recommendations have, in some cases, substantial resource implications for government, as well as for the development of workforce capacity and capability. What the PIPA project has found, however, is that reform that is limited to a focus on AVITH-specific initiatives is, as practitioners across all three jurisdictions told us repeatedly, "intervening 10 years too late". As crucial as it is to develop greater understanding, capacity and expertise in relation to AVITH in the dedicated family violence and legal sector, the demand on this part of the system will remain significant unless broader reform occurs to stem the trajectory from trauma and neurodevelopmental impairment in childhood to the use of AVITH in adolescence. Where these broader efforts can be taken, and where jurisdictions start to address the pathways that propel children towards the use of AVITH, the demand on other parts of the legal and service system, including police, child protection and youth justice systems more broadly, can start to be reduced. Acknowledging this, however, requires that service and legal responses move from an emphasis on system activity to system effectiveness.

In doing so, these systems must also start to move from interventions that potentially cause more harm than good to interventions that function as a positive intervention at

all points of interaction with adolescents and their families. Where supported by other reforms across the system, and by a growing awareness of the elements of effective intervention and risk assessment, this is achievable, as the examples of promising practice and innovation featured in Chapter 10 signal. Accordingly, this research has not led the PIPA team to conclude that a legal or justice response is never appropriate in situations of AVITH, although we fully acknowledge that it should be invoked as a last resort. Rather, where legal responses are essential to promote safety and reduce risk for those experiencing AVITH, as well as those using it, they should work in collaboration with, and be informed by, other elements of the service response. Where these service responses in turn are working more effectively and intervening at an earlier point, however, the trajectory towards legal system intervention becomes less inevitable.

References

- Acts Amendment (Family and Domestic Violence) Act 2004* (WA). Retrieved from https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_2243_homepage.html
- Adoption Act 1984* (Vic). Retrieved from [http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/LTObjSt6.nsf/DDE300B846EED9C7CA257616000A3571/73EC42E3D36422A3CA2578B60014DDEFF/\\$FILE/84-10150aa062%20authorised.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/LTObjSt6.nsf/DDE300B846EED9C7CA257616000A3571/73EC42E3D36422A3CA2578B60014DDEFF/$FILE/84-10150aa062%20authorised.pdf)
- Adoption Act 1988* (Tas). Retrieved from <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1988-041>
- Adoption Act 1994* (WA). Retrieved from https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a6.html
- Agnew, R., & Huguley, S. (1989). Adolescent violence towards parents. *Journal of Marriage and Family*, 51(3), 699–711. <http://doi.org/10.2307/352169>
- Allam, L. (2019, May 31). "System is broken": All children in NT detention are Aboriginal, officials say. *The Guardian*. Retrieved from <https://www.theguardian.com/australia-news/2019/may/31/system-is-broken-all-children-in-nt-detention-are-aboriginal-officials-say>
- American Psychiatric Association. (2013). *Diagnostic and statistical manual of mental disorders* (5th ed.). Washington, DC: APA.
- Anda, R. F., Felitti, V. J., Bremner, J. D., Walker, J. D., Whitfield, C., Perry, B. D., ... Giles, W. H. (2006). The enduring effects of abuse and related adverse experiences in childhood: A convergence of evidence from neurobiology and epidemiology. *European Archives of Psychiatry and Clinical Neuroscience*, 256(3), 174–186. <http://doi.org/10.1007/s00406-005-0624-4>
- Armstrong, G. S., Cain, C. M., Wylie, L. E., Muftić L. R., & Bouffard, L. A. (2018). Risk factor profile of youth incarcerated for child to parent violence: A nationally representative sample. *Journal of Criminal Justice*, 58, 1–9. <http://doi.org/10.1016/j.jcrimjus.2018.06.002>
- Armytage, P., & Ogloff, J. (2017). *Youth justice review and strategy: Meeting needs and reducing offending—Appendices—July 2017*. Retrieved from <https://www.justice.vic.gov.au/justice-system/youth-justice/youth-justice-review-and-strategy-meeting-needs-and-reducing-offending>
- Australian Bureau of Statistics. (2015). *Disability, ageing and carers, Australia: Summary of findings, 2015* (cat. no. 4430.0). Retrieved from <https://www.abs.gov.au/ausstats/abs@nsf/mf/4430.0>
- Australian Bureau of Statistics. (2016). *Personal Safety, Australia, 2016* (cat. no. 4906.0). <https://www.abs.gov.au/ausstats/abs@nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Key%20Findings~1>
- Australian Human Rights Commission. (2018). *A future without violence: Quality, safeguarding and oversight to prevent and address violence against people with disability in institutional settings*. Sydney: AHRC.
- Australian Institute of Criminology. (2005). *The age of criminal responsibility*. Crime facts info no. 106. Retrieved from <https://aic.gov.au/publications/cfi/cfi106>
- Australian Institute of Criminology. (2015). *Evaluation of the adolescent family violence program: Interim report* (Consultancy report for the Victorian Department of Human Services). Unpublished manuscript, AIC.
- Australian Institute of Health and Welfare. (2013). *Child protection Australia 2011–12* (Child Welfare Series no. 55). Canberra: AIHW.
- Australian Institute of Health and Welfare. (2017a). *Autism in Australia* (Cat. no WEB 187). Canberra: AIHW.
- Australian Institute of Health and Welfare. (2017b). Youth Justice in Australia 2015–2016. *Bulletin 139*. (Cat. no. AUS 211). Canberra: AIHW.
- Australian Institute of Health and Welfare. (2017c). *Youth justice in Australia 2016–17* (Cat. no. JUV 116). Canberra: AIHW.

- Australian Law Reform Commission. (2019). *Family law for the future: An inquiry into the family law system* (ALRC report 135). Canberra: ALRC.
- Baumeister, R. F., & Leary, M. R. (1997). Writing narrative literature reviews. *Review of General Psychology*, 1(3), 311–320. <http://doi.org/10.1037/1089-2680.1.3.311>
- Bazeley, P. (2009). Analysing qualitative data: More than "identifying themes". *Malaysian Journal of Qualitative Research*, 2(2), 6–22.
- Bazeley, P. (2016). Mixed or merged? Integration as the real challenge for mixed methods. *Qualitative Research in Organizations and Management: An International Journal*, 11(3), 189–194. <https://doi.org/10.1108/QROM-04-2016-1373>
- Berthelot, N., Ensink, K., Bernazzani, O., Normandin, L., Luyten, P., & Fonagy, P. (2015). Intergenerational transmission of attachment in abused and neglected mothers: The role of trauma-specific reflective functioning. *Infant Mental Health Journal*, 36(2), 200–212. <http://doi.org/10.1002/imhj.21499>
- Blackley, R., & Bartels, L. (2018). Sentencing and treatment of juvenile sex offenders in Australia. *Trends & issues in crime and criminal justice*, No. 555. Retrieved from <https://aic.gov.au/publications/tandi/tandi555>
- Bobic, N. (2004). *Adolescent violence towards parents, ADFV Clearinghouse topic paper*. Sydney: Australian Domestic & Family Violence Clearinghouse.
- Borduin, C. M., Mann, B. J., Cone, L. T., Henggeler, S. W., Fucci, B. R., Blaske, D. M., & Williams, R. A. (1995). Multisystemic treatment of serious juvenile offenders: Long-term prevention of criminality and violence. *Journal of Consulting and Clinical Psychology*, 63(4), 569–578. <http://doi.org/10.1037/0022-006X.63.4.569>
- Bower, C., Watkins, R. E., Mutch, R. C., Marriott, R., Freeman, J., Kippin, N. R., ... Giglia, R. (2018). Fetal alcohol spectrum disorder and youth justice: A prevalence study among young people sentenced to detention in Western Australia. *BMJ Open*, 8(2), 1–10. <http://doi.org/10.1136/bmjopen-2017-019605>
- Boxall, H., Rosevear, L., & Payne, J. (2015a). Identifying first-time family violence perpetrators: The usefulness and utility of categorisations based on police offence records. *Trends & issues in crime & criminal justice*, No. 487. Retrieved from <https://aic.gov.au/publications/tandi/tandi487>
- Boxall, H., Rosevear, L., & Payne, J. (2015b). Domestic violence typologies: What value to practice? *Trends & issues in crime and criminal justice*, No. 494. Retrieved from <https://aic.gov.au/publications/tandi/tandi494>
- Breckenridge, J., & Hamer, J. (2014). *Traversing the maze of "evidence" and "best practice" in domestic and family violence service provision in Australia* (ADFV Clearinghouse Issues Paper 26). Sydney: Australian Domestic & Family Violence Clearinghouse.
- Bremness, A., & Polzin, W. (2014). Commentary: Developmental trauma disorder—A missed opportunity in DSM V. *Journal of the Canadian Academy of Child and Adolescent Psychiatry*, 23(2), 142–145. Retrieved from http://www.instantwebsetup.com/en/cacap/Volume_23_Number_2_May_2014_s5.html?ID=1320
- Brosnan, J., & Healy, O. (2011). A review of behavioral interventions for the treatment of aggression in individuals with developmental disabilities. *Research in Developmental Disabilities*, 32(2), 437–446. <http://doi.org/10.1016/j.ridd.2010.12.023>
- Bucci, N. (2016, July 21). Media coverage of youth crime "corrosive": Legal Aid executive. *The Age*. Retrieved from <https://www.theage.com.au/national/victoria/mediacoverage-of-youth-crime-corrosive-legal-aid-executive-20160720-gqa43t.html>
- Calvete, E., Orue, I., Bertino, L., Gonzalez, Z., Montes, Y., Padilla, P., & Pereira, R. (2014). Child-to-parent violence in adolescents: The perspectives of the parents, children, and professionals in a sample of Spanish focus group participants. *Journal of Family Violence*, 29(3), 343–352. <http://doi.org/10.1007/s10896-014-9578-5>

- Campo, M. (2015). *Children's exposure to domestic and family violence: Key issues and responses* (Child Family Community Australia paper No. 36). Melbourne: Australian Institute of Family Studies.
- Campo, M., & Commerford, J. (2016). *Supporting young people leaving out-of-home care* (CFCA paper No. 41). Melbourne: Australian Institute of Family Studies.
- Casey, E. A., Beadnell, B., & Lindhorst, T. P. (2009). Predictors of sexually coercive behavior in a nationally representative sample of adolescent males. *Journal of Interpersonal Violence*, 24(7), 1129–1147. <http://doi.org/10.1177/0886260508322198>
- Centre for Innovative Justice. (2015). *Opportunities for early intervention: Bringing perpetrators of family violence into view*. Melbourne: RMIT University.
- Centre for Innovative Justice. (2016). *Pathways towards accountability: Mapping the journeys of perpetrators of family violence—Phase 1* (Report to Department of Premier and Cabinet, Victoria). Melbourne: RMIT University.
- Charter of Human Rights and Responsibilities Act 2006 (Vic). Retrieved from [http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/54D73763EF9DCA36CA2571B6002428B0/\\$FILE/06-043a.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/54D73763EF9DCA36CA2571B6002428B0/$FILE/06-043a.pdf)
- Child Care Act 2001 (Tas). Retrieved from <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2001-062>
- Child Care Services Act 2007 (WA). Retrieved from [https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_5401.pdf/\\$FILE/Child%20Care%20Services%20Act%202007%20-%20%5B00-00-00%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_5401.pdf/$FILE/Child%20Care%20Services%20Act%202007%20-%20%5B00-00-00%5D.pdf?OpenElement)
- Child Employment Act 2003 (Vic). Retrieved from http://www.legislation.vic.gov.au/domino/Web_notes/LDMS/LTObject_Store/LTObjSt1.nsf/d1a8d8a9bed958efca25761600042ef5/10075778ec3864bccca257761001c7284/%24FILE/03-81a012.pdf
- Child Protection (International Measures) Act 2003 (Tas). Retrieved from <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2003-023>
- Child Wellbeing and Safety Act 2005 (Vic). Retrieved from [http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt10.nsf/DDE300B846EED9C7CA257616000A3571/AEC2C69107CDD517CA25814D007E870B/\\$FILE/05-83aa021%20authorised.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt10.nsf/DDE300B846EED9C7CA257616000A3571/AEC2C69107CDD517CA25814D007E870B/$FILE/05-83aa021%20authorised.pdf)
- Children and Community Services Act 2004 (WA). Retrieved from https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_132_homepage.html
- Children and Justice Legislation Amendment (Youth Justice Reform) Act 2017 (Vic). Retrieved from [http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/5Idea49770555ea6ca256da4001b90cd/1A3FDFCC6F7D4B09CA2581A7000F7730/\\$FILE/17-043aa%20authorised.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/5Idea49770555ea6ca256da4001b90cd/1A3FDFCC6F7D4B09CA2581A7000F7730/$FILE/17-043aa%20authorised.pdf)
- Children, Young Persons and Their Families Act 1997 (Tas). Retrieved from <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1997-028>
- Children, Young Persons and Their Families Amendment Act 2009 (Tas). Retrieved from http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/tas/num_act/cypatfaa200922o2009525/
- Children, Youth and Families Act 2005 (Vic). Retrieved from http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/cyafa2005252/
- Children's Court of Victoria. (2019). *Family violence support services*. Retrieved from <https://www.childrenscourt.vic.gov.au/jurisdictions/intervention-orders/family-violence-support-services>
- Chung, D., Green, D., Smith, G., & Leggett, N. (2014). *Breaching safety: Improving the effectiveness of Violence Restraining Orders for victims of family and domestic violence*. Perth: The Women's Council for Domestic and Family Violence Services.
- Clarke, M., & Gwynne, K. (2011). *Health needs and outcomes for children in out-of-home care in Australia*. Sydney: Australian Medical Association NSW.

- Cochran, J. K., Sellers, C. S., Wiesbrock, V. S., & Palacios, W. R. (2011). Repetitive intimate partner victimization: An exploratory application of social learning theory. *Deviant Behaviour*, 32(9), 790–817. <http://doi.org/10.1080/01639625.2010.538342>
- Colony 47. (2015). *Tasmanian State Government budget submission*. Retrieved from http://www.colony47.com.au/wp-content/uploads/2015/02/Colony47_submission-2015-16-Budget_Feb.pdf
- Commission for Children and Young People Act 2012* (Vic). Retrieved from [http://www.legislation.vic.gov.au/domino/web_notes/ldms/pubstatbook.nsf/f932b66241ecf1b7ca256e92000e23be/C1A5C9B2974C239DCA257AD80013AA39/\\$FILE/12-079abookmarked.pdf](http://www.legislation.vic.gov.au/domino/web_notes/ldms/pubstatbook.nsf/f932b66241ecf1b7ca256e92000e23be/C1A5C9B2974C239DCA257AD80013AA39/$FILE/12-079abookmarked.pdf)
- Commissioner for Children and Young People Act 2006* (WA). Retrieved from https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_164_homepage.html
- Commissioner for Children and Young People Act 2016* (Tas). Retrieved from <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2016-002>
- Commonwealth of Australia. (2017a). *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final report: Volume 2, Nature and cause). Canberra: Commonwealth of Australia.
- Commonwealth of Australia. (2017b). *Report of the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory* (Volume 1). Canberra: Commonwealth of Australia.
- Commonwealth of Australia. (2017c). *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final report: Volume 10, Children with harmful sexual behaviours). Canberra: Commonwealth of Australia.
- Community Protection (Offender Reporting and Registration) Act 2004* (WA). Retrieved from [https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_27096.pdf/\\$FILE/Community%20Protection%20\(Offender%20Reporting\)%20Act%202004%20-%20%5B02-00-00%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_27096.pdf/$FILE/Community%20Protection%20(Offender%20Reporting)%20Act%202004%20-%20%5B02-00-00%5D.pdf?OpenElement)
- Community Protection (Offender Reporting) Amendment Bill 2016* (Tas). Retrieved from http://www.parliament.tas.gov.au/bills/Bills2016/reprint/48_of_2016.pdf
- Condry, R., & Miles, C. (2014). Adolescent to parent violence: Framing and mapping a hidden problem. *Criminology & Criminal Justice*, 14(3), 257–275. <http://doi.org/10.1177/1748895813500155>
- Connell, C., Gilreath, T., Aklin, R., & Brex, W. (2010). Social-ecological influences on patterns of substance use among non-metropolitan high school students. *American Journal of Community Psychology*, 45(1–2), 36–48. <https://doi.org/10.1007/s10464-009-9289-x>
- Contreras, L. M., & Cano, C. P. (2014a). Adolescents who assault their parents: A different family profile of young offenders? *Violence and Victims*, 29(3), 393–406. <https://doi.org/10.1891/0886-6708.VV-D-12-00132>
- Contreras, L. M., & Cano, C. P. (2014b). Family profile of young offenders who abuse their parents: A comparison with general offenders and non-offenders. *Journal of Family Violence*, 29(8), 901–910. <https://doi.org/10.1007/s10896-014-9637-y>
- Contreras, L. M., & Cano, C. P. (2015). Exploring psychological features in adolescents who assault their parents: A different profile of young offenders? *The Journal of Forensic Psychiatry & Psychology*, 26(2), 224–241. <https://doi.org/10.1080/14789949.2015.1004634>
- Coogan, D. (2014). Responding to child-to-parent violence: Innovative practices in child and adolescent mental health. *Health & Social Work*, 39(2), e1–e9. <https://doi.org/10.1093/hsw/hlu011>
- Correll, J. R., Cusworth Walker, S., & Edwards, T. C. (2017). Parent perceptions of participating in a program for adolescents who are violent at home. *Journal of Family Violence*, 32(2), 243–255. <https://doi.org/10.1007/s10896-016-9847-6>

- Cottrell, B. (2001). *Parent abuse: The abuse of parents by their teenage children*. Ottawa: Health Canada, Population and Public Health Branch, National Clearinghouse on Family Violence.
- Cottrell, B., & Monk, P. (2004). Adolescent-to-parent abuse: A qualitative overview of common themes. *Journal of Family Issues*, 25(8), 1072–1095. <https://doi.org/10.1177/0192513X03261330>
- Coutts, P. (2019). *The many shades of co-produced evidence*. Dunfermline: Carnegie UK Trust.
- Cox, E., Leung, R., Baksheev, G., Day, A., Toumbourou, J., Miller, P., ... Walker, A. (2016). Violence prevention and intervention programmes for adolescents in Australia: A systematic review. *Australian Psychologist*, 51(3), 206–222. <https://doi.org/10.1111/ap.12168>
- Crime Statistics Agency. (2018a). *Victoria Police family violence data dashboards*. Retrieved from <https://crimestatistics.vic.gov.au/family-violence-data-portal/family-violence-data-dashboard/victoria-police>
- Crime Statistics Agency. (2018b). *Children's Court of Victoria family violence data dashboards*. Retrieved from <https://crimestatistics.vic.gov.au/family-violence-data-portal/family-violence-data-dashboard/childrens-court>
- Crime Statistics Agency. (2018c). *Magistrates' Court of Victoria family violence data dashboards*. Retrieved from <https://crimestatistics.vic.gov.au/family-violence-data-portal/family-violence-data-dashboard/magistrates-court>
- Crimes (Family Violence) Act 1987 (Vic)*. Retrieved from [http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/LTObjSt1.nsf/DDE300B846EED9C7CA257616000A3571/EB1FAAF19FFA9736CA2576160019D31F/\\$FILE/87-19a040.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/LTObjSt1.nsf/DDE300B846EED9C7CA257616000A3571/EB1FAAF19FFA9736CA2576160019D31F/$FILE/87-19a040.pdf)
- Daly, K., & Nancarrow, H. (2010). Restorative justice and youth violence toward parents. In J. Ptacek (Ed.), *Restorative justice and violence against women* (pp. 151–176). New York: Oxford University Press.
- Daly, K., & Wade, D. (2016). Gender and adolescent-to-parent violence: A systematic analysis of typical and atypical cases. In A. Holt (Ed.), *Working with adolescent violence and abuse towards parents: Approaches and contexts for intervention* (pp. 148–168). New York: Routledge.
- Department of Health and Human Services. (2016). *Youth Parole Board annual report 2015–2016*. Retrieved from https://www.parliament.vic.gov.au/file_uploads/Youth_Parole_Board_Annual_Report_2015-16_L2jN9RxM.pdf
- Diemer, K., Ross, S., Humphreys, C. & Healey, L. (2017). A 'double edged sword': Discretion and compulsion in policing domestic violence. *Police Practice and Research*, 18(4), 339–351. <https://doi.org/10.1080/15614263.2016.1230853>
- Douglas, H., & Godden, L. (2003). The decriminalisation of domestic violence: Examining the interaction between the criminal law and domestic violence. *Criminal Law Journal*, 27(1), 32–43. Retrieved from <https://ssrn.com/abstract=1014282>
- Douglas, H., & Walsh, T. (2018). Adolescent family violence: What is the role for legal response? *Sydney Law Review*, 40(4), 499. Retrieved from <http://www.austlii.edu.au/au/journals/SydLawRw/2018/20.html>
- Education Act 1994 (Tas)*. Retrieved from <https://www.legislation.tas.gov.au/view/html/inforce/1999-12-03/act-1994-086>
- El-Murr, A. (2017). *Problem sexual behaviours and sexually abusive behaviours in Australian children and young people: A review of available literature* (CFCA paper no. 46). Melbourne: Australian Institute of Family Studies.
- Evans, J. (2016). Trauma-based approaches to adolescent-to-parent abuse. In A. Holt (Ed.), *Working with adolescent violence and abuse towards parents: Approaches and contexts for intervention* (pp. 64–79). New York: Routledge.
- Family Court Act 1997 (WA)*. Retrieved from https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_321_homepage.html
- Family Law Act 1975 (Cth)*. Retrieved from <https://www.legislation.gov.au/Details/C2017C00385>

- Family Safety Victoria. (2018). *Family Violence Multi-Agency Risk Assessment and Management Framework: A shared responsibility for assessing and managing family violence risk*. Retrieved from <https://www.vic.gov.au/sites/default/files/2019-01/Family%20violence%20multi-agency%20risk%20assessment%20and%20management%20framework.pdf>
- Family Violence Act 2004 (Tas). Retrieved from <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2004-067>
- Family Violence Protection Act 2008 (Vic). Retrieved from http://www5.austlii.edu.au/au/legis/vic/consol_act/fvpa2008283/
- Ferdinand, A. S., Paradies, Y., & Kelaher, M. (2015). Mental health impacts of racial discrimination in Australian culturally and linguistically diverse communities: A cross-sectional survey. *BMC Public Health*, 15(401), 1–14. <https://doi.org/10.1186/s12889-015-1661-1>
- Fergusson, D. M., Boden, J. M., & Horwood, L. J. (2006). Examining the intergenerational transmission of violence in a New Zealand birth cohort. *Child Abuse & Neglect*, 30(2), 89–108. <https://doi.org/10.1016/j.chiabu.2005.10.006>
- Fitz-Gibbon, K., Elliot, K., & Maher, J. (2018). *Investigating adolescent family violence in Victoria: Understanding experiences and practitioner perspectives*. Melbourne: Monash Gender and Family Violence Program, Monash University.
- Fraser, N. (1985). What's critical about critical theory? The case of Habermas and gender. *New German Critique*, 35, 97–131. <https://doi.org/10.2307/488202>
- Freeman, K. (2018). *Domestic and family violence by juvenile offenders: Offender, victim and incident characteristics* (Issue paper no. 136). Sydney: NSW Bureau of Crime Statistics and Research.
- Gallagher, E. (2004). Youth who victimise their parents. *Australian and New Zealand Journal of Family Therapy*, 25(2), 94–105. <https://doi.org/10.1002/j.1467-8438.2004.tb00591.x>
- Gallagher, E. (2016). Empowering parents: The Who's in Charge? Program. In A. Holt (Ed.), *Working with adolescent violence and abuse towards parents: Approaches and contexts for intervention* (pp. 34–46). New York: Routledge.
- Gebo, E. (2007). A family affair: The juvenile court and family violence cases. *Journal of Family Violence* 22(7), 501–509. <https://doi.org/10.1007/s10896-007-9075-1>
- Government of Western Australia. (2018). *2018–19 State budget snapshot*. Retrieved from <https://www.ourstatebudget.wa.gov.au/2018-19/index.html>
- Han, H., & Budarick, J. (2018). Overcoming the new kids on the block syndrome: The media 'endorsement' on discrimination against African-Australians. *Continuum, Journal of Media & Cultural Studies*, 32(2), 213–223. <https://doi.org/10.1080/10304312.2017.1409340>
- Haw, A. (2010). *Parenting over violence: Understanding and empowering mothers affected by adolescent violence in the home*. Perth: The Patricia Giles Centre Inc.
- Holt, A. (2012). Adolescent-to-parent abuse and frontline service responses: Does Munro matter? In M. Blyth, & E. Solomon (Eds.), *Effective safeguarding for children and young people: What next after Munro?* (pp. 91–106). Bristol, UK: Policy Press.
- Holt, A. (2013). *Adolescent-to-parent-abuse: Current understandings in research, policy and practice*. Bristol, UK: Policy Press. <https://doi.org/10.2307/j.ctt1t6p748>
- Holt, A. (2016a). Adolescent-to-parent abuse as a form of "domestic violence": A conceptual review. *Trauma, Violence & Abuse*, 17(5), 490–499. <https://doi.org/10.1177/1524838015584372>
- Holt, A. (2016b). *Working with adolescent violence and abuse towards parents: Approaches and contexts for intervention*. New York: Routledge, Taylor & Francis Group.
- Howard, J. (2011). *Adolescent violence in the home: The missing link in family violence prevention and response* (Stakeholder Paper 11). Sydney: Australian Domestic & Family Violence Clearinghouse.

- Howard, J. (2015). *Adolescent violence in the home: How is it different to adult family violence?* Retrieved from <https://aifs.gov.au/cfca/2015/12/08/adolescent-violence-home-how-it-different-adult-family-violence>
- Howard, J., & Abbott, L. (2013). *The last resort: Pathways to justice*. Melbourne: Digital Reprographics.
- Howard, J., & Holt, A. (2016). Special considerations when working with adolescent family violence. In A. Holt (Ed.), *Working with adolescent violence and abuse towards parents: Approaches and contexts for intervention* (pp. 169–183). New York: Routledge.
- Howard, J., & Rottem, N. (2008). *It all starts at home: Male adolescent violence to mothers*. Melbourne: Inner South Community Health Service Inc. and Child Abuse Research Australia, Monash University.
- Hsieh, H. F., & Shannon, S. E. (2005). Three approaches to qualitative content analysis. *Qualitative Health Research*, 15(9), 1277–1288. <https://doi.org/10.1177%2F1049732305276687>
- Hughes, N. (2015). *Neurodisability in the youth justice system: Recognising and responding to the criminalisation of neurodevelopmental impairment*. Retrieved from https://howardleague.org/wp-content/uploads/2016/04/HLWP_17_2015.pdf
- Human Rights Watch. (2018). *I needed help, instead I was punished: Abuse and neglect of prisoners with disabilities in Australia*. Retrieved from <https://www.hrw.org/report/2018/02/06/i-needed-help-instead-i-was-punished/abuse-and-neglect-prisoners-disabilities##>
- Hunter, C., & Piper, C. (2012). Parent abuse: Can law be the answer? *Social Policy and Society*, 11(2), 217–227. <https://doi.org/10.1017/S1474746411000637>
- InTouch Multicultural Centre Against Family Violence. (2010). *"I lived in fear because I knew nothing": Barriers to the justice system faced by CALD women experiencing family violence*. Melbourne: InTouch Multicultural Centre Against Family Violence.
- Izaguirre, A., & Calvete, E. (2017). Exposure to family violence as a predictor of dating violence and child-to-parent aggression in Spanish adolescents. *Youth and Society*, 49(3), 393–412. <https://doi.org/10.1177%2F0044118X16632138>
- Jackson, D. (2003). Broadening constructions of family violence: Mothers' perspectives of aggression from their children. *Child and Family Social Work*, 8(4), 321–329. <https://doi.org/10.1046/j.1365-2206.2003.00298.x>
- Justice Legislation Amendment (Family Violence Protection and Other Matters) Act 2018* (Vic). Retrieved from [http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/51dea49770555ea6ca256da4001b90cd/E7B4C1DA5D3BF44BCA2582E9000F64B7/\\$FILE/18-033aa%20authorised.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/51dea49770555ea6ca256da4001b90cd/E7B4C1DA5D3BF44BCA2582E9000F64B7/$FILE/18-033aa%20authorised.pdf)
- Justices Act 1959* (Tas). Retrieved from <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1959-077>
- Kaspiew, R., Carson, R., Dunstan, J., Qu, L., Horsfall, B., De Maio, J. A., ... Tayton, S. (2015). *Evaluation of the 2012 family violence amendments: Synthesis report*. Melbourne: Australian Institute of Family Studies.
- Kennair, N., & Mellor, D. (2007). Parent abuse: A review. *Child Psychiatry and Human Development*, 38(3), 203–219. <https://doi.org/10.1007/s10578-007-0061-x>
- King County. (2014). *Step-Up: Evaluation findings*. Retrieved from <http://www.kingcounty.gov/courts/superior-court/juvenile/step-up/about/Evaluations.aspx>
- Krienert, J. L., & Walsh, J. A. (2011). My brother's keeper: A contemporary examination of reported sibling violence using national level data, 2000–2005. *Journal of Family Violence*, 26(5), 331–342. <https://doi.org/10.1007/s10896-011-9367-3>
- Kwong, M. J., Bartholomew, K., Henderson, A. J. Z., & Trinke, S. J. (2003). The intergenerational transmission of relationship violence. *Journal of Family Psychology*, 17(3), 288–301. <https://doi.org/10.1037/0893-3200.17.3.288>

- Law Reform Commission of Western Australia. (2014). *Enhancing family and domestic violence laws* (Final report). Retrieved from https://www.lrc.justice.wa.gov.au/files/P104_FD_V_FinalReport.pdf
- Lipsey, M. W. (2009). The primary factors that characterise effective interventions with juvenile offenders: A meta-analytic overview. *Victims and offenders*, 4(2), 124–127. <https://doi.org/10.1080/15564880802612573>
- Malvaso, C. G., & Delfabbro, P. H. (2015). Offending behaviour among young people with complex needs in the Australian out-of-home care system. *Journal of Child and Family Studies*, 24(12), 3561–3569. <https://doi.org/10.1007/s10826-015-0157-z>
- Malvaso, C. G., Delfabbro, P. H., & Day, A. (2017). The child protection and juvenile justice nexus in Australia: A longitudinal examination of the relationship between maltreatment and offending. *Child Abuse and Neglect*, 64, 32–46. <https://doi.org/10.1016/j.chiabu.2016.11.028>
- Malvaso, C. G., Delfabbro, P. H., & Day, A. (2018). The maltreatment-offending association: A systematic review of the methodological features of prospective and longitudinal studies. *Trauma, Violence & Abuse*, 19(1) 20–34. <https://doi.org/10.1016/j.chiabu.2016.11.028>
- Malvaso, C. G., Delfabbro, P. H., Day, A., & Nobes, G. (2018). The maltreatment-violence link: Exploring the role of maltreatment experiences and other individual and social risk factors among young people who offend. *Journal of Criminal Justice*, 55, 35–45. <https://doi.org/10.1016/j.jcrimjus.2018.01.006>
- Margolin, G., & Baucom, B. R., (2014). Adolescents, aggression to parents: Longitudinal links with parents' physical aggression. *Journal of Adolescent Health*, 55(5), 645–651. <https://doi.org/10.1016/j.jadohealth.2014.05.008>
- Martin, S. (2010). Co-production of social research: Strategies for engaged scholarship. *Public Money & Management*, 30(4), 211–218. <https://doi.org/10.1080/09540962.2010.492180>
- McKenna, M., & O'Connor, R. (2012). *Walking on eggshells: Child and adolescent violence in the family* (A South Australian Advice Booklet for Parents and Carers). South Australia: Relationships Australia (SA), Flinders University and Southern Junction Community Services.
- McKenna, M., O'Connor, R., & Verco, J. (2010). *Exposing the dark side: A report of parents' experiences of child and adolescent family violence*. Adelaide: Regional Alliance Addressing Child & Adolescent Family Violence in the Home, South Australia.
- McMahon, M., & McGorrery, P. (2016). Criminalising emotional abuse, intimidation and economic abuse in the context of family violence: The Tasmanian experience. *University of Tasmania Law Review*, 35(2), 1–22. Retrieved from <https://search.informit.com.au/documentSummary;dn=429631809307038;res=IELAPA>
- McPhedran, S., & Baker, J. (2012). Lethal and non-lethal violence against women in Australia: Measurement challenges, conceptual frameworks, and limitations in knowledge. *Violence Against Women*, 18(8), 958–972. <https://doi.org/10.1177%2F1077801212456755>
- Miles, C., & Condry, R. (2015). Responding to adolescent to parent violence: Challenges for policy and practice. *The British Journal of Criminology*, 55(6), 1076–1095. <https://doi.org/10.1093/bjc/azv095>
- Miles, C., & Condry, R. (2016). Adolescent to parent violence: The police response to parents reporting violence from their children. *Policing and Society*, 26(7), 804–823. <https://doi.org/10.1080/10439463.2014.989158>
- Mills, T. (2017, December 8). Quarter of all youths committing family violence are boys bashing their mums. *The Age*. Retrieved from <https://www.theage.com.au/national/victoria/family-violence-treated-same-as-terrorism-under-new-police-strategy-20171207-h00lvl.html>
- Moon, L., Meyer, P., & Grau, J. (1999). *Australia's young people: Their health and wellbeing 1999* (AIHW Cat. No. PHE 19). Canberra: Australian Institute of Health and Welfare.

- Moulds, L. G., & Day, A. (2017). Characteristics of adolescent violence towards parents: A rapid evidence assessment. *Journal of Aggression, Conflict and Peace Research*, 9(3), 195–209. <https://doi.org/10.1108/JACPR-11-2016-0260>
- Moulds, L. G., Day, A., Mayshak, R., Mildred, H., & Miller, P. (2018). Adolescent violence towards parents—prevalence and characteristics using Australian police data. *Australian & New Zealand Journal of Criminology*, 52(2), 231–249. <https://doi.org/10.1177%2F0004865818781206>
- Moulds, L. G., Malvaso, C., Hackett, L., & Francis, L. (2019). The KIND program for adolescent family and dating violence. *Australian and New Zealand Journal of Family Therapy*. <https://doi.org/10.1002/anzf.1364>
- Moulds, L., Day, A., Mildred, H., Miller, P., & Casey, S. (2016). Adolescent violence towards parents—The known and unknowns. *Australian and New Zealand Journal of Family Therapy*, 37(4), 547–557. <https://doi.org/10.1002/anzf.1189>
- National Health and Medical Research Council (Australia). (2007). *National statement on ethical conduct in human research* (Updated 2018). Canberra: National Health and Medical Research Council.
- Nowakowski-Sims, E., & Rowe, A. (2017). The relationship between childhood adversity, attachment, and internalizing behaviors in a diversion program for child-to-mother violence. *Child Abuse & Neglect*, 72, 266–275. <https://doi.org/10.1016/j.chiabu.2017.08.015>
- Noy, C. (2008). Sampling knowledge: The hermeneutics of snowball sampling in qualitative research. *International Journal of Social Research Methodology*, 11(4), 327–344. <https://doi.org/10.1080/13645570701401305>
- O’Leary, P., Boddy, J., Venables, J., & Young, A. (2019). *Interim evaluation findings of ReNew*. Unpublished manuscript.
- Ombudsman Western Australia. (2015). *Investigation into issues associated with violence restraining orders and their relationship to family and domestic violence fatalities*. Perth: Ombudsman Western Australia.
- Payton, J., & Robinson, A. (2015). *Motivating respect: A Welsh intervention into youth-perpetrated domestic abuse*. Cardiff, UK: Cardiff University.
- Pereira, R. (2016). Responding to filio-parental violence: Family dynamic and therapeutic intervention. In A. Holt (Ed.), *Working with adolescent violence and abuse towards parents: Approaches and contexts for intervention* (pp. 80–96). New York: Routledge.
- Pereira, R., Loinaz, I., del Hoyo-Bilbao, J., Arrospe, J., Bertino, L., Calvo, A., ... Gutiérrez, M. M. (2017). Proposal for a definition of filio-parental violence: Consensus of the Spanish Society for the Study of Filio-Parental Violence (SEVIFIP). *Psychological Papers*, 38(3), 216–223. <https://doi.org/10.23923/pap.psicol2017.2839>
- Personal Safety Intervention Orders Act 2010* (Vic). Retrieved from [http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/3B0AF6693BD7BA5ACA257797001BADA2/\\$FILE/10-053a.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/3B0AF6693BD7BA5ACA257797001BADA2/$FILE/10-053a.pdf)
- Porter, M., & Nuntavisit, L. (2016). An evaluation of multisystemic therapy with Australian families. *Australian and New Zealand Journal of Family Therapy*, 37(4), 443–462. <https://doi.org/10.1002/anzf.1182>
- Privacy Act 1988* (Cth). Retrieved from <https://www.legislation.gov.au/Details/C2014C00076>
- Provençal, N., & Binder, E. B. (2015). The effects of early life stress on the epigenome: From the womb to adulthood and even before. *Experimental Neurology*, 268, 10–20. <https://doi.org/10.1016/j.expneurol.2014.09.001>
- Public Record Office Victoria. (2018). *Family group homes review summary and reports*. Retrieved from <https://researchdata.ands.org.au/family-group-homes-summary-reports/987355>
- Purcell, R., Baksheev, G. N., & Mullen, P. E. (2014). A descriptive study of juvenile family violence: Data from intervention order applications in a Children’s Court. *International Journal of Law and Psychiatry*, 37(6), 558–563. <https://doi.org/10.1016/j.ijlp.2014.02.029>

- Registration to Work with Vulnerable People Act 2013* (Tas). Retrieved from <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2013-065>
- Restraining Orders Act 1997* (WA). Retrieved from https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_822_homepage.html
- Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016* (WA). Retrieved from http://classic.austlii.edu.au/au/legis/wa/num_act/ro82arlava201649o2016649/
- Rich, P. (2011). *Understanding, assessing and rehabilitating juvenile sexual offenders* (2nd ed.). New York: John Wiley and Sons Ltd.
- Ritchie, J., & Spencer, L. (2002). Qualitative data analysis for applied policy research. In A.M. Huberman & M.B. Miles (Eds.), *The qualitative researcher's companion* (pp. 305–330). London, UK: Sage Publications.
- Robinson, L. (2010). *Interventions and restorative responses to address teen violence against parents*. Retrieved from https://www.wcmt.org.uk/sites/default/files/migrated-reports/828_1.pdf
- Routt G., & Anderson L. (2011). Adolescent violence towards parents. *Journal of Aggression, Maltreatment & Trauma*, 20(1), 1–19. <https://doi.org/10.1080/10926771.2011.537595>
- Routt, G., & Anderson, L. (2016). Building respectful family relationships: Partnering restorative practice with cognitive-behavioural skill learning. In A. Holt (Ed.), *Working with adolescent violence and abuse towards parents: Approaches and contexts for intervention* (pp. 15–33). New York: Routledge.
- Salter, M. (2012). *Managing recidivism amongst high-risk violent offenders* (Issues paper 23). Sydney: Australian Domestic & Family Violence Clearinghouse.
- Sawrikar, P., & Katz, I. (2008). *Enhancing family and relationship service accessibility and delivery to culturally and linguistically diverse families in Australia* (AFRC Issues No. 3). Melbourne: Australian Institute of Family Studies.
- Sex Offenders Registration Act 2004* (Vic). Retrieved from [http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst9.nsf/DDE300B846EED9C7CA257616000A3571/CC847BD01653A435CA257FC500074043/\\$FILE/04-56aa052%20authorised.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst9.nsf/DDE300B846EED9C7CA257616000A3571/CC847BD01653A435CA257FC500074043/$FILE/04-56aa052%20authorised.pdf)
- Simmons, M., McEwan, T., Purcell, R., & Ogloff, J. R. P. (2018). Sixty years of child-to-parent abuse research: What we know and where to go. *Aggression and Violent Behavior*, 38, 31–52. <https://doi.org/10.1016/j.avb.2017.11.001>
- Skowyra, K., & Powell, S. D. (2006). *Juvenile diversion: Programs for justice-involved youth with mental health disorders*. New York: National Center for Mental Health and Juvenile Justice.
- Snow, P. C., & Powell, M. B. (2011). Oral language competence in incarcerated young offenders: Links with offending severity. *International Journal of Speech-Language Pathology*, 13(6), 480–489. <https://doi.org/10.3109/17549507.2011.578661>
- Spencer, P. (2017). Strengthening the web of accountability: Criminal courts and family violence offenders. *Alternative Law Journal*, 41(4), 225–229. <https://doi.org/10.1177/1037969X1604100402>
- Spivakovsky, C. (2014). Making risk and dangerousness intelligible in intellectual disability. *Griffith Law Review*, 23(3), 389–404. <https://doi.org/10.1080/10383441.2014.979463>
- State of Victoria. (2008). *Parliamentary Debates*. Legislative Assembly. 26 June 2008, 2645 (Rob Hulls).
- State of Victoria. (2014). *Adolescent Family Violence Program service model* (Draft February 2014). Retrieved from <https://providers.dhhs.vic.gov.au/adolescent-family-violence-program-service-model-word>
- State of Victoria. (2016a). *Royal Commission into Family Violence: Summary and recommendations*. Retrieved from <http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/Final/RCFV-Summary.pdf>

- State of Victoria. (2016b). *Royal Commission into Family Violence: Report and recommendations, Vol I*. (No 132 Session (2014–16)). Retrieved from <http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/Final/RCFV-Vol-I.pdf>
- State of Victoria. (2016c). *Royal Commission into Family Violence: Report and recommendations, Vol II*. (No 132 Session [2014–2016]). Retrieved from <http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/Final/RCFV-Vol-II.pdf>
- State of Victoria. (2016d). *Royal Commission into Family Violence: Report and recommendations, Vol IV*. (No 132 Session (2014–16)). Retrieved from <http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/Final/RCFV-Vol-IV.pdf>
- State of Victoria (2017a). Restorative justice for victim survivors of family violence: Framework. Retrieved from www.victimsofcrime.vic.gov.au/sites/default/files/embridge_cache/emshare/original/public/2017/10/4e/74362dd20/Restorative-Justice-for-Victim-Survivors-of-Family-Violence-Framework-August-2017.pdf
- State of Victoria. (2017b). *Getting on with the job: Victorian Budget 17/18 Overview*. Retrieved from <https://www.dtf.vic.gov.au/sites/default/files/2018-02/state-budget-overview-2017-18.pdf>
- State of Victoria. (2018a, January 24). *Putting kids first: Evidence-based trials to improve safety* [Media release]. Retrieved from <https://www.premier.vic.gov.au/putting-kids-first-evidence-based-trials-to-improve-safety>
- State of Victoria. (2018b, August 24). *Addressing teenage family violence in the home* [Media release]. Retrieved from <https://www.premier.vic.gov.au/wp-content/uploads/2018/08/180824-Addressing-Teenage-Family-Violence-In-The-Home.pdf>
- Stewart, M., Wilkes, L. M., Jackson, D., & Mannix, J. (2006). Child-to-mother violence: A pilot study. *Contemporary Nurse*, 21(2), 297–310. <https://doi.org/10.5172/conu.2006.21.2.297>
- Stubbs, J., (2004). *Restorative justice, domestic violence and family violence* (Australian Domestic & Family Violence Clearinghouse Issues Paper 9). Sydney: Australian Domestic & Family Violence Clearinghouse.
- Success Works. (2009). *Review of the integrated response to family violence: Final report*. Retrieved from https://www.safeathome.tas.gov.au/pubs/legislation_and_reviews/SAH_Final_Report_FINAL_240609.pdf
- Sylvestre, A., & Mérette, C. (2010). Language delay in severely neglected children: A cumulative or specific effect of risk factors? *Child Abuse & Neglect*, 34(6), 414–428. <https://doi.org/10.1016/j.chiabu.2009.10.003>
- Tasmania Police. (2018). *Tasmania Police manual*. Retrieved from <https://www.police.tas.gov.au/uploads/TPM-RTI-18-December-2018.pdf>
- Tasmanian Government. (2018). *Tasmania to keep leading in the response to family violence*. [Media release]. Retrieved from http://www.premier.tas.gov.au/releases/tasmania_to_keep_leading_in_the_response_to_family_violence
- Tasmanian Liberals. (2018, August 24). More support to address family violence. *News*. Retrieved from <https://www.tas.liberal.org.au/news/more-support-address-family-violence>
- Teicher, M. H. (2000). Wounds that time won't heal: The neurobiology of child abuse. *Cerebrum*, 2(4), 50–67.
- Thomas, J. M. (1995). Traumatic stress disorder presents as hyperactivity and disruptive behaviour: Case presentation, diagnoses, and treatment. *Infant Mental Health Journal*, 16(4), 306–317. [https://doi.org/10.1002/1097-0355\(199524\)16:4%3C306::AID-IMHJ2280160406%3E3.0.CO;2-V](https://doi.org/10.1002/1097-0355(199524)16:4%3C306::AID-IMHJ2280160406%3E3.0.CO;2-V)
- Timimi, S. (2004). A critique of the international consensus statement on ADHD. *Clinical Child and Family Psychology Review*, 7(1), 59–63. <https://doi.org/10.1023/B:CCFP.0000020192.49298.7a>
- van der Kolk, B., Pynoos, R., Cicchetti, D., Cloitre, M., D'Andrea, W., Ford, J., & Teicher, M. (2009). *Proposal to include a developmental trauma disorder diagnosis for children and adolescents in DSM-V* (Official submission from the National Child Traumatic Stress Network Developmental Trauma Disorder Taskforce to the American Psychiatric Association). Retrieved from http://www.traumacenter.org/announcements/DTD_papers_Oct_09.pdf

- Vaughan, C., Davis, E., Murdolo, A., Chen, J., Murray, L., Quiazon, R., ... Warr, D. (2016). *Promoting community-led responses to violence against immigrant and refugee women in metropolitan and regional Australia: The ASPIRE Project: Research report*. Sydney: Australia's National Research Organisation for Women's Safety.
- Victoria Legal Aid. (2016a). *Characteristics of respondents charged with breach of family violence intervention orders*. Melbourne: VLA.
- Victoria Legal Aid. (2016b). *Care not custody: a new approach to keep kids in residential care out of the criminal justice system*. Melbourne: VLA.
- Victoria Police. (2017). *Code of practice for the investigation of family violence* (3rd ed.). Retrieved from <https://content.police.vic.gov.au/sites/default/files/2019-01/Code-of-Practice-for-the-Investigation-of-Family-Violence-Edition-3-V3-FINAL.pdf?ga=2.86617435.27411390.1556498288-1868960958.1556498288>
- Victoria, Department of Premier and Cabinet. (2012). *Report of the Protecting Victoria's Vulnerable Children Inquiry—Volume 2*. Melbourne: Department of Premier and Cabinet.
- Victoria, Sentencing Advisory Council. (2007). *High-risk offenders: Post sentence supervision and detention—Final report*. Melbourne: Sentencing Advisory Council.
- Victorian Aboriginal Justice Advisory Committee. (2000). *Victorian Aboriginal Justice Agreement*. Melbourne: Victorian Department of Justice.
- Victorian Law Reform Commission. (2006). *Review of family violence laws*. Melbourne: VLRC.
- Victorian Ombudsman. (2017). *Investigation into Victorian Government school expulsions*. Melbourne: Victorian Ombudsman.
- Victorian Ombudsman. (2018). *Investigation into the imprisonment of a woman found unfit to stand trial*. Melbourne: Victorian Ombudsman.
- Walklate, S., Fitz-Gibbon, K., & McCulloch, J. (2018). Is more law the answer? Seeking justice for victims of intimate partner violence through the reform of legal categories. *Criminology & Criminal Justice*, 18(1), 115–131. <https://doi.org/10.1177%2F1748895817728561>
- Walsh, J. A., & Krienert, J. L. (2007). Child-to-parent violence: An empirical analysis of offender, victim, and event characteristics in a national sample of reported incidents. *Journal of Family Violence*, 22(7), 563–574. <https://doi.org/10.1007/s10896-007-9108-9>
- Weller, P. (2014). Reconsidering legal capacity: Radical critiques, governmentality and dividing practice. *Griffith Law Review*, 23(3), 498–518. <https://doi.org/10.1080/10383441.2014.993499>
- Wellmer, A. (2014). On critical theory. *Social Research: An International Quarterly*, 81(3), 705–733. Retrieved from <https://muse.jhu.edu/article/557384>
- Western Australia, Coroner's Court of Western Australia. (2019). *Inquest into the deaths of: Thirteen children and young persons in the Kimberley Region*. Perth: Coroner's Court of Western Australia.
- Western Australia, Department for Child Protection and Family Support. (2015). *Western Australian family and domestic violence common risk assessment and risk management framework* (2nd ed.). Perth: Western Australian Government.
- Western Australia, Office of the Inspector of Custodial Services. (2017). *Behaviour management practices at Banksia Hill detention centre*. Perth: Office of the Inspector of Custodial Services.
- Wilcox, K. (2010). *Recent innovations in Australian protection order law—A comparative discussion*. Sydney: Australian Domestic & Family Violence Clearinghouse.
- Wilks, S., & Wise, S. (2012). *Stopping adolescent violence in the home: An outcome evaluation of Breaking the Cycle*. Retrieved from <https://www.anglicarevic.org.au/wp-content/uploads/2016/12/Stopping-Adolescent-Violence-in-the-Home-an-outcomes-evaluation-of-Breaking-the-Cycle.pdf>

Working with Children (Criminal Record Checking) Act 2004 (WA). Retrieved from https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_1095_homepage.html

Working with Children Act 2005 (Vic). Retrieved from [http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/51dea49770555ea6ca256da4001b90cd/8f876779761031fbca25707b00249985/\\$FILE/05-057a.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/51dea49770555ea6ca256da4001b90cd/8f876779761031fbca25707b00249985/$FILE/05-057a.pdf)

World Health Organization. (2001). *The second decade: improving adolescent health and development*. Geneva: WHO.

Young Offenders Act 1994 (WA). Retrieved from https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_1101_homepage.html

Youth Justice Act 1997 (Tas). Retrieved from https://www.legislation.tas.gov.au/view/html/inforce/current/act-1997-081_x

APPENDIX A

Key elements of (and entry points to) child protection systems

In Australia, state and territory governments have responsibility for the protection of children and young people, and each jurisdiction has developed legislation and policy frameworks to underpin the administration and operation of child protection. While there is some variability across state and territory jurisdictions, all Australian statutory child protection systems broadly comprise the following functions.

Notifications, investigations and substantiations

The functions of the statutory child protection system include reporting and intake (notifications); investigation and substantiation (that is, a finding that there is sufficient reason to believe a child has been, is being or is likely to be abused, neglected or otherwise harmed) (AIHW, 2013); and case planning and ongoing case management, including providing support services to the child and family.

Statutory child protection involvement in the case of AVITH may arise where other children and young people in the household are the subject of a notification, or the adolescent using violence may themselves be the subject of a notification, particularly where police or courts have become involved—for example, in Victoria and WA, protection order legislation specifically provides for the court to make a notification in cases where an adolescent is subject to a protection order.

In some cases, statutory child protection involvement may also arise where a parent relinquishes care. Where relinquishment occurs, it is typically in the context of children and young people with a disability that have high behaviour support needs (or, in some cases, though less relevant to AVITH, high support needs arising from significant physical disabilities), and is recognised as a complex and traumatic process for families who are no longer able to manage the day-to-day care of their child due to an inability to access adequate and appropriate supports.

Care and protection orders

Child protection agencies in Australia are responsible for taking matters before the relevant court if a child's safety cannot be ensured within the family. This will typically occur through the Children's Court, although some jurisdictions incorporate other courts—for example, Family Court (WA) and Koori Court (Victoria). Each jurisdiction has its own typology of orders, which will determine the length and nature of the placement, the ongoing responsibilities of the authorities and, increasingly, the goal of the placement.

For example, in Victoria, family preservation orders are time-limited orders (up to 2 years), during which a child remains in the family home, but with supervision by child protection—this supervision includes home visits and meetings, development of a care plan and referral into appropriate family support services. Family reunification orders, by contrast, are made when a child does need to be removed from the home, but child protection and the family are working towards the goal of reunification. Again, child protection will work with the young person to develop a care plan and will support the family to access appropriate support services to facilitate the young person going home and staying home.

Family reunification orders are time-limited in that the child cannot have been in out-of-home care for a cumulative period longer than 24 months—this is because, at this time, reunification is unlikely to occur and it will generally be in the best interests of the child to focus on other permanent placement options that will achieve the most certainty and stability for the child or young person.

Out-of-home care

Out-of-home care relates to the placement of children outside of their family home, either as a temporary, medium or long-term arrangement. Statutory out-of-home care can occur via a care and protection court order or through voluntary agreement, and includes:

- Kinship care—where the child or young person is placed in the home of a relative or kin. This is the preferred option for Aboriginal and Torres Strait Islander young peoples to maintain connection to culture.

- Foster care—where the child or young person is placed in the home of a trained, assessed and accredited carer.
 - Therapeutic foster care—in which carers with experience looking after children with complex behaviours are recruited and receive additional training, support and reimbursement so that they can provide not only a safe home but a therapeutic response to children and young people in a home-based care setting.
 - Residential care—involving placement in a residential building whose purpose is to provide placements for children and young people, with care provided by paid staff (Victoria, Department of Premier and Cabinet, 2012). Residential care is primarily intended for children 12–17 years (median=14 years) who cannot stay in a home-based placement, either because they are part of a large sibling group or because their needs and behaviours are too complex to manage in a home-based placement. As the most complex cohort of children in out-of-home care, children and young people in residential care have often experienced significant trauma and demonstrate some of the most challenging behaviours.
 - Therapeutic residential care—provides time-limited placements, with the overall aim being to address critical issues and behaviours to enable the young person to transition to a foster care placement (or, in the case of AVITH, potentially back into the home). Therapeutic residential care models include specialist staff and consistent rostering, a home-like physical environment, a suitable client mix and regular care team meetings.
 - Family group homes—a model of care where small groups of children are accommodated in buildings that approximate the size and form of a normal family home, with care provided by non-salaried (reimbursed or subsidised) live-in carers (Public Record Office Victoria, 2018).
 - Independent living—where the child or young person lives in a private accommodation or boarding arrangement, including via lead tenant programs (Campo & Commerford, 2016). Independent living is typically offered to young people aged 16–18 years and includes support by professional staff, as well as (under some models, such as lead tenant programs) a live-in volunteer.
 - Sometimes no suitable placement can be secured for a child or young person—for example, immediately following removal, or where a child’s placement has broken down. In these situations, ad hoc care arrangements such as a hospital or a hotel room (with a salaried carer) are put in place. These types of arrangements are typically short-term, although in some cases—for example, where a young person cannot be placed in residential care settings because their behaviours (e.g. violence, PSB) pose a risk to other young people, or because they themselves are particularly vulnerable to victimisation by other young people in a residential setting (e.g. young people with a cognitive or intellectual disability)—they may be used on a longer-term basis as an option of last resort.
 - While out-of-home care arrangements may be informal—for example, temporarily staying with a relative without an order being put in place—government agencies will not usually have oversight of these arrangements.
 - Family support services—family support services may be used as an alternative, or as a complementary service to, a statutory child protection response (i.e. removal). Family support services seek to prevent family dysfunction and child maltreatment from occurring by putting appropriate supports around the family to address risk indicators, and can include programs that develop parenting and household skills, therapeutic care, respite care and (relevant to AVITH) programs targeted at adolescents such as functional family therapy.
- Intensive family support services are a subset of services specifically aimed at preventing removal (family preservation) or enabling a child or young person to return home (family reunification or restoration), with referrals typically coming from the relevant statutory child protection agency. Intensive family support services are delivered as a suite of services that work to address a range of needs within the family (rather than just a single program), and are delivered intensively (i.e. 4 hours of service on average per week).

Table 8 outlines the department with primary responsibility for child protection in Tasmania, Victoria and WA, as well as relevant legislation in each jurisdiction.

Table 8 Child protection legislation in Tasmania, Victoria and Western Australia

	Tasmania	Victoria	Western Australia
Responsible department	Department of Health and Human Services	Department of Health and Human Services	Department of Communities
Key legislation	<i>Children, Young Persons and Their Families Act 1997 (Tas)</i>	<i>Children, Youth and Families Act 2005 (Vic)</i>	<i>Children and Community Services Act 2004 (WA)</i>
Other legislation	<i>Adoption Act 1988 (Tas); Child Care Act 2001 (Tas); Child Protection (International Measures) Act 2003 (Tas); Children, Young Persons and their Families Amendment Act 2009 (Tas); Commissioner for Children and Young People Act 2016 (Tas); Community Protection (Offender Reporting) Amendment Bill 2016 (Tas); Education Act 1994 (Tas); Family Violence Act 2004 (Tas); Registration to Work with Vulnerable People Act 2013 (Tas); and Youth Justice Act 1997 (Tas).</i>	<i>Adoption Act 1984 (Vic); Child Employment Act 2003 (Vic); Child Wellbeing and Safety Act 2005 (Vic); Children and Justice Legislation Amendment (Youth Justice Reform) Act 2017 (Vic); Commission for Children and Young People Act 2012 (Vic); Family Violence Protection Act 2008 (Vic); Sex Offenders Registration Act 2004 (Vic); Working with Children Act 2005 (Vic); and Charter of Human Rights and Responsibilities Act 2006 (Vic).</i>	<i>Adoption Act 1994 (WA); Child Care Services Act 2007 (WA); Commissioner for Children and Young People Act 2006 (WA); Community Protection (Offender Reporting) Act 2004 (WA); Family Court Act 1997 (WA); Restraining Orders Act 1997 (WA); Working with Children (Criminal Record Checking) Act 2004 (WA); and Young Offenders Act 1994 (WA).</i>

APPENDIX B

Summary of RESTORE program^{*}

The RESTORE program is a new initiative delivered via a partnership between Jesuit Social Services (JSS) and the Melbourne Registry of the Children's Court of Victoria. The pilot project offers a restorative practice approach to working with both young people using violence in the home and family members affected by family violence. RESTORE aligns with JSS's commitment to building innovative and therapeutic interventions, and its knowledge and expertise of what works to reduce violence among boys and men. The RESTORE pilot sits under the dual umbrella of JSS's (i) The Men's Project, and (ii) Justice portfolios. Key insights and findings from the delivery and evaluation of the RESTORE pilot will inform the work of The Men's Project to help build knowledge and capability in preventing and responding to violence among boys and men.

RESTORE aims to deliver at the Melbourne Children's Court an effective and therapeutic intervention which applies restorative practice principles and offers a Family Group Conference process for civil cases involving young people who are using family violence in the home, and to assist them and their families to address the harm caused by family violence and prevent further harm being caused. By offering an additional intervention option at the Children's Court, RESTORE also aims to reduce the risks associated with a young person who is subject to an intervention order application entering the Criminal Division of the Children's Court.

RESTORE is designed to meet the expressed needs of the young person and family members affected by family violence, provide an opportunity for all parties affected to participate in a restorative process, work with the young person so they accept responsibility for their violent behaviour, and put practical strategies in place to keep affected family members safe from further harm. Interventions will be flexible and tailored to the particular circumstances of each family.

RESTORE will apply first principles of restorative practice to guide the program's implementation and provide processes that are appropriate depending on the needs and readiness of the victim/s and the person causing harm, and the overall justice outcomes being sought. The pilot will provide a Family Group Conference process to:

- support adolescent perpetrators of AVITH understand the impact of their violence;
- increase the safety of affected family members;
- deal with the harm that has been caused to those affected; and
- put strategies in place to mitigate the risk of further violent behaviours and/or the escalation of violence in the family home.

Funding for development and delivery to run the RESTORE pilot has been provided by the generous support of the John T Reid Charitable Trusts.

^{*} Text provided by Jesuit Social Services.

APPENDIX C

Case file audit tool*

Case file audit template for courts and legal services

Warning

- Do not proceed with viewing any case file audit data unless you have read and signed the confidentiality agreement.
- Electronic copies of this document must be stored on a USB that is physically secured in a locked storage space at RMIT University or with the owner of the data.
- Any hard copies of this document must be physically secured in a locked storage space at RMIT University or with the owner of the data.
- No information from this document can be published by any person other than the RMIT PIPA project lead researcher with the permission of the owner of the data.
- No information from this document can be disclosed to any person other than the owner of the data and the RMIT PIPA project research team.
- When completing the case file audit, you must not record any data except within this document template.
- You must not record any identifying information such as:
 - names
 - specific dates
 - unique identifying client or case numbers
 - addresses or specific locations.

Part 1: Administrative and demographic data

What was the case type? (Place an X next to your selection/s, then record any additional information)

- Civil application (for FVIVO or interim FVIVO)
- Civil application (regarding child protection or access)
- Criminal charges of breaching a FVIVO
- Other criminal charges (specify the offence/s)

What was the young person's role in the case? (Place an X next to your selection/s)

- Accused/defendant in criminal matter
- Respondent to family violence intervention order application
- Both of the above
- Other (specify)

For criminal cases, was the young person accused of committing any type of family violence (as it is defined under the FVPA) or other violence in the home? (Yes/No)

What was the gender of the young person?

* This is the Victorian iteration of the tool, reflecting Victorian legislative settings.

The PIPA project:

Positive Interventions for Perpetrators of Adolescent violence in the home (AVITH)

What was the age of the young person?

If the case was an FV intervention order application, who was the affected family member and what was their gender and relationship to the young person (e.g. 'mother')?

Does the young person have a disability or disorder? Please specify type and highlight the source of information:

(e.g. mental health, intellectual, ABI [acquired brain injury], physical, hearing, speech, other cognitive impairment, fetal alcohol spectrum disorder (FASD), ADHD, autism spectrum disorder (ASD), Asbergers [Asperger's] syndrome)

Disability or disorder:	Intervention Order application and complaint
	Intervention Order
	Police charge sheets or brief of evidence
	File notes
	Lawyer's letters or emails to others
	Reports (med, psych etc.)
	Client written instructions to lawyer
	Written instruction/info from others including family

Does the young person identify as Aboriginal or Torres Strait Islander?

Does the young person speak a language other than English at home? What language?

Was the young person born outside Australia? Where?

Has the young person spent any period of time in out of home care? (Place an X next to your selection/s):

- No
- Not known
- Residential care
- Kinship care
- Other out-of-home care

Was the young person engaged in work or education at the time of the case, either schooling or vocational? (place an X next to your selection/s)

- Schooling
 - Public
 - Private
- Vocational education
- Employment
- Not known

Is there any evidence that the young person has been exposed or subjected to family violence or violence supportive behaviours or attitudes in the home? (place an X next to your selection)

- Yes
- Not known

Is there any evidence that the young person has been a respondent in other [Family Violence Intervention Order] applications or Personal Safety intervention order applications?

- Yes
- Not known

What was the final outcome of the young person's case in court? (Place an X next to your selection/s):

For civil cases:

- Interim FVIVO made
- Interim FVIVO extended
- FVIVO made
- FVIVO extended
- FVIVO application withdrawn
- FVIVO application withdrawn with an undertaking
- Case adjourned with an undertaking in place
- FVIVO application refused
- FVIVO application struck out

For criminal cases:

- ROPES/diversion
- Charges withdrawn
- Charges struck out
- Deferral of sentence
- Charges dismissed after bond
- Found not guilty
- Accountable undertaking
- Good behaviour bond
- Fine
- Probation Order
- Youth Supervision Order
- Youth Attendance Order
- Youth Justice Centre Order

Part 2: Qualitative data

Information source (please highlight)

- Quote directly from original documents
- Exclude identifying information

Please describe the family violence incident as presented in the original complaint or Intervention Order application:	Intervention Order application and complaint
	Intervention Order
	Police charge sheets or brief of evidence
	File notes
	Lawyer's letters or emails to others
	Reports (med, psych etc.)
	Client written instructions to lawyer
Were there siblings or other children present in the home (even if they were not recorded as victims of the offence or as protected persons on the FVIVO)?	Intervention Order application and complaint
	Intervention Order
	Police charge sheets or brief of evidence
	File notes
	Lawyer's letters or emails to others
	Reports (med, psych etc.)
	Client written instructions to lawyer
How did police become involved?	Intervention Order application and complaint
	Intervention Order
	Police charge sheets or brief of evidence
	File notes
	Lawyer's letters or emails to others
	Reports (med, psych etc.)
	Client written instructions to lawyer
Written instruction/info from others including family	

Were there previous acts of violence reported to police or that were not reported?	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/info from others including family
If so, were there any reasons given in the original complaint or in other documents on the file as to why violence was not reported to police previously?	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/info from others including family
What happened when the police came or were called? Was the young person cautioned? Arrested? Remanded?	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/info from others including family
What did the family members want the police to do? If the young person was arrested, did the family members object? Did family members object to an intervention order or did they want the order? What reasons were given?	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/info from others including family

Was the young person removed from the home for a period of time? If so, where did they go/where were they taken? How long did they stay away from the home?	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/info from others including family
If the young person was arrested, were diversionary options available to them? If so, were family members prepared to have them home?	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/info from others including family
What did the court do and why? What orders did the court make and how if at all was the purpose of the action taken explained?	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/info from others including family
What community services has the young person had contact with if any? Please name all services and explain the nature and duration of the contact (e.g. has been referred, ongoing case management or treatment etc.) and who provided the referral if possible. If known, please state whether the service is public or private.	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/info from others including family

What was their participation in the service following referral? Are there any identifiable outcomes?	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/ info from others including family
Is there any evidence that the young person has been exposed or subjected to family violence or violence supportive behaviours or attitudes in the home? Can you describe the behaviour/attitudes and who they come from?	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/info from others including family
Is there any indication of other allegations of violence against the young person such as their being the respondent in another FVIVO or Personal Safety Intervention Order Case?	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/info from others including family
Can you describe the family dynamic or living arrangements of the young person? E.g. living with two parents, living with grandmother etc.	Intervention Order application and complaint Intervention Order Police charge sheets or brief of evidence File notes Lawyer's letters or emails to others Reports (med, psych etc.) Client written instructions to lawyer Written instruction/info from others including family

Participant information sheet and consent form



Participant information sheet

Title	The PIPA Project- Positive Interventions for Perpetrators of Adolescent Violence in the Home (AVITH)
Chief Investigator	Elena Campbell
Associate Investigator(s)	Dr Helen Cockburn, Jessica Richter

What does my participation involve?

1. Introduction

You are invited to take part in this research project, which is called the PIPA Project–Positive Interventions for Perpetrators of Adolescent Violence in the home (AVITH). This project aims to explore the perspectives and experiences of practitioners on adolescent violence in the home (AVITH) across different jurisdictions and service sectors. You have been invited because you are someone whose experiences of responding to AVITH we would like to draw on. Your contact details were obtained from your employer.

This participant information sheet/consent form tells you about the research project. It explains the processes involved with taking part. Knowing what is involved will help you decide if you want to take part in the research.

Please read this information carefully. Ask questions about anything that you don't understand or want to know more about. Before deciding whether or not to take part, you might want to talk about it with a colleague.

Participation in this research is voluntary. If you don't wish to take part, you don't have to.

If you decide you want to take part in the research project, you will be asked to sign the consent section. By signing it you are telling us that you:

- Understand what you have read
- Consent to take part in the research project.

You will be given a copy of this participant information and consent form to keep.

2. What is the purpose of this research?

The PIPA Project aims to increase understanding about the prevalence of, and responses to, adolescent violence in the home (AVITH) in Australia. The 2016 Victorian Royal Commission into Family Violence found that AVITH is poorly understood and requires a systematic response. This project seeks to fill these gaps by developing awareness of AVITH and identifying available response and service gaps across three jurisdictions: Tasmania, Western Australia and Victoria.

This research has been funded by Australia's National Research Organisation for Women's Safety (ANROWS).

3. What does participation in this research involve?

If you agree to participate in the project, you will be asked to take part in a recorded focus group for approximately ninety minutes. The focus group will be conducted at a mutually suitable time and you will be asked to read and sign a written consent form at the start of the focus group. We will not tell anyone what you say and your comments will be kept anonymous (attributed to a "practitioner"). You may participate in an audio recorded interview if you would prefer to do so for privacy or logistical reasons. Focus groups and interviews will be held at a mutually convenient time, date and location.

Additional costs and reimbursement

There should be no costs to you associated with participating in this research project, nor will you be paid.

4. Other relevant information about the research project

This research is part of a multi-strand project that aims to increase awareness and understanding of AVITH nationally and track the implementation of recommendations for policy and practice change made by the 2016 Victorian Royal Commission into Family Violence. This project is a collaborative partnership between RMIT University, the University of Tasmania, Kildonan UnitingCare, Victoria Legal Aid, Legal Aid Western Australia and Peel Youth Services.

5. Do I have to take part in this research project?

Participation in any research project is voluntary. If you do not wish to take part, you do not have to. If you decide to take part and later change your mind, you are free to withdraw from the project at any stage.

If you do decide to take part, you will be given this participant information and consent form to sign as well as a copy to keep.

Your decision to take part or not, or to withdraw part way through will not affect your relationship with the researchers or with RMIT University.

If you take part in a focus group you are free to stop participating at any stage or to refuse to answer any questions. However, it will not be possible to withdraw your individual comments from our records once the group has started, as it is a group discussion.

6. What are the possible benefits of taking part?

We cannot guarantee or promise that you will receive any benefits from this research. However, this research will provide you with an opportunity to share your experiences of AVITH, and present your views about available responses and opportunities for improvement. Importantly, you will also be able to provide advice to the sector on an effective legislative and policy framework for AVITH.

7. What are the risks and disadvantages of taking part?**Potential distress**

Some participants may experience distress from participating in the focus groups. If you do not wish to answer a question, you may skip it and go to the next question, or you may stop immediately. If you become upset or distressed as a result of your participation in the research project, members of the research team will have identified appropriate support for you through your organisation. You will be given relevant contact details including 1800 737 732, a telephone counselling service operated by 1800 RESPECT for workers and professionals in the family violence field.

Focus group discussions

Whilst all care will be taken to maintain privacy and confidentiality, you may experience embarrassment if one of the group members were to repeat things said in a confidential group meeting. It is advisable that you do not reveal anything too personal or that you may regret later on.

8. What if I withdraw from this research project?

If you do consent to participate, you may withdraw at any time. If you decide to withdraw from the project, please notify a member of the research team.

You have the right to have any unprocessed data withdrawn and destroyed, providing it can be reliably identified.

9. What happens when the research project ends?

The findings from the research will be made publicly available in a report published by ANROWS and other publications. Participants will be provided with a copy of the study results at the end of the project, which is anticipated to be December 2018.

How is the research project being conducted?

10. What will happen to information about me?

By signing the consent form you consent to the research team collecting and using information from you for the research project. Any information obtained in connection with this research project that can identify you will remain confidential. The transcribed records of the focus groups will be kept securely at the Centre for Innovative Justice, RMIT University, and will only be available to be viewed by members of the research team. If after 5 years from the date of publication of the research the unprocessed data are no longer of relevance to the research team, the Chief Investigators will seek authorisation from their relevant Heads of Department for disposal of the data.

It is anticipated that the results of this research project will be published and/or presented in a variety of forums. In any publication and/or presentation, information will be provided in such a way that you cannot be identified, except with your express permission. Pseudonyms will be used in all reporting and all references to individual participants as well as to specific organisations, such as service providers, will be removed and more general descriptions of organisations included instead. Project partners who are also service providers will not be given identifying responses from research participants.

Any information that you provide can be disclosed only if 1) it is protect you or others from harm, 2) specifically allowed by law, 3) you provide the researchers with written permission. Any information obtained for the purpose of this research project that can identify you will be treated as confidential and securely stored.

11. Who is organising and funding the research?

This research project is being conducted by Elena Campbell from the Centre for Innovative Justice at RMIT University and Dr Helen Cockburn from the Faculty of Law at the University of Tasmania. Project partners also include Victoria Legal Aid, Legal Aid Western Australia and Peel Youth Services, Western Australia. This research has been funded by Australia's National Research Organisation for Women's Safety (ANROWS).

12. Who has reviewed the research project?

This research project has been reviewed and approved by the RMIT University College Human Ethics Advisory Network.

This project will be carried out according to the National Statement on Ethical Conduct in Human Research (2007). This statement has been developed to protect the interests of people who agree to participate in human research studies.

13. Further information and who to contact

If you want any further information concerning this project, you can contact the researcher on (03) 9925 1181 or any of the following people:

Research contact person

Name	Elena Campbell
Position	Chief investigator
Telephone	(03) 9925 1181
Email	elenaeve.campbell@rmit.edu.au

14. Complaints

Reviewing HREC name	RMIT University
BCHEAN Secretary	Peter Burke
Telephone	+61 3 9925 2251
Email	human.ethics@rmit.edu.au
Mailing address	Research Ethics Co-ordinator Research Integrity Governance and Systems RMIT University GPO Box 2476 MELBOURNE VIC 3001

Should you have any concerns or questions about this research project, which you do not wish to discuss with the researchers listed in this document, then you may contact:

Consent form

Title	The PIPA Project
Chief Investigator/Senior Supervisor	Elena Campbell
Associate Investigator(s)/Associate Supervisors	Dr Helen Cockburn, Jessica Richter

Acknowledgement by participant

I have read and understood the Participant Information Sheet.

I understand the purposes, procedures and risks of the research described in the project.

I have had an opportunity to ask questions and I am satisfied with the answers I have received.

I freely agree to participate in this research project as described and understand that I am free to withdraw at any time during the project without affecting my relationship with RMIT.

I understand that I will be given a signed copy of this document to keep.

Name of participant (please print) _____
Signature _____ Date _____

Declaration by researcher†

I have given a verbal explanation of the research project, its procedures and risks and I believe that the participant has understood that explanation.

Name of researcher† (please print) _____
Signature _____ Date _____

† An appropriately qualified member of the research team must provide the explanation of, and information concerning, the research project.

Note: All parties signing the consent section must date their own signature.

Focus group and interview topic guide

Introduction

- Introduce researcher and project
- Provide plain language statement and consent form
- Ask for responses to consent form questions (e.g. regarding anonymity, attribution, and recording)
- Retain signed copy of consent form.

Recollections of their experiences with AVITH

These open-ended questions are intended as a structured invitation to contribute experiences of working with families experiencing AVITH, both generally and in response to particular topics or themes. Examples of topics that may be covered include:

Identifying and working with adolescent perpetrators

- Tell me about the context in which you encounter families experiencing AVITH, or adolescents using violence against family members. For example, do you work with whole families or adolescents directly?
- Tell me about how the issue becomes identified. For example, is it the direct subject of your service, or does it come up in the course of other service provision or case management?
- Tell me about the context in which families have sought your service's assistance.
- Tell me about the other issues you notice families or adolescents experiencing when they come into contact with your service in the context of AVITH. For example, are there co-existing issues such as mental health, substance abuse or others?
- Tell me about the backgrounds of your clients. For example, are the majority of families you see in the context of AVITH sole parent families, or a broader range? What proportion of adolescents are male and female, and what proportion of victims are male and female?
- How prevalent does the experience of intergenerational family violence appear to be in the adolescent clients that you see? What proportion of mothers experiencing AVITH are also experiencing adult family violence?
- Is your service usually the first time they have disclosed the issue or has this occurred in other contexts? For example, has a family violence call out to police occurred?

Responses received by adolescent perpetrators and their families

- Tell me about the response that families or adolescents receive from your service. For example, does it differ in different circumstances? Do the parents of adolescent perpetrators influence this response?
- Where families have encountered the justice system in some way or called police, what kind of response have they generally received?
- What kind of response do you observe to be effective?
- Are there certain responses which seem to be ineffective or deter further help seeking behaviour?
- How does the justice response interact with other service system responses?

Challenges

- Tell me about any challenges you've experienced in dealing with families experiencing or adolescents perpetrating AVITH.
- Are there any particular challenges to working with young offenders?
- What do you think the major barriers are to working with adolescent perpetrators in the current system?

Linkages

- How, if at all, do you connect with other support services to address AVITH?
- What, if any, are the service gaps in your own agency's current response to AVITH?

Dedicated AVITH programs

- Are you aware of any services that provide specific support for adolescent perpetrators of violence in the home? If yes, what is the nature of this support?
- Tell me about your experience with the Adolescent Family Violence Program?
- Can you describe any effects [name of intervention] has on young offenders and their families?
- In your opinion, how do whole-of-family interventions impact on young offenders?

Improvements

- What diversion pathways to possible AVITH interventions would you suggest?
- What do you think would encourage more young offenders to participate in AVITH interventions?
- What are the positive elements of the current system in which you work?
- How do you think that reforms pending from the Royal Commission will add to or inform these, either directly in Victoria or indirectly in your own jurisdiction?
- How could these be better linked?
- Describe your ideal response to AVITH incidents. What would a consistent and a considered framework look like in your view?

Close

Is there anything else you would like to add?

Should you become distressed or affected by our discussion please remember that there is a list of numbers you can contact for professional advice on the resource card.

Thank you again for participating.

APPENDIX F

Victorian data merger table

Table F1 Total potential AVITH cases from Children’s Court of Victoria, VLA and Youthlaw samples with duplicate cases eliminated

Sample	Potential AVITH cases	Duplicate cases	Total cases with duplicates removed
VLA (youth family violence)	42	3	39
VLA (youth criminal law)	9	3	6
Youthlaw (youth family violence)	25	-	25
Children’s Court of Victoria (FVIO)	85 (75 individual adolescents)	6	69
Total			139

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ORGANISATION FOR WOMEN'S SAFETY

to Reduce Violence against Women & their Children

