

Note 11:

Victims of Family Violence

An understanding of the dynamics of family violence can help judicial officers avoid unintentionally affirming the perpetrator's narrative in the courtroom or in sentencing reasons.

What is family violence?

Family violence is characterised by a pattern of abusive behaviour involving a perpetrator's exercise of control over a victim, often for an extended period. It can occur within a range of relationships including extended families, kinship networks, intergenerational relationships and through family-like or carer relationships.

It can take different forms and occur throughout a relationship or be initiated or exacerbated at particular times, such as during pregnancy, attempted or actual separation or court proceedings dealing with children or property.

Family violence can involve a range of actual or threatened behaviours, including physical violence, sexual violence, emotional or psychological abuse, economic abuse, social abuse and property damage.

Key features: It is important to bear in mind that anyone can be a victim or a perpetrator of family violence.

Research shows that family violence:

- Is predominantly committed by men against women, children and other vulnerable persons;
- Affects the entire community;
- Occurs in all areas of society, regardless of location, socioeconomic and health status, age, culture, gender, sexual identity, ability, ethnicity or religion;
- Extends beyond physical and sexual violence and often involves emotional or psychological abuse and economic abuse;
- Involves overt or subtle exploitation of power imbalances and may consist of isolated incidents or patterns of abuse over a period of time.

It is difficult for victims who have experienced repeated traumatic events within a relationship to isolate details of specific incidents. They may remember different things at different times.

For more information about the nature and dynamics of family violence, including common misconceptions, see [Nature of Family Violence](#) and [Men in the Family Violence Bench Book](#).

Why victims stay or return to abusive relationships

There are many reasons which include:

- They blame themselves and feel responsible for the violence, particularly if a perpetrator has expressed feelings of depression or wanting to take their own life;
- Pressure from children, other family members and friends;
- Religious or cultural beliefs that make leaving a relationship difficult;
- Concerns for the welfare of children, family and pets;
- Shared contact arrangements in relation to children;
- Financial dependence on the perpetrator;
- Increased risk of harm if they leave the relationship;
- Feelings of intimidation and fear of retaliation by the perpetrator;
- Attempting to manage risk by knowing the whereabouts of the perpetrator;
- Belief that the abusive behaviour will stop, with the perpetrator expressing remorse or promising to seek counselling;
- The perpetrator uses coercive and manipulative tactics to reassert and maintain control over the victim, which can include violence;
- Lack of alternative, safe accommodation and risk of homelessness;
- Inadequate formal support systems or social networks.

Family violence against people with diverse needs

Family violence occurs in all sectors of society however certain groups of people may be at greater risk of experiencing family violence, more vulnerable to its impacts, and require different judicial responses. Some people may belong to multiple groups and experience heightened risk or vulnerability. For more information about the impact of family violence on diverse groups, see [Specific Considerations for Diverse Groups](#) in the Family Violence Bench Book and [Vulnerable Groups](#) in the National Domestic and Family Violence Bench Book.

Note 11: Victims of Family Violence

Key points to consider

Judicial officers have an important role in making sure victims of family violence feel safe and supported when seeking intervention orders or when otherwise engaging with the court system.

Encourage access to courts and support services:

Victims should feel welcome to return to court if they need to. Consider informing parties that withdrawal or dismissal of an application does not prevent them making future applications or accessing support services.

Be alert to safety issues: Victims must be able to safely attend and participate in court proceedings. All stakeholders in the court process should work together to maximise the protection of the law. Perpetrators may abuse a victim in or near the court by:

- Making threatening gestures;
- Stalking;
- Obstructing;
- Assaulting;
- Verbally abusing;
- Following the victim home.

These issues can be difficult to manage, particularly in regional or rural courts, which often have fewer resources and where victims may face additional visibility and privacy concerns. Clear communication between counsel, court staff, support services and court security may assist.

Be alert to the attempted misuse of the legal process:

Perpetrators can attempt to use court processes to intimidate victims by seeking adjournments without legitimate reasons, making baseless cross-applications, failing to appear or evading service of orders.

To minimise the risk of a false cross-application being used against the victim to silence them or trivialise their claim, closely scrutinise applications and impose appropriate sanctions if misuse of court processes is identified.

Consider alternative arrangements for giving evidence:

Is the victim able to give evidence in open court and/or in the accused person's presence? Can alternative arrangements be made? Is an intermediary required?

Raise awareness of support services: For example, the Victims of Crime Helpline, Court Network, Office of Public Prosecutions Witness Assistance Service and, if relevant, the Child Witness Service.

Minimise contact between the accused and the victim:

- Can staff arrange for entry via different entrances or at different times?
- Can the seating in the courtroom be arranged to minimise communication or opportunities for confrontation?
- Are Protective Services Officers or other security required to escort the victim/s to their transport?
- Are staff trained in and following safety and risk procedures?

Consider adjournments: Would it be useful to synchronise civil and criminal matters? Are there any other concerns that could be addressed during an adjournment? For example, clarity around child and parenting arrangements, concerns about safety at court or obtaining language or other support services.

The importance of non-collusive language: Perpetrators of family violence often attempt to evade responsibility and blame victims for their behaviour. It is important to be aware that judicial officers may unintentionally adopt or affirm this narrative during hearings or in sentencing reasons.

Avoid diminishing the victim: Avoid statements like: '*[insert name]*, your partner's behaviour may have been erratic, but your response is not appropriate'.

Avoid exhibiting a familiar demeanour with perpetrators:

Avoid statements like: '*[insert name]*, I acknowledge that you have been violent to your partner but you seem like a very good father'.

Be cautious about labels: Avoid using labels to describe behaviours which indicate they could be resolved through counselling or reconciliation. For example, 'relationship conflict', 'lovers' quarrel' or 'matrimonial dispute'.

Don't collude: Identify when a perpetrator is inviting collusion (verbal or situational invitations). Use language that focuses the perpetrator on their choices and behaviours: '*[insert name]*, I'd like to invite you to reflect on your choice to use violence'.

Invite reflection: '*[insert name]*, the impact of your choice to be violent has been significant. This is an opportunity for you to think about what type of father or partner you want to be'.

Provide information: '*[insert name]*, I'd like you to contact Men's Referral Service. They will be able to work with you on addressing your use of violence'.