

## **CREATING A TASKFORCE: THE VICTORIAN EXPERIENCE**

**CAROLINE COUNSEL**

**COUNSEL FAMILY LAWYERS, FAMILY VIOLENCE PORTFOLIO: FAMILY LAW  
SECTION: LAW INSTITUTE OF VICTORIA**

Once every lifetime, a series of events occurs that give rise to opportunity for change. In Victoria, that opportunity was the Royal Commission into Family Violence which has recently concluded its hearings and is due to hand down its recommendations to the Victorian Government in February 2016. We started meeting in November 2014 and made a commitment to meet on a regular basis. Attendance at all meetings was extremely high and substitutes were in ready attendance if a regular member were unable to attend. This was not compulsory but it was indicative of the commitment and the recognition of the importance of the Taskforce to those in attendance and more importantly, those whose interests we hoped to represent at the table.

The Royal Commission, whilst the brainchild of the incumbent Victorian Labor government was born of violence. Violent acts by individuals against those whom they were supposed to love and cherish. At the core of this work, whilst this paper may not state it, is an acknowledgement of all those who have suffered at the hands of those who have inflicted violence. Those who have suffered are many and varied; from those who have died at the hands of their partners, those who have had their children murdered, to those who have not known, stood by and then realised the horror of the lot of a friend or family member. Family violence engenders never ending ripples in the pool of our society. If you have ever looked at the surface of a pool of water that has been agitated, you usually see a distorted and ugly version of yourself. This is also true of how family violence reflects on our society as a whole. Whilst that pool continues to be unsettled, it produces a distorted and ugly version of who we are collectively.

Whilst I have held the position of chair of the Family Violence Portfolio in the Family Law Section of the Law Institute for several years, there was very little connection with individuals

or organisations in the area. As a young lawyer I was in two minds about my then chosen profession and flirted briefly with the concept of acting. What I learned in my years of acting study is applicable to understanding the benefits of a Taskforce. Many people attend theatre and are in awe of solo performances. They are in awe as the actor's ability to remember their lines and hold the stage. As an actor, the solo performance leaves me cold. Whilst it is a wonderful ego trip; you are ostensibly in control of the product. There are no surprises. There is no frisson. You are "it". It is akin to me meeting with the cheese platter. A collaborative work on the other hand, has within it all the ingredients for the unpredictable, the creation and reinvention of ideas, the possibilities of conflict and resolution. In short, collaboration is rife with creativity and collective learning which elevates the end result.

I say somewhat facetiously that I was attending meetings of "one" or "one and a cheese platter". I have had this experience previously when I held the position of Chair of Access to Justice in the then newly formed Victorian Women Lawyers. I recognised that whilst I could set an agenda and produce outcomes, being a committee of one is not a feasible or sustainable model. Hence I set about the creation of a Taskforce ahead of the Royal Commission's hearings. This paper is about a micro story which I hope produces some applicable and macro learnings.

### **Finding a Champion**

I work in the legal sector and the first thing I needed to find was a champion and someone to introduce me to that potential champion. My job was to entice that individual into taking on the mantle of coordinating the conversation and playing a pivotal role: the leadership role. At the Law Institute of Victoria, we were fortunate enough to have Nerida Wallace about to assume the role of the CEO and with her came her connections that she had developed over the years of working with the legal profession. A meeting between Nerida and I quickly established the need to bring the Victorian Magistrates Court into the conversation and hence a meeting with Chief Magistrate Peter Lauristen. The Chief Magistrate and his colleagues have been responsible for an enormous revolution in how the justice system intersects with family violence. Based on my observations, the attention and skill that the Court has applied to a staggering work load and extremely difficult and personally taxing work is phenomenal. Their resources are strained and their capacity maxed out and yet they have managed to find creative and collaborative ways of administering justice in this most difficult of areas. The courts continue however to groan under the weight of work. It is interesting to note that this is also a by-product of the positive evolution in attitudes about family violence and the leadership shown in the top ranks of the Victorian Police. I acknowledge that as with all aspects of how society deals with family violence, there is room for improvement. There is definitely a need for greater resources and that applies across the sector from health, housing, supports, police, the courts etc

I do not intend to outline the many positive initiatives introduced by the Victorian Magistrates Court and Vic Pol but for those interested, there is ample information available on their respective websites. The submissions made by individuals and organisations to the Royal Commission also afford enormous insights as to the perspectives of those who participated in the Taskforce.

### **Establishing a Framework**

From the outset we needed to establish a framework. This is possibly the most essential ingredient in establishing any group be it a committee or taskforce. If the foundations are not clear then no amount of goodwill can keep the fabric of what you are trying to achieve on track. The framework was in the form of Terms of Reference. We were fortunate enough to have the commitment of the Law Institute to lend secretariat support of an experienced Legal Practice and Policy officer who has sat on a plethora of committees and taskforces. Gemma Hazmi was able to quickly provide a draft set of Terms which were then finessed. Once finessed, they were disseminated to the Taskforce and agreed upon. When the going gets tough in any organisation, it will be the Constitution or Rules or Terms of Reference that enable the group to address and move on from conflict or disagreement.

### **Who is at the table?**

Who sits at your table is incredibly important. It is essential that when considering your given area of interest or endeavour in family violence that you take the time to invite not only the obvious but also those who will challenge conventional or usual thinking. A scan of who's who in your area is a must. Do not be tempted to invite only those who will agree with your world view.

Like all areas of human endeavour, our knowledge of family violence is dynamic. It is constantly evolving. It is akin to the knowledge that is being amassed by Collaborative family lawyers and those doing interest based negotiation. (In this instance I am referring specifically to those who are trained in the dispute resolution method known as Collaborative Practice, a relatively recent phenomenon whereby lawyers sign a contract with the clients and each other not to represent clients in the Family Courts.) Once it was considered enough to know the law, the Family Law Act, the cases, how Court based outcomes might apply to your client's case. For Collaborative practitioners, you cannot hope to assist your client in negotiations unless you understand, amongst other skills, how the brain functions, the interplay between needs, interests and core beliefs and be self-aware.

The most important step was to identify who should be invited to attend the Taskforce and contribute to the conversation. If anyone is contemplating replicating this concept, the "who" will be unique to your area of endeavour be it health/medical community services, legal, business sector, banking and finance, armed forces, member organisations etc.

We needed to contain our conversations to where family violence intersects the administration of justice. Otherwise we would indeed be trying to "eat an elephant" and we would still be trying to chew through the hide.

We also needed to create a space in which those who had been identified as being able to contribute were not constrained in their discussions. In short, a safe and respectful space in which those with expertise could share ideas, have constructive and at times challenging conversations with each other. Due to the Terms of Reference, whilst I am not at liberty to discuss who said what, I can canvass some of the issues and more importantly, some of the collective learning and bridge building that occurred in those discussions.

Our Taskforce had all the hallmarks of any group of people from differing perspectives. We had different language around family violence issues, we had different points of view, different agendas, differing levels of experience and understanding. In fact, just what you would expect when you identify people with expertise in any given area of human endeavour. What we did not have is experience at working collaboratively as a group. This is the dynamic afforded by the Taskforce and it provided rich ground which escalated collective learning. Those whose experience may have been narrowed by virtue of their field of human endeavour, had their blinkers removed or widened and were therefore able to countenance other perspectives.

In a world of increasing specialisation, much is gained in a given area of human endeavour but in almost equal parts, much is also lost. A collaborative conversation enabled some members of the Taskforce to better understand the differing perspectives and differing agendas. Common purpose meant a sufficiently high degree of goodwill towards each other, even when at times there was disagreement.

By way of an example of specialisation that had unintended consequences I discussed the consequences of the change in culture of the Victorian Police towards family violence. The Family Law Bar and its members used to represent both perpetrators of violence and survivors of violence in relation to Magistrates Court intervention orders. During our discussions I made the observation that due to the success of Vic Pol changing their culture, police officers more often than not were the first to intersect with situations of family violence. (I note that in cases of psychological abuse and physical abuse, the medical profession may well have been involved earlier or had suspicions of family violence occurring but have not systematically or indeed been able to actively implement the legal

machinery available under the *Family Protection Act* 2008 (Vic)). By being at the coal face of family violence and using the powers available to them under the Act, Police have sought and obtained personal safety notices and then interim and final orders on behalf of affected family members. Statistically in Victoria approximately 70% of all such applications are initiated by Vic Pol.

The corresponding and consequential shift which has had cultural ramifications is that barristers stopped representing both the perpetrators and victims of family violence. They started increasingly to represent only the perpetrators of violence. This invariably changed the barrister didactic when it came to family violence. Whilst all lawyers are prohibited from simply being the mouthpiece of their clients, and whilst many lawyers perform an educative role with their clients concerning behaviours and outcomes, they are also bound by their instructions. Behind the scenes lawyers may challenge their clients and try to and apprehend the consequences of their actions, in Court they juggle the requirements of the legislation, the likely attitudes of the specific judicial officer before whom they are appearing, the instructions of the client and an awareness of the likely outcome of the case despite their submissions. I am here referring to the Magistrates Court work and not necessarily the Family Courts where the representation is alternately for survivor and perpetrator of violence.

**Taskforce Representatives included:**

- Chief Magistrate, Peter Lauritsen (Chair)
- Acting Chief Judge, Michael McInerney, County Court of Victoria
- Deputy Chief Magistrate, Felicity Broughton
- Regional Coordinating Magistrate, Sue Wakeling
- Magistrate Kate Hawkins
- Magistrate Anne Goldsbrough
- Caroline Counsel, Law Institute of Victoria Family Law Section
- Megan Aumair, Law Institute of Victoria Criminal Law Section
- Gemma Hazmi, Law Institute of Victoria Legal Policy & Practice
- Jacqui Watt, CEO, No to Violence / Mens Referral Service
- Rodney Vlasis, Manager, No to Violence
- Dr Melanie Heenan, Executive Director, Court Network
- Fiona McCormack, CEO, Domestic Violence Victoria
- Joanna Fletcher, CEO, Women's Legal Service
- Liana Buchanan, CEO, Federation of Community Legal Centres
- Dr Chris Atmore, Federation of Community Legal Centres
- Libby Eltringham, Domestic Violence Resource Centre Victoria
- Jen Hargrave, Women with Disabilities Victoria
- Bevan Warner, Managing Director, Victoria Legal Aid
- Leanne Sinclair, Family Violence Program Manager, Victoria Legal Aid
- Jacqueline Stone, Victorian Bar
- Megan Tittensor, Criminal Bar Association

- Darren Mort and alternate Caroline Paterson of the Family Bar Association  
While representatives from Victoria Police were consulted during the deliberation of the recommendations to the Royal Commission, they did not formally join the taskforce in its recommendations for obvious reasons. We made our separate and our joint recommendations to the Commission and such was the richness of our discussions and a recognition that our submissions were the start of a conversation, we have elected to continue to meet. Some of the individuals have changed due to usual organisational reasons.

### **Who is missing?**

Years ago I attended the IACP (International Academy of Collaborative Professionals) Annual conference in Vancouver Canada and the keynote speaker confronted us with the challenge of looking around the room and doing the analysis of who was not there. Who did not have a voice? Who was not represented? In what ways did we lack diversity? Sounds simple, right? Yes and yet complex as well because we all develop blinkers, we all develop personal preferences, and professional relationships. The thing about passing ones power to create something better is that you also pass control. You nonetheless have an obligation to continue to refine the thinking of any group, do regular scans of who might be missing and ensure that the conversation continues to grow in depth, complexity and remains relevant and holistic.

In November 2014 when we first met we extended invitations to others to come to the table. Whilst that did not result in their inclusion, we have actively pursued those whom we believe should add their voices to the conversation. We have added to the list to ensure that Antoinette Braybrook from VFPLS (Family Violence Prevention and Legal Service Victoria) is included. Antoinette and the work that she does was recognised in the Law Institute of Victoria President's Awards earlier in 2015. She was nominated in two categories and won Access to Justice/Pro Bono award. The other sector not yet at the table but essential to ongoing conversations will be those who work with refugees and migrants such as inTouch Multicultural Centre against Family Violence and Immigrant Women's Domestic Violence Service.

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### **Language**

As the skills and experience of those at the table differed, one of the unintentional outcomes was an upskilling of those whose exposure lagged behind the others. This had an exponential learning impact. Even the title of the Taskforce "Family" as opposed to "Domestic" was a deliberate choice. It was a recognition that whilst violence occurs

between domestic partners, impacts of violence are family wide, even in circumstances where a couple do not have children.

Language is key to this area. Language is the external expression of thought. Whilst we may not know what some people "think" when they express themselves, it gives us insight. Violence is often expressed through language. How we speak to each other; the tone and the words we use. I have had the benefit of a full day workshop with Sharon Stand Ellison who wrote a book and materials for training others entitled "Taking the War Out of Words" This was born of her experience as a young child detecting that violence was ever present in how humans communicate with each other. Sharon perceived that there was something wrong when she stood in a playground for the first time as a new student and listened to the conversations around her. Our world cannot wait for the level of individual consciousness to be raised.

The world of family violence needs laws, those petition on behalf of those who have violence inflicted upon them and those who enforce those laws. However, the law and law enforcement is of course a method of dealing with the by-product of unacceptable or dysfunctional behaviour. It is not the cure. Changing unacceptable behaviour starts with changing thoughts and attitudes and the best expression of that is to instil a change in our language.

Our Taskforce was a microcosm of the world family violence. Whilst surprising, it was also probably predictable that there were some in the group with antiquated and entrenched views born, no doubt, of given areas of expertise and experience. What they were able to demonstrate was a capacity to be challenged and educated by virtue of the Taskforce meetings. This was one of the positive by products of our meetings: those with narrow experience of family violence allowed themselves to be informed by those with greater expertise.

Speaking the same language became essential. Taking the time to understand each other and our different terms enhanced our deeper understand of what mattered most to each of us. Misunderstandings were, in the main, dealt with respectfully. Common language, common intention and deeper conversations about our collective aims and objectives then gave rise to a united Recommendation to the Royal Commission. Whilst this is available on the Royal Commission's website, I have attached it to this paper for ease of reference.

## **Recommendations**

Whilst many of us were hopeful of concrete and more far ranging recommendations, due to the diversity on our taskforce, the fact that organisations and individuals were making separate submissions to the Royal Commission, the recommendations were truncated to

the essentials or overarching agreements of the Taskforce. They nonetheless form a framework or background against which the Taskforce will continue to meet and have discussions. For ease of reference I have attached the submission to the Royal Commission in its entirety.

In short, the recommendations listed in the submission do not reflect the totality of the discussions we have had at the Taskforce meeting since forming in November 2014.

#### Other discussions

We also had an opportunity to discuss a broad range of topics. I have added but a few in this paper such as safety areas in Court houses, new court house requirements and ideal facilities, video conferencing, GPS tracking, application of other laws such as Disability Discrimination Act and how it intersects with family violence, reports being produced by Universities, impact of violence on women in regional rural and remote Victoria, wind back of services for such women, how best to triage families in the justice system, ensuring early and continued representation of both respondents (perpetrators) and complainants (survivors) of family violence, need to conduct ongoing research in relation to risk assessment, research into the State's hotspots, allow those who can to access research to lobby for change, funding etc, need to ensure uniformity of risk assessment tools (CRAF), need to ensure opportunities for education are shared amongst Taskforce members, updating each other on the education occurring in our specific areas and ensuring wherever possible that the education is inclusive and far ranging, creating uniformity in security for survivors across the State, provision of advice to users of court services, better coordination between those working in the sector, need for consistency in justice system, fast track models, specialist legal services in all courts, CISP (court integrated services program), one family- one judge concept, infrastructure, discussions emanating from SCAG, sharing of information intra and interstate and development of and access to national data bases, men's behaviour change programs, current programs: in Australia and from overseas, training of lawyers to ensure risk identification.

As indicated I am unable to comment on who has said what due to the Taskforce's terms of reference but I believe I have provided a sense of how far ranging those conversations have been. For those contemplating a users group or taskforce, the idea is to work out either ahead or collectively in the meetings what your priorities are and what you collectively do not know and ensure that those who have expertise are included in the conversation. There is no end of learning from each other as has been evidenced by this taskforce's conversations thus far.



For lawyers there are very specific challenges and one such challenge is to learn not only from each other but those who work in the sector with differing perspectives on the issue of family violence and be prepared to learn from those people. Formal legal education does not include education on family violence. It does not include risk assessment tools. It has only been by dint of individuals who have had long experience and concern that sporadic education has been made available to all those who practise law. Even then, the education offerings seem to be confined to family law, child protection and criminal law. As we all know, family violence know no geographical, socio economic, age, cultural, religious or other bounds and therefore the challenge for peak bodies such as the Law Institute and indeed the Law Council of Australia is to ensure uniform knowledge sharing and education on family violence and a recognition of its pervasiveness in all aspects of our society.

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#### **CONTACT US**

**COUNSEL FAMILY LAWYERS  
(03) 9320 3900  
ccteam@ccfamlaw.com.au**