

Philip Cockman

5th October 2019.

Community Development and Justice Standing Committee
Parliament House
4 Harvest Terrace
West Perth WA 6005

I wish to make the following submissions for the:

Inquiry Into The Magistrates Court of Western Australia's Management of Matters Involving
Family and Domestic Violence.

I am 65 years of age and retired from the Ministry of Justice in August this year after 43 years of service. During this period I have work at various levels of Adult Prisoner Management. My wife and I are also the grandparents of the 4 children murdered in Margaret River on the 11th May 2018. I had resided and co-conducted with the children's father, Aaron Cockman all matters in the years leading up the murders. Having experienced the Management of the WA Magistrates Court in matters of Family and Domestic Violence from both ends in inputs and outcomes, I have what I believe is a balanced view of the present challenges.

That there is an ongoing increase in family and domestic violence is apparent all too clearly and this issue is impacting on the government services from police through courts to the prison system. I foresee this problem increasing but the dynamics and social reforms needed are outside my scope.

I state briefly that in Aaron's case, a claim of DV was made and found to be unsubstantiated. This claim was used as a silver bullet by litigation process and set in motion a chain of court processes. Unfortunately the lengthy process this takes allowed the mental health issues that were plaguing the family of the murderer, to go unidentified.

In understanding the dynamics and impacts of family violence and understanding the risks involved in a family context, the use of support services to be compulsory before approaching the court system jurisdiction could be incorporated into the governments approach.

The introduction in Victoria's police system in August 2019 of a new mobile application to access family violence risk and the recent \$2.1m DV plan for WA police to undergo new face to face domestic violence training, are both initiatives that can be taken at State Government level and are not in conflict with The Family Law Act 1975. Likewise, initiatives to institute Case Management of DV that are then not referred to the criminal court process by the police would reduce the burden on courts. Yes, costs would be involved but court costs could reduce.

The use of the DV process by misuse of the litigation process has been clearly identified in the Australian Law Reform Commission Report No 135, released in April 2019.

Heading No 13 'Building Accountability and Transparency' and Heading No 10 'Case Management; Efficiency and Accountability' call for 'Resolution to be quick, inexpensive, efficient and with the least acrimony possible with consequences for persons who fail to act'.....Case Management!

I have spoken with those employed within the Family Services who also recognise that they are tigers with out teeth under the present approach.

RECOMMENDATIONS. (Unblock front door of Court)

1. VRO system overhaul. All applications for VRO be graded for Case Management. This is usually the first major step taken in conflict.
2. The Complainant and the Respondent to have the same legal representative.
(A case filtered by the police to this level should not continue as Accused and Defendant)
(with associated costs and litigation alienation)
3. Lawyer to be on contract.
4. Case Management to include pre-mediation process to access mental health issues followed by compulsory mediation.
5. Case Management team to consist of representation from psychologists, mental health, legal and family services.
6. Court Orders tendered by agreement through Case Management process.

EXISTING MODEL.

The West Australian Ministry of Justice, Adult Custodial Division has in place a system known as 'Case Management' with case management coordinators placed in each institution. The access that these co-ordinators have to resources, advice from social managers, court transcripts and mental health and case histories enables this process to deliver best outcomes. Whilst I recognise that members of the public are not under the jurisdiction of the Prisons Act, there is a record of 43 years that I have experienced and worked with this system, that given my own experience with Aaron, really reinforced the idea that this type of approach could have merit. The Management of Matters involving Family and Domestic Violence when once they have reached that state, should not be placed before the Courts without a thorough pre court process. Lawyers should not be managing Family and Domestic Violence.

Philip Cockman.