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Understanding intervention order breaches

Breaches of family violence intervention orders are one of the fastest growing criminal offences in Victoria. Understanding who breaches, and why, is important for agencies that are committed to improving victim safety and holding perpetrators to account.

inbrief

- › Breaches of family violence intervention orders (FVIOs) are one of the fastest growing offences in Victoria
- › Respondents who breach family violence intervention orders are most often male and aged between 24 and 44 years
- › By identifying the common characteristics of respondents charged with multiple FVIO breaches, agencies can tailor service delivery and ultimately improve victim safety

Legal services for victims and perpetrators

Victoria Legal Aid (VLA) plays a central role in the provision and coordination of services to address the legal needs of vulnerable Victorians. VLA provides and funds family violence legal services including legal advice, duty lawyer services, and information and legal representation for both applicants and respondents in Family Violence Intervention Order (FVIO) matters before the Magistrates' Court. They also provide referrals to other legal and non-legal services for related issues.

Court-based family violence legal services are a core component of the justice system's response to family violence. Both VLA and Community Legal Centres (CLCs) deliver these services to applicants and respondents in FVIO applications.

When an application for an FVIO is before the court, both the victim and perpetrator benefit from receiving advice from a lawyer. This ensures that each party understands the process, and their rights and can obtain a tailored FVIO to meet the particular circumstances of each party.

FVIO breaches

If an FVIO is breached (that is, the conditions of the FVIO are not complied with), the respondent may be charged by the police with a criminal offence.

Breaches of FVIOs have been steadily growing, with Crime Statistics Agency data showing an increase of 5,568 recorded offences since September 2014 (a 23 per cent increase). Family violence lawyers at court have an important role in assisting respondents to understand that their behaviour is classified as family violence and is not permitted under the law. Lawyers also advise respondents of the serious consequences that flow from continuing to use family violence.

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In VLA's experience, this information is important for reducing the risk of a respondent continuing to commit family violence. This promotes victim safety and fosters perpetrator accountability.

Research findings

In one of the largest studies of its kind in the world, VLA examined the cases of more than 15,000 clients who received legal assistance when charged with a breach of an FVIO. Nearly one-third of these clients (4,500 clients) had received a grant of aid for ongoing representation at court following the charge, while almost one-quarter received assistance more than once following a charge for breach of an FVIO.

Examining our client data from 2008–2015, we found the largest group assisted by VLA for breach of an FVIO were men aged between 25 and 44. Of that group, many lived with a disability or mental health issue, were unemployed, and had already received legal aid help before receiving assistance when charged with breach of an FVIO.

Twenty-three per cent of clients who received ongoing representation were charged more than once with breach of an FVIO order. Among this group of 1,043 people:

- › 90 per cent were men
- › 86 per cent were unemployed
- › 27 per cent reported a disability or mental health issue and were twice as likely to have an acquired brain injury compared to those

respondents who had received assistance only once

- › 98 per cent had a history of legal problems, 66 per cent of which related to matters involving allegations of threatening or violent behaviour
- › one in 20 identified as Aboriginal or Torres Strait Islander (a group who represent less than one in 100 Victorians).

The research draws on data relating to VLA clients exclusively; however, the findings are consistent with international studies examining the characteristics of people who breach FVIOs more broadly. This research is noted in the report.

Limitations of the research

It is worth noting that the findings of this research may not represent the »

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Family Violence Intervention Order (FVIO)

The purpose of an FVIO is to:

- › ensure the safety of the affected family member
- › preserve any property of the affected family member
- › protect a child who has been subjected to family violence committed by the respondent.

As a result, the FVIO restricts the behaviour of the respondent; for example, what they can do and where they can go.

characteristics of all family violence perpetrators. The data in this study does not include perpetrators who are not charged by police, or perpetrators who do not receive legal assistance from VLA at court.

This research is based on VLA administrative data collected at the time of client intake. VLA targets its services to the most vulnerable people, and to receive ongoing assistance from VLA the client must demonstrate financial disadvantage. This may mean that the sample of clients in this study experience greater disadvantage than those in the general community. This may particularly be the case for those clients who receive a grant of aid for breach of an FVIO.

Why are these statistics significant?

Examining the common characteristics of VLA clients charged with multiple FVIO breaches can boost efforts to keep victims safe by identifying respondents who may be at risk of continuing to use family violence. Understanding the common characteristics of respondents charged with multiple FVIO breaches is important for agencies that want to tailor their service delivery and provide more intensive services to certain clients in order to improve victim safety.

The research revealed that, while rates of unemployment were high across

all VLA clients charged with breach of an FVIO, it was much more prevalent amongst clients assisted more than once. This suggests that unemployment may be a risk factor for ongoing use of family violence.

Rates of disability and mental health issues were high among all clients charged with breach of an FVIO, compared to disability rates in the general population (27 per cent compared with 18.5 per cent respectively). However, those assisted more than once had a higher rate of acquired brain injury or intellectual disability. This highlights a need for early assessments of clients who may have acquired brain injuries to help us understand the nature of the impairment and how it might impede their ability to comply with court orders.

It is worth noting that the findings of this research may not represent the characteristics of all family violence perpetrators

[A] common characteristic of clients charged with breach of an FVIO more than once was ... prior contact with the criminal justice system

It would assist with making appropriate referrals to the non-legal support services that may assist with reducing the risk of reoffending.

Another common characteristic of clients charged with breach of an FVIO more than once was that they all had prior contact with the criminal justice system and a history of seeking assistance for legal problems. Overall, 98 per cent of clients charged with a breach more than once had received prior assistance from VLA. Of those clients, two-thirds had previously received assistance for criminal offences involving crimes against the person (mainly for assault). Having received assistance after being charged with breach of an FVIO order, almost half of this client group then went on to be charged with further criminal offending (assault, threats and 'crimes against the person'). Our data does not, however, identify how many of those criminal offending charges were in a family violence context.

VLA does not collect data on whether clients charged with breach of an FVIO identify as having an alcohol or drug problem. However, the research shows that 23 per cent of clients who had received assistance when charged with breach of an FVIO had previously received assistance from VLA for a drug offence or drug-related offence.

Why is this research important?

If we are to improve victim safety by reducing ongoing use of family violence, this research reinforces the need to ensure:

- › FVIOs are tailored to the circumstances of each application
- › respondents to an FVIO application receive legal advice on the serious consequences that flow from continuing to use family violence
- › people charged with breach of an FVIO receive appropriate legal advice and a more intensive service where elevated risk factors are present
- › lawyers make appropriate referrals to other agencies, including non-legal agencies, if necessary. ■

More information

On 18 February 2016, the VLA research report was launched by the Victorian Attorney-General, the Honourable Martin Pakula, and Bevan Warner, Managing Director at Victoria Legal Aid.

A podcast of highlights of their discussion is available at: www.legalaid.vic.gov.au/about-us/research-and-analysis/experts-discuss-new-family-violence-research

The full report can be accessed at: www.legalaid.vic.gov.au/about-us/what-we-do/research-and-analysis/characteristics-of-respondents-charged-with-breach-of-family-violence-intervention-orders

Understanding the common characteristics of respondents charged with multiple FVIO breaches is important ... to improve victim safety