

## Sisyphus and the System: Criminal Justice Reform in the Australian Capital Territory<sup>1</sup>

Robyn Holder<sup>2</sup>

### Abstract

This paper acknowledges that the challenge to reform the criminal justice system's response to domestic violence is akin to the unremitting task of Sisyphus. Rather than accept that a successful reform effort is as absurd as rolling a boulder up a hill, the paper suggests that the generation of knowledge through research and evaluation serves to give a richer and more purposeful meaning to the tasks. Knowledge-generation is posed as a means to build the capacity of the criminal justice system to reform itself. Research, in this context, is a collaboration amongst justice administrators, domestic violence advocates and researchers to share and lighten the load of Sisyphus.

### Introduction

In Greek mythology, Sisyphus was a king punished by the gods by being cursed to roll a huge boulder up a hill throughout eternity. As soon as he had heaved the boulder up the mountain, it rolled down again. No sooner would he finish than he had to start all over again. Forever! And the Greek tragedians really meant forever. In the classic version, Sisyphus is portrayed as deceitful and cunning, a king who would not stay in his mortal place. His punishment was designed to be maddening precisely because he had challenged the authority of the gods.

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<sup>2</sup> The contributions of colleagues in the ACT are gratefully acknowledged, especially the ACT Magistrates Court and the Domestic Violence Crisis Service (DVCS). However, the views expressed are the responsibility of the author. Contact for correspondence: [robyn.holder@act.gov.au](mailto:robyn.holder@act.gov.au).

In our contemporary world, the eternity of frustration imposed on Sisyphus by Zeus is referred to when we face a “Sisyphean task” or are engaged in a “Sisyphean challenge”. Many activists, reformers and researchers will have felt (or feel) that eternity of frustration at the Sisyphean challenge of eliminating violence against women or simply felt the frustration just with that little narrow corner of challenge improving the effectiveness of the criminal justice system in its responses to violence!

In our darkest moments, we have felt the despair of Sisyphus at the grim, unrelenting nature of this task, of its burden. Every night, year in year out, shelter workers give refuge to the desperate. Every day, medical staff patch up yet more of the walking wounded. Week after week, child workers try to shore up resilience before the incomprehensible. Day and night, police officers wearily put themselves between an aggressor and his victim, and prosecutors pull yet another domestic or sexual assault brief from the pile.

Greek mythology is nothing if not confronting to our optimism about human nature, the dynamics of human interaction and the sheer, brute reality of power and privilege. The ancient story confronts us with an analogy about constant defeat, and about the vain struggle of humanity.

If, like Sisyphus, our task is a constant vain struggle, then surely we ask ourselves, why bother? Are our attempts to reform the criminal justice system absurd and our efforts to eliminate violence against women impossible? Even in Canada, rich with reform, Joseph Gillis and his colleagues at the University of Toronto published a study in 2006 concluding that, despite the years of effort, women “continue to face difficulties in the legal-judicial system that impair its usefulness as a resource for their protection” (2006, p. 1162-63).

Are we, like Sisyphus, condemned to a task that knows only frustration and disappointment? Being an eternal optimist is perhaps as powerful – if not more – than the threat of eternal damnation. French philosopher, Albert Camus, may reject the description of himself as ‘an eternal optimist’, but his 1942 essay “Le Mythe de Sisyphe” gives us another way of looking at Sisyphus’ task and, essentially, at the Greek’s tragic view of the absurdity of human endeavour. I want to draw and expand upon his thinking to suggest that there is meaning and hope in the long struggle to reform criminal justice intervention against domestic and family violence.

If, asks Camus, Sisyphus and his torment personify the fundamental absurdity of existence, what then? What must we do “when the human need to understand meets the unreasonableness of the world?” Camus comes to conclude that there is no despair in embracing this absurd.

Rather he claims it leads us to three consequences: to revolt, freedom and passion (Wikipedia, 2007). By this view, looking open-eyed at the Sisyphean challenge in responding to violence against women and the enormity of the reform agenda means that honest and rigorous appraisal about what we face gives purpose to revolt (however polite is revolt's face) because it's impossible to turn away. By this view, avoidance from dissembling about the actions we undertake means we are free to work on 'what works' (wherever we work); and (to quote Camus) "the struggle itself" gives us passion. By this view, the drive to understand and know, your thirst for meaning, the research you have undertaken that brings you here to this conference is our answer (or part of our answer) to the irrational and to the unreasonable.

### Research as One Answer to the Absurd Challenge

Some specific beacons pierce the irrational and the unreasonable. These beacons are about our quest to throw light into dark places; about the power of research to influence change; and about the wisdom to know when and how to use it.

Many, many years ago a Women's Research Centre in Vancouver produced a slim booklet that placed itself in the middle of the storm amongst feminist activists about whether it is possible for patriarchal systems to change such that any of us should 'waste' our time working on system reform. That booklet said that patriarchal systems, in particular the criminal justice system, are amenable to change and they are amenable to change for two vital reasons. Firstly, they are full of human beings who want to do the best they can, and secondly because these people (we people) and these systems produce and respond to information and knowledge that helps them do the best they can.

Research activists (or activist researchers) who work in this mould are many across the globe. Professor Liz Kelly from the UK and Professor Jane Ursel of Canada stand out as two who – in their different ways – use research to promote and guide reform. Professor Kelly maintains a constant focus on women and children and, through her work, demonstrates that a feminist can, with integrity, make a difference working inside patriarchal systems. This might not be such a radical position to feminists today as it was in the 1980s. But its central idea is part of what brings many of us here today.

One of Professor Ursel's most influential contributions has been to access data produced by the criminal justice system itself to give back to the system. That is, she showed that the criminal justice system (and its practitioners) has its own knowledge base, and is enormously responsive

to attempts to interrogate that knowledge in a respectful and constructive manner.

This respectful engagement with the system and its practitioners – judges, prosecutors, police, and probation officers – opens a dialogue on a shared interest in and passion for justice. The conversation is in part about the data but more so about what it does and does not tell us about the administration of justice and what it purports to deliver. The conversation about data becomes part of what one of San Diego’s District Attorney’s has called the “gentle relentless pressure” on the system for reform.

These different beacons represent a way of embracing the Sisyphean challenge. They say that knowledge generation, or counting what matters, is a key to building the capacity of the system to reform itself.

### An Australian Overview

The work of the Family Violence Intervention Program (FVIP) in the Australian Capital Territory (ACT) is one example of how monitoring and research can be used for reform. Australia and Canada share superficial similarities, with our extensive land mass and population concentrations. We share similarities in our colonial histories (except that you have said “sorry” to your Aboriginal peoples), and similarities in our common political and legal heritage. We both have federal systems where state and provincial governments jealously guard their authority.

Canada, however, has one criminal code where we have eight. Canada also has an enviable record for civil and human rights reform. Recently one of our judicial officers said that if she is looking at law reform, it is always productive to look first to what Canada has done! System reform and the various initiatives and strategies to address domestic and family violence are very varied across the Australian continent: perhaps as varied as in the Canadian federal system and perhaps for similar reasons.

Dr Leslie Laing’s 2000 overview of the history and trends in Australian responses to domestic violence identifies the seminal importance of the women’s refuge (shelter) movement. Hopkins and McGregor (1991) have noted the influence of “femocrats”, women working inside federal and state bureaucracies in calling the attention of governments to the prevalence of domestic violence. Law reform across Australia has been characterised by a focus on the quasi-criminal area of protection orders (Stubbs, 1994) and measures to oblige police to act as applicants for those orders. Matching the service and justice investment of the states and territories, the Commonwealth Government has generated

community education campaigns and funded (mostly short term) a huge range of projects in health, education, community and housing.

The highly contested areas of reform in Australia are maybe similar to those in Canada: that of family law, work with violent perpetrators and child protection. Most recently, the Commonwealth Government's controversial 'emergency intervention' in Indigenous communities in the Northern Territory has sharpened attention – once again – on the level of violence that Aboriginal people live with.

These days, the reform scene in Australia is complex. There is much emphasis on collaboration and partnerships. Sometimes this emphasis does not adequately explore the rationale for such work nor its relevance to the problem at hand. Sometimes partnerships are absorbed with the process of inter-agency work at the expense of outcome. Some collaborations, however, are critical and deliver what they set out to. Any type of partnership sometimes generates unexpected challenges: challenges to the leadership of change, of priority and of perspective.

In the justice field, many of the allies active in collaborations today are the magistrates, prosecutors, police and administrators who may previously have been accused of sitting on their hands. The attention of bureaucrats and justice practitioners is shifting towards court specialisations (Holder, 2006; Stewart, undated). In South Australia, Western Australia, NSW and my own ACT, these specialisations straddle concepts of 'problem-solving courts', victims' rights, restorative and therapeutic justice. Some specialisations remain firmly part of the normal criminal process with some 'tweaking' of interlocutory procedure. And some are attempting to rework the fundamental separation between public and private law. There is much fluidity and not a little muddle as these different concepts jostle for hearing time. "A fog of confusion" as Judge Hal Jackson of the Western Australia District Court described it in 2005. Sometimes it can feel as though we are diverted by 'magic bullets' or the latest fashion. It is almost as if we don't trust the hard won understanding that domestic and family violence need to be tackled on multiple fronts and not one.

Australia also has a mixed and patchy investment in research in these issues. The Canadian Government's investment in its research centres is not mirrored in Australia. The spread of academics who apply themselves to this area of work is thin. While there are some examples of academic/practitioner research collaborations these tend not to last beyond the funding contract. This is a situation which undermines the depth and sophistication of theoretical and empirical knowledge. The fostering of local and practice-based research by academic institutions, as

evidenced by the breadth of work to be shared at this RESOLVE Research Day, is isolated and disconnected.

Going back to our Greek myth - we sometimes roll the same boulder up the same hill again, and in one Australian State, again, and in another locality, again!

### Reform in the ACT

The ACT is one such small locality. For those of you with Australian images of the vast red interior, or of the vibrant Sydney Harbour, or the majesty of Victoria's Alps, the ACT is a slightly odd part of the picture. It was completely and singularly designed to be the nation's capital – and is now maligned as the seat of Federal authority. It also is home to local government over some 330,000 people: a city-state with all the responsibilities of the much larger Queensland or New South Wales (NSW), for example.

Being smaller has meant that we have been able to experiment a bit more. Relationships are quite a bit closer – a boon as well as a curse. The ACT has also, without too many additional dollars, made an investment in knowledge generation as part of the FVIP. This has acted to influence and sustain systemic change since the program's inception in 1998.

The FVIP, described further at p.12, is a coordinated criminal justice and community response to domestic and family violence. The year 2008 is its 10th anniversary although the community activism that gave rise to the program had a longer history (Hopkins & McGregor, 1991). The FVIP is an interagency collaboration at both a strategic and an operational level (Holder & Caruana, 2006).

Certain agencies are central to the program. The non-government Domestic Violence Crisis Service (DVCS) is a 24 hours a day, seven days a week crisis and advocacy service for anyone affected by domestic violence (for a detailed overview see Hopkins & McGregor, 1991). The Australian Federal Police (AFP) ACT Policing focus on the collection of best evidence and constant review of officer decision-making. The Territory Office of the Director of Public Prosecutions (ODPP) has the longest-established specialist family violence prosecution team in the country and ACT Corrective Services provides a program to which convicted offenders may be mandated. My own agency acts to manage strategic coordination and direction. All of these agencies have generated their own data sets and publish them in a collective report. Today I am going to focus only on the Court's data by way of illustration.

### The Nature of the Problem(s)

The data is a prism through which to look at the problems that collaborative criminal justice interventions were initially conceived to address (Buzawa, & Buzawa, 1996; Dobash, & Dobash, 1996; Stubbs, 1994). A 1993 research report by Mugford, Eastaugh and Edwards of the Australian Institute of Criminology (AIC) into justice responses to domestic violence in the ACT noted that “while it was argued that long-term reduction of domestic violence relied on a change of attitudes and behaviour by everyone in the community, the immediate focus was on the criminal justice system, upon which was placed considerable pressure to take the issues more seriously (p. 14).”

Despite a policy position that domestic violence is a crime, it appeared clear to many that low charge and conviction rates suggest that domestic and family violence was in fact a low priority for “the system”. Indeed, that same research found that at 6%, the ACTs arrest rate for domestic violence was the lowest in Australia. While arrest rates are a tricky measure at best, that we are now at a 30% arrest rate for domestic violence is one indicator of some very significant changes wrought over the years (Holder, 2007).

A range of more specific failings of criminal justice agencies identified were that there was a lack of systematic and case co-ordination, and that neither victim safety nor perpetrator accountability was practically and consistently addressed by criminal justice agencies. Police were criticised for paying insufficient attention to establishing ‘belief on reasonable grounds’, evidence gathering, victim safety and arrest options at the time of the incident.

As for prosecution authorities, it was claimed that domestic violence matters ‘dropped’ too easily from the prosecution process. That is, that prosecution was ‘victim-driven’ rather than driven by the public interest. Prosecution authorities apparently found it very difficult to balance victim ambivalence over whether to proceed, with their responsibilities to uphold the criminal law and protect vulnerable persons. When faced with an ambivalent victim/witness, prosecution found it easier not to proceed (Holder & Mayo 2003).

Overall, there was insufficient attention to providing information to victim/witnesses including case notification and inadequate options for victim participation in the process. There were no or inadequate mechanisms for getting victim information to the ‘right’ decision-maker at the ‘right’ time. The length of time it took to finalise court matters was

generally found to increase the strain on victims and to add to the pressure within families.

When courts did convict, it was claimed that there were inadequate sentencing options. What existed were not based upon an understanding of the dynamics of abuse, were ineffective in reducing repeat offending, do not provide for victim input, and paid insufficient attention to compliance with court orders.

For those who are victims of family violence the substantive critique has been that the criminal justice system failed to take the issues and their safety seriously. Victims of family violence (and indeed of most criminal offences) also criticised the system for not keeping them informed, not involving them in decisions and not providing opportunities for the victim's voice to be heard.

In 1992, in response to extensive community lobbying, two law reform processes commenced in the ACT – one in relation to criminal legal responses to domestic violence and one into the civil legal response.<sup>3</sup> The research commissioned as part of the review examined Magistrates Court and police records, and conducted extensive interviews and surveys with key practitioners. That research showed how much work there was to do in terms of effective responses but also it revealed some of the significant problems in data access and interpretation.

The central recommendation of a major law reform review of criminal legal interventions was for a coordinated inter-agency response (Mugford et al., 1993). Ultimately, this was accepted by the ACT Government in 1996 and the Family Violence Intervention Program (FVIP) came into being two years later.

### What is the Family Violence Intervention Program?

As Holder and Mayo (2003) describe, the FVIP – as the embodiment of that inter-agency response - is not 'a solution' to family violence. The focus of the FVIP is the criminal justice system. It is, however, a concerted and sustained attempt to improve criminal justice responses to allegations of family violence in the ACT. It operates at a macro level of policy, administrative and technological infrastructure and legislation; and at the micro level of case management, individual practitioner decision-making and the monitoring of those decisions.

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<sup>3</sup> ACT Community Law Reform Committee (1995), *Domestic Violence*, Report No.9, Attorney Generals Department, Canberra and ACT Community Law Reform Committee (1995), *Domestic Violence: the civil response*, Report No.11, Attorney Generals Department, Canberra



The government agencies and non-government organisations engaged in delivering the FVIP created common purpose through negotiated protocols signed in 1998 (ACT Government, 1998). These formally committed agencies to four overarching aims:

- To work together cooperatively and effectively;
- To maximise safety and protection for victims of family violence;
- To provide opportunities for offender accountability and rehabilitation; and
- To seek continual improvement.

At a policy level, the FVIP rests upon the presumption that criminal justice agencies will intervene positively to allegations of family violence, and act according to law and to the public interest. The core police policies are for pro-arrest, pro-charge and with presumption against bail. The policy position of the Director of Public Prosecutions is towards pro prosecution. ACT Corrective Services will act to promote offender accountability and rehabilitation. All agencies accept collective responsibility to improve victim safety and victim liaison. These policy positions are the foundation for a range of inter-locking operational and systemic changes that form a specialised jurisdiction.

The FVIP is a developmental program of system-wide change that has grown in phases. It is those phases where benchmark data was collected, and the research and development phase that are central to the knowledge-building capability of the FVIP. The strategic phases have been:

- Phase I (1998-1999) – the pilot phase that established a broad policy framework, baseline measures and interventions.
- Phase II (1999-2001) – the research and development phase where new initiatives were tested and externally evaluated.
- Phase III (2001-2003) – involved the extension of the leading practice model to the ACT Region as a whole.
- Phase IV (2003-2005) – represents both the consolidation of the leading practice model with the identification of areas that may require a flexible response.
- Phase V (2005-2008) – looks forward to consolidating the specialist jurisdiction of the FVIP.

#### Data Collection, Monitoring and Evaluation

None of these actions and methods of implementing a coordinated response may seem particularly unique. However, the 1995 Law Reform report (Mugford et al., 1993) made ten recommendations on the importance of improving the knowledge-base of agencies in order that

better assessments about the effectiveness of interventions could be made. It is the action arising from this report that makes the FVIP unique in Australia. Those recommendations included that:

- A standardised system for the collection of statistics on domestic violence be developed.
- Methods of coding and collation be standardised across agencies.
- Police and courts develop a code to distinguish between domestic violence offences from non-domestic offences.
- Agencies adhere to national standards of data collection to enable jurisdictional comparisons.
- Inter-agency protocols on information sharing and confidentiality be developed.
- Analysis and evaluation of data and, where appropriate, case tracking be conducted.
- The statistics and its implications are made public by Government.
- The collation and analysis of data be monitored.
- The DVCS develop guidelines to permit monitoring research to be undertaken.
- Comparative research be undertaken on arrest, charges, bail and sentencing to establish a statistical baseline.

From our perspective in 2007, these recommendations appear to have very little to do with the purpose of reform. They say nothing about what should be the objectives of reform, nor much about measuring the effectiveness of interventions. Nonetheless, the recommendations led us in the ACT – in the first instance – to “count for the system”. That is, to collect information relevant and important to justice agencies.

In so doing, we learned along the way how this focus on knowledge-generation became a method of strengthening the sustainability of reform. The earlier AIC report had expressed the hope that its research comprised “the provision of baseline data against which future data collection can be compared” (Mugford et al, 1993, p. 235).

Maintaining focus over so many years is gruelling and unrelenting. Many other priorities jostle for attention. Data collection and analysis met the AIC report recommendation and provided a means for agencies working in collaboration to gain traction in the reform effort. What may have appeared to the Law Reform Committee to be a straightforward set of recommendations has, however, required an unprecedented investment of time, people, energy and resources for which the agencies involved in the FVIP have had little by way of financial or technological resources to conduct.

### What is Important to the System and Why is it Important to Us?

What is important to the system and why is it important to us as activists and researchers? There is nothing particularly remarkable about the data from the ACT but, in the 1990s no-one had even the most rudimentary of information about domestic violence and the criminal justice system. No-one knew what the burden that Sisyphus shouldered was. Such basic questions as: How many? How much? How much of what?

One anecdote stands out in my memory of those early days. We presented some data to the Council of Magistrates that provided a six month analysis of the family violence charges before the court. This presentation passed without remark. Afterwards, however, I received a call from the associate of a senior Magistrate. Where, he asked, did we get the information from? From the court's own database was the response. He did not know what data the court itself was sitting on.

Judicial officers and courts administrators are not usually trained as social scientists to analyse their work in this way. They are not statisticians nor particularly used to working with databases. They use the data primarily for accurate record keeping. Neither do governments have especially good track records in funding courts to produce anything but activity statements.

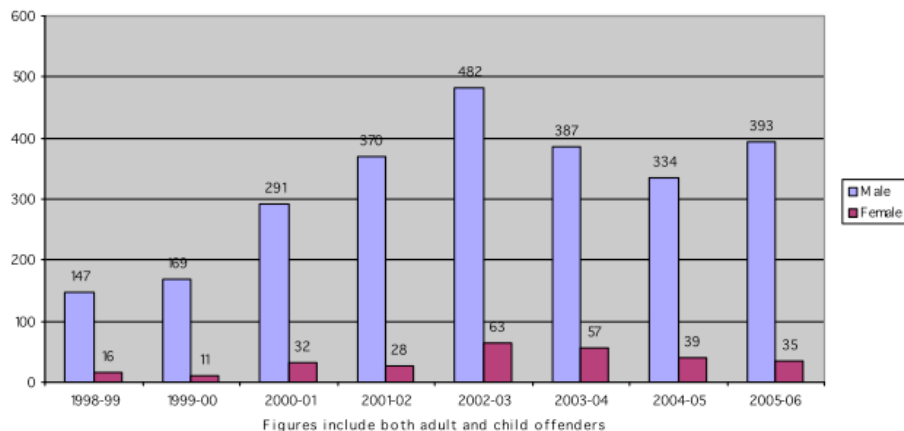
We contracted independent consultants to conduct two early evaluations of the development of the FVIP and its impact. One of the tasks set for them was to analyse the databases of each agency and produce an audit list of all data routinely collected by them. This was an extraordinarily useful exercise as it showed how much "intelligence" actually was captured but just not used. Now, every year, I write to the agencies as per agreement to request their annual data – based upon this first audit.

Some of you may be more accustomed to going to justice and victim agencies with your own schedule of questions or variables that you would like answered. We have also done some specific projects seeking additional information. However, fundamental to my proposition that knowledge-building from the inside expands the capacity of the system to change itself, is an acknowledgement that the system has its own knowledge needs and not simply or solely those which we on the outside think should be answered. A busy and under-resourced system will be more able to see the benefit of using its own data more effectively and efficiently. It will be less inclined to add to its workload with data requests that are outside its core business.

This is not a question of ‘this’ data having more value than ‘that’ data. If we expect the system to change, how can it without knowing what it faces and what it does in an operational sense? When, early in 1998, I visited a suburban court in another Australian jurisdiction to see what they were doing, I asked how they identified a general assault brief from a domestic assault brief. The judicial officer had no idea but the administrator identified that they tied a coloured ribbon round them – not the usual pink! A 20th century system operating on an 18th century practice! In the ACT, we have advanced only a little further than ribbons: we use purple stickers but have also been able to introduce an electronic method of tagging the charges so that we can identify, track and count them. I think that we are still the only court in Australia that can do this.

So, using the electronic database, what has the system been able to tell itself? Firstly, that through the sustained reform effort of justice agencies in the FVIP, the volume of all FV defendants and FV charges has increased 163% over eight years. In the first year of FVIP in 1998-99, the number of defendants was 163, and in 2005-06 the number was 428. We were also able to confirm (see Chart 1) that, in all years, the majority of FV offenders before the Court were male (averaging 90%).

Chart 1: Number of Defendants Charged with FV Offences Showing Male-to-Female Ratio

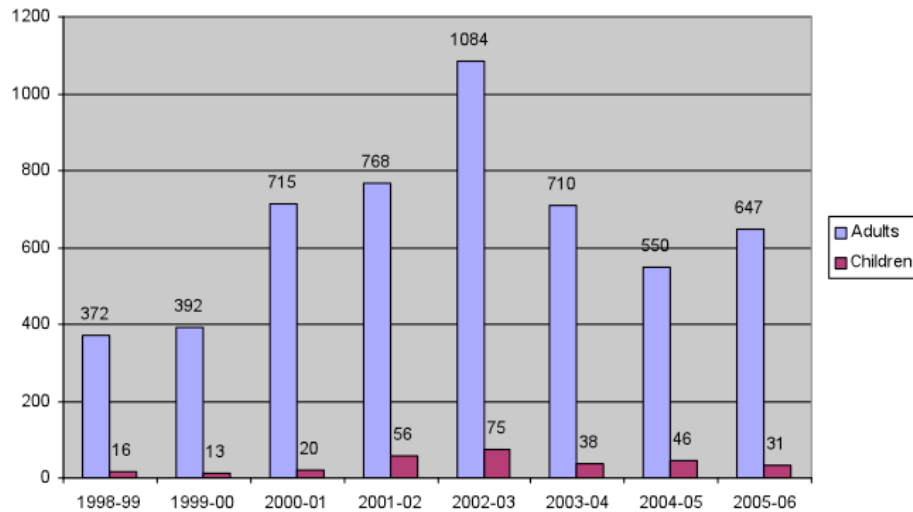


Source: Keys Young, 2000; Urbis Keys Young, 2001; ACT Magistrates Court

We also confirmed that the overwhelming majority (95%) of defendants were adult (see Chart 2). Over the eight years of the operation of the FVIP, the number of FV charges before the Court has increased 75%. In 1998-99, the first year in which the FVIP commenced, 388 new

FV charges entered the Magistrates Court. In 2005-06, 678 new FV charges came before the Court.

Chart 2: Number of New FV Charges before the ACT Magistrate Court by Age



Source: Keys Young, 2000; Urbis Keys Young, 2001; ACT Magistrates Court

In addition to volume and the nature of the defendants, what else was important for the system to know? Timeliness is a critical performance measure upon which all types of court are benchmarked by the Productivity Commission in Australia and which featured in the report by the ACT Auditor-General into Courts Administration (2005). Family violence justice interventions generally take as one of their objectives to 'fast track' matters.

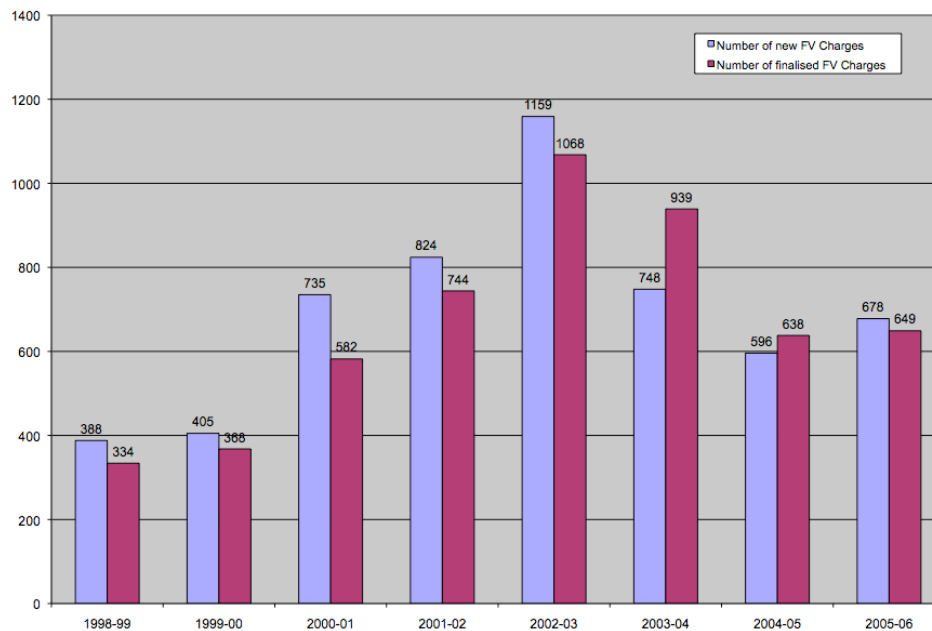
The Province of Manitoba (Canada), for example, has a benchmark of three months as optimal in which to finalise. In 1998, the ACT Magistrates Court set a similar benchmark. Data was obtained on the length of time between the defendant's first appearance in court and the date of case finalisation. When the FV Practice Direction established the specialist jurisdiction in 2000, 79% of FV matters had finalised in 12-18 weeks (the same as all other adult criminal matters). In 2004-05, 71% finalised in 13-20 weeks. Well over three quarters of criminal FV matters consistently finalise in a time frame up to 4 months from the date at which they enter the court.

Some anecdotal evidence suggests that some types of family violence coming to court are becoming more complex and may be impacting on the time taken to finalise a matter. This pattern is also seen in the

difference in time taken to finalise between Adult Family Violence Cases and All Other Adult Criminal Cases. Approximately 5% (n=21 in 2003-2004 for example) of finalised FV matters are dismissed due to mental health or are subject to a transfer to the mental health jurisdiction. In addition, in 2004, the new Ngambra Circle Sentencing Court commenced. A proportion of matters sentenced before this Court were for family violence related offences. Both of these methods of finalisation, often involving more lengthy deliberation processes, will affect the “time taken to finalise” measure.

In 1998-99, the number of FV charges finalised was 334 and in 2005-06, the number was 649. This represents an increase of 94%. The data in Chart 3 are not directly comparable. It is, nonetheless, useful to show the proportion of charges finalised in each year in relation to the number of new charges entering the system. The Chart shows a pattern of well over three quarters of FV charges before the Court are finalised in one year.

Chart 3: Number of New FV Charges Alongside Number of Finalised Charges

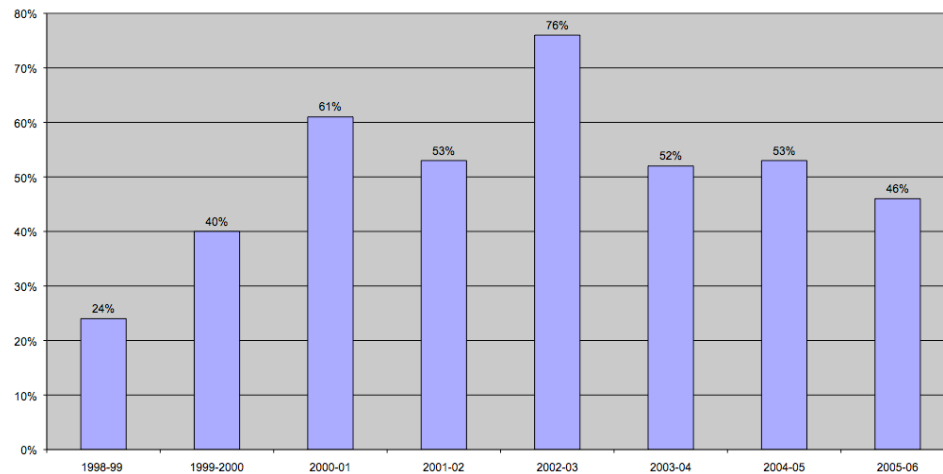


Source: ACT Magistrates Court

Another measure that assumed significant importance in the early days of the FVIP and the operation of the specialised jurisdiction was the plea rate: That is, the proportion of all FV charges that resulted in an early plea rather than going either to a second case management hearing or to a

contested trial. Early pleas are important to the system because it means that matters are exited quickly. Most jurisdictions provide incentives to defendants (of any matter) to consider making an early plea. The quick exit of a matter from the system also benefits for victims and for offenders. For victims it can be a relief not to have to testify and for offenders it can mean faster entry to rehabilitation and other programs.

Chart 4: Number of Charges Finalised by Early Plea of Guilty



Source: ACT DPP Annual Report

The jump in an early plea of guilt from 24% in 1998 to 61% in year three was very important for us locally in showing that measures taken by police to promote early and more thorough investigation was bearing fruit (Chart 4). As you can see, the rate has peaked and dipped since then. The plea rate in 2005-06 was 45% - still double that when we first started but we are keenly awaiting the data for 2006-07 to see if the slide continues downward or up.

In addition to the plea rate, the specialised case management system of the specialist jurisdiction reveals other process efficiencies. From April 2000 to end June 2001, 835 police officer days were saved from attending court on family violence matters (ACT DPP, *Annual Reports 2000-2001, 2001-2002*, Canberra, & Holder & Mayo, 2003). This measure perhaps more than any other convinced the police executive to extend what was then an experimental project in one patrol area to the whole policing region.

In addition, court time is shown to be significantly saved and the number of witnesses required to attend court is dramatically reduced as the following table shows.

Table 1: Matters Going to FV CMH and Time/Witnesses Saved<sup>4</sup>

Year	No. of FV Charges	No. of FV Defendants That Went to FVCMH	Court Time Saved (Hours)	Witness Attendance Not Required (No of Persons)
2000-01	469	150	120	271
2001-02	525	169	179	338
2002-03	753	255	220	398
2003-04	494	189	298	438
2004-05	270	147	463	765

You will have noticed that these data don't provide much about the outcome of matters before the court. Conviction rate, for example, may be one of the vitally important measures we seek to know about criminal justice intervention in domestic violence. It is not that important to courts – at least not an importance they will talk about much in public.

### Conviction Rates

Over eight years of the FVIP, 49% of FV charges were finalised in the Magistrates Court by way of a guilty plea or finding of guilt. This is charges, not number of 'real' defendants, and does not mean that the remaining 51% resulted in a not guilty verdict.

The proportion of FV charges resulting in a finalisation of not guilty over the eight years of the FVIP is only 15.5%. The proportion of charges finalised by way of a NETO (no evidence to offer by the prosecution) has reduced from 35% of finalised charges in 1998-99 to 21% in 2005-2006. This indicator is, in our jurisdiction, a crucial measure of both a much more active prosecution but also of a closer operational relationship between charge officer and prosecutor over the appropriateness of charges to the evidence.

In 1998-99, 68 defendants were convicted of 113 FV charges (See Chart 5). In 2005-06, 217 defendants were convicted of 304 FV charges.

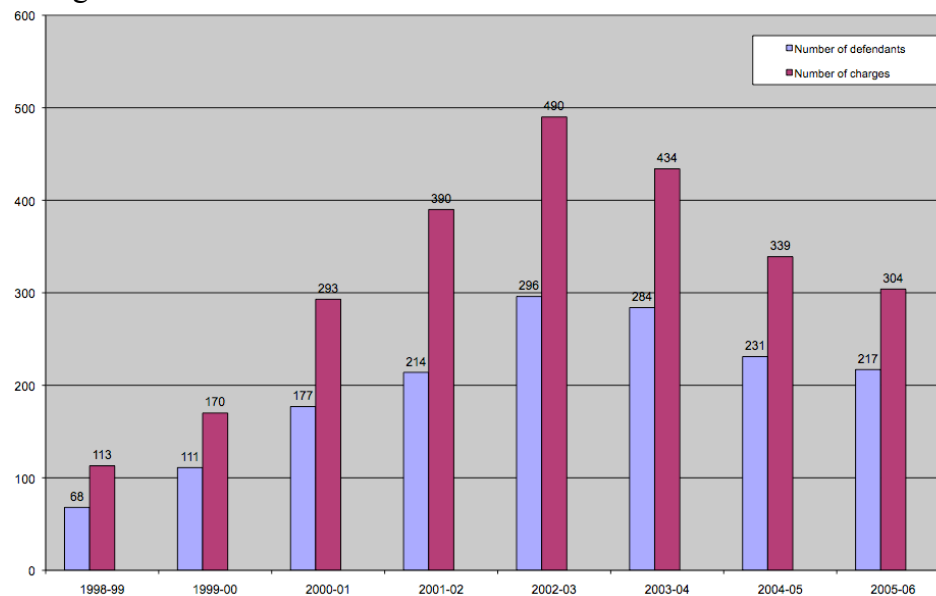
It should be noted that the number of convicted defendants (Chart 5) is not a subset of the data set of the number of family violence defendants

<sup>4</sup> Sources: ACT Magistrates Court and DPP Annual Reports. Due to resource constraints within the Court, this data is no longer being collated.



coming before the Court (as in Chart 1). As previously stated, this is because the defendant's matters may have commenced in one year and been finalised in the current year.

Chart 5: Number of Defendants Convicted Alongside the Number of Charges Where a Conviction is Recorded



Source: Keys Young, 2000, Urbis Keys Young 2001a; ACT Magistrates Court

### Data Informing Reform

In essence, these data are part of what we count in the ACT because it matters to the system. It tells us about volume and hence about workload and how we allocate resources to respond to that workload, about how to manage the Sisyphean load if you like. The data we collect and publish has been critical to successful bids to ACT Treasury for more resources for justice agencies. Providing the information back to executives in the agencies for service planning tells them that their investment relates to something significant. The FVIP is now regarded as a 'flagship' in the ACT as an example of evidence-based system reform.

The information also tells us something about the confidence of the community in the fair administration of justice. It is significant, for example, that 70% of all domestic violence incidents reported to police in the ACT are by victims themselves. What is interesting to note is that, over the years of change, more qualitative questions are coming to assume more importance for some of the justice practitioners in our area.

In essence, now that we know more about what we are doing in a quantitative sense, the questions of “to what end” have grown in importance.

Some of this is driven by the rudimentary question of effectiveness, and some by genuine ethical concerns by practitioners about what they do. Practitioners are acutely aware that many victims find the process of criminal prosecution difficult. They are deeply concerned that their actions do not – at a minimum – deter victims from seeking help in the future (Holder, 2008).

For those of us working in or in collaboration with the criminal justice system to promote more effective intervention, the information about what it does and how can act to grease the wheels of change. Our experience in the ACT says that justice practitioners want to know that their work delivers useful outcomes. By sharing the burden of Sisyphus our load may or may not become lighter. But it certainly becomes more intelligible, more purposeful and ultimately more effective.

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