

# Evaluation of the Court Mandated Counselling Order Program

Summary report and  
Magistrates' Court of Victoria response

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# Acknowledgements

## **Acknowledgement of Country**

The Magistrates' Court of Victoria acknowledges Aboriginal and Torres Strait Islander peoples as the First Peoples, Traditional Owners and Custodians of the land and waterways upon which we depend.

MCV acknowledges and pays respects to Elders, acknowledges knowledge holders and leaders—past, present and emerging, and extends this respect to all Aboriginal and Torres Strait Islander peoples.

## **Acknowledgement of evaluation participants**

MCV expresses its sincere thanks to CMCOP service provider staff, key stakeholders, CMCOP participants and the people affected by family violence who agreed to participate in this evaluation. Court and service user perspectives are essential, not only to the assessment of outcomes, but to understanding and seeking to improve future services and future outcomes. The lived experiences of those affected by family violence has informed the ongoing improvement of Victoria's justice system and will continue to be held at the centre of the Court's specialist family violence response.

## Introduction

Specialist Family Violence Courts (SFVCs) currently operate at 13 locations across the state. Each of these courts has specialist magistrates who hear and determine family violence matters.

Family Violence Intervention Order (FVIO) applications are proceedings heard under the *Family Violence Protection Act 2008* (Vic) (FVPA). This legislation requires magistrates to order eligible respondents to participate in a counselling order upon the making of a final FVIO, if deemed appropriate. The Court Mandated Counselling Order Program (CMCOP) is the suite of programs which support counselling orders made under the Part 5 of the FVPA.

Court mandated counselling has been part of the Magistrates' Court of Victoria's (MCV) specialist response to family violence since the establishment of the Family Violence Court Division at Heidelberg and Ballarat in 2005. Following the Royal Commission into Family Violence (2015), court mandated counselling became a key part of the expansion of SFVCs.

In 2018, the Centre for Innovative Justice completed a review of the then Family Violence Court Intervention Program (FVCIP) and the Family Violence Counselling Order Program (FVCOP) which helped inform the design of a new program model.

The new CMCOP model (1.0)<sup>1</sup> commenced in January 2020 and comprised of a 20-week men's behaviour change group program (MBCP)<sup>2</sup>. In accordance with the objectives of counselling orders outlined in Part 5 of the FVPA, CMCOP aims to:

- a) increasing eligible respondents' accountability for the violence the respondent has used against a family member; and
- b) encouraging eligible respondents to change their behaviour.

## About the evaluation

Independent evaluation continues to play an important role in considering the design, implementation, operation and effectiveness of court programs. It also supports the Court with continuous, sustainable improvement and informed decision making regarding future funding.

In July 2023, Rooftop Social, an external consultancy firm, were engaged to independently evaluate CMCOP, with the final report due in December 2024. The evaluation aimed to:

1. Assess the quality and sustainability of the CMCOP delivery model, focusing on the Court's role in responding to family violence and examining how well the CMCOP model is being implemented
2. Assess the program's effectiveness in providing timely and appropriate assess to mandated counselling with generating unintended negative consequences
3. Offer insights into any unintended consequences arising from the use of a mandated order in a civil jurisdiction
4. Offer insights and recommendations for continuous improvement in the design and implementation of CMCOP to meet legislative requirements

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<sup>1</sup> For both convenience and clarity, the CMCOP model running between 2020 and 2024 will be referred to here as CMCOP 1.0 and new programs commencing from 2025 as CMCOP 2.0. As the evaluation focussed on CMCOP 1.0, any reference to CMCOP without qualification refers to this earlier version.

<sup>2</sup> Variations were made to accommodate the public health restrictions of the Covid-19 pandemic.

5. Consolidate the program theory and detail the evolution of CMCOP since its inception to the end of 2024, taking into account any changes in delivery over this period of time.

The evaluation focused on the flow of respondents through the CMCOP pathway, the effect of CMCOP on the future use of violence, and the effectiveness and sustainability of the current counselling program at the 13 SFVCs.

An interim report provided to the Court in mid-2024 identified lessons and opportunities, which were subsequently used to help shape the design for MCV's new CMCOP Grants Program. The Grants Program built on what had been learned from CMCOP 1.0, local and international evidence about behaviour change and invited experienced service providers to contribute their expertise and practice wisdom into program design. The new approach was launched in July 2024, with successful grant applicants being announced in November and counselling orders being made from January 2025.

The final outcome evaluation report details a fulsome summative assessment of CMCOP 1.0 and further identified opportunities for systemic, strategic and operational improvements.

MCV thanks the Rooftop Social evaluators for a robust and useful evaluation. The Court is already actively engaged in reflecting upon the findings and considering each of the opportunities identified for improvement. The following pages document MCV's response to the opportunities, many of which have already been actioned, as acknowledged by the evaluators in the final report.

## MCV response to evaluation findings and opportunities

### 1. The role of court-mandated counselling in the Family Violence system

*Opportunity 1: The role of the Court in addressing family violence can be further strengthened by embedding integration as a foundational principle of CMCOP. Prioritising further integration as both a design principle and an operational goal would enable MCV to more fully embed CMCOP within Victoria's family violence system.*

The evaluation demonstrates the important and distinctive role that MCV plays in the whole-of-government approach to preventing family violence, supporting the safety of AFMs, holding respondents accountable for their actions and supporting them into pathways for change supported by expert practitioners in family violence community services. CMCOP represents part of a 'web of accountability'<sup>3</sup> that relies on collaboration, information sharing and actions across specialist and mainstream services and systems.

The operational model and shared practices that support the implementation of CMCOP were found to be an important mechanism for accountability. They emphasise sector and system integration, including information sharing, with collaboration across legal services, Victoria Police, and established referral relationships to the Orange Door and community agencies.

CMCOP policies and practices between SFVCs and service providers were also found to align with relevant state-wide frameworks, including MARAM; the Family Violence Information Sharing Scheme (FVISS) and the Child Information Sharing Scheme (CISS).

While the Court's independence remains imperative, the evaluation did emphasise the need for continued efforts in integrating CMCOP into the broader family violence system. Enhanced collaboration between courts, service providers, police and support agencies is encouraged and would help to remove siloed operational practices and deliver a unified and effective response to family violence in Victoria.

MCV continues to provide a robust governance structure for family violence, with judicial oversight and engagement across key decisions and stakeholder relationships. Regular meetings are held both centrally with senior leadership and at local levels between MCV, Victoria Police, legal services and the specialist family violence sector for shared learning, problem solving and collaboration in family violence responses. MCV is also convening specific meetings with external agencies (including Victoria Police) to support the implementation of the CMCOP Grants Program.

MCV has a centralised family violence information sharing team who are responsible for determining information relevant to risk assessment and risk management that can be shared to a prescribed Information Sharing Entity or Risk Assessment Entity under the FVPA. AFM

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<sup>3</sup> Spencer, P. (2016). Strengthening the web of accountability: Criminal courts and family violence offenders. *Alternative Law Journal*, 41(4), 225–229.

support continues to be front and centre of the work under family safety contact provisions in the CMCOP Grants Program, including revised processes and better service tracking.

Meaningful, impactful stakeholder engagement remains a strong focus under the new CMCOP pathway, supporting a coordinated, effective and timely response to the implementation of court mandated counselling. Expert advice was sought from service providers regarding the design of the new CMCOP service model, and mechanisms have been embedded into our contract management principles to support continuously improving provider practice as well as the opportunity for service providers to engage with one another through a Community of Practice. The evaluation and learning model instituted by MCV for the CMCOP Grants Program emphasises early planning and collaboration with service providers.

System integration and collaboration are core design principles of the SFVC model. MCV will continue to look at ways we can collaborate, work together and share learnings throughout the grants program.

## 2. Funnel effect: the impact of exit points along the CMCOP pathway

*Opportunity 2: Combined action is required to address the low rate of completion as well as the substantial cohort of respondents who are considered ineligible or unsuitable for CMCOP. Actions for consideration include:*

- 1. an operationally sustainable counselling program which provides continual availability across the SFVCs (within funding constraints)*
- 2. a suite of authorised counselling programs designed to be inclusive of FVIO respondents with presentations unsuited to a group-based program*
- 3. MCV monitoring data about reasons for ineligibility (and unsuitability where relevant) for program commencement to better understand and improve the range of respondents who are able to access the full pathway.*

By framing court-mandated counselling around the finalisation of FVIOs, the legislation initially gives the impression of a very large potential pool of respondents. In 2023-24, 37,370 FVIOs were finalised, with around three quarters of these being finalised in an SFVC.<sup>4</sup> However, the legislation also recognises that both systemic and individual limitations create reasonable exceptions, which significantly reduces the pool of respondents that are ordered to counselling.

Nevertheless, there have been gaps and barriers in the system that impact the flow of respondents through to finalising counselling. The evaluation highlights the progressive reduction in respondents who successfully advance through each stage of the process, resulting in a smaller than expected proportion completing the program – the “funnel effect”.

One of the factors impacting dropout has been the inflexibility of the 20-week group-based program, which reflected common MBCP practice in Victoria and the Men’s Behaviour Change

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<sup>4</sup> Crime Statistics Agency, December 2024

Minimum Standards 2017 (Family Safety Victoria and NTV).<sup>5</sup> Common Victorian practice for MBCPs is that they are held in person, are predicated on 'readiness' for change, require the ability to interact meaningfully and positively in a group environment and not be facing any other major life issues in life, such as addictions or untreated mental health conditions. These hallmarks of MBCPs were reflected in the CMCOP service delivery.

In order to retain more people through each stage of the process, MCV required a tailored and flexible approach, which was more responsive to the variable needs of individuals. The new CMCOP pathway has introduced program offerings that improve respondent flow, remove eligibility barriers, expand the capacity and enhance program flexibility. This has been done by:

- Tightening (potential) exit points -for example, increasing the number of Eligibility Assessments (EA) that occur on the same day as the FVIO and EA Order are made.
- Funding shortened , more intensive programs, ranging from 6-8 weeks duration. This includes tailored offerings based on individual needs and intersectional factors, including a receptive engagement response for complex respondents who were previously deemed unsuitable for group programs.
- Allocating specific funding for targeted cohorts e.g. LGBTIQ+ respondents.
- Amending the eligibility criteria so that it is no longer restricted to males who currently or had previously been in an intimate personal relationship with a female AFM. A broader range of respondents are now eligible for programs.<sup>6</sup>
- Offering condensed program schedules that focus on introducing mandated respondents to the foundational skills that support readiness and motivation for ongoing change.
- Programs that focus on increased engagement and higher completion rates.
- Increasing the capacity to link respondents to suitable services both during and once mandated programs are completed. Respondents have the option to self-refer into voluntary MBCPs upon completion of CMCOP.
- Continuing to monitor data and trends regarding ineligibility and revocations to better understand and improve the range of respondents who are able to access the full pathway.
- Creating a collaborative learning environment, in which providers and MCV are continually increasing and sharing knowledge of program efficacy and implementing improvements that drive better outcomes.

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<sup>5</sup> <https://ntv.org.au/advocacy-media/resources/#practice>

<sup>6</sup> While eligibility will be broader, the availability of targeted programs may continue to act as a restrictive factor.



### 3. Positive retention rates associated with program commencement

*Opportunity 3.1 See above options for amplifying these benefits through reducing the eligibility barriers.*

*Opportunity 3.2 Program completion has been used as the measure of counselling order completion, and as a proxy for respondents receiving the optimum available opportunity to engage in behaviour change. Measures of change are challenging in this field. Nevertheless, MCV is well-placed to work with subject matter experts, including service providers, to identify and test relevant measures, and the necessary tools.*

The evaluation found that the strongest indicator of program completion was attending the first counselling session. While this speaks to the overall objective of CMCOP, to encourage behaviour change, program completion is only a proxy measure of behaviour change and there are other measures that need to be considered. Nonetheless, this is an important finding that highlights the value in MCV reducing barriers for respondents to access, and promptly enter, CMCOP pathways.

Historically there have been particular cohorts of respondents who were deemed unsuitable for court mandated counselling. To address this, MCV made significant changes to the new CMCOP grants program that reduce eligibility barriers, as well as allocating specific resources to targeted cohorts. MCV has moved program suppliers away from suitability assessments, which can result in applications to revoke counselling orders, to a longer intake needs-focused assessment which combines the respondent's first counselling session. Under the new pathway, the respondents first contact with a service provider must occur within 10 days of the order being made and includes a combined intake and counselling session. This is a significant change from the previous provider-based suitability only assessments.

The new CMCOP pathway recognises that one size doesn't fit all and has shifted away from a traditional in-person 20-week MCBP towards shorter programs aligned with the trans-theoretical stages of change model.<sup>7</sup> Under the new program, priority is given to personalisation over generalisation. Multiple program streams allow for respondents to be placed in options best suited for them, including individual engagement in some instances. These new court mandated programs encourage behaviour change by promoting accountability, fostering empathy and equipping participants with practical tools to build healthier, safer, non-violent relationships.

MCV has introduced programs that offer mixed modality, online and in-person, groups and individual sessions, with some including a rolling intake, further reducing wait-list times. The programs are shorter, with more regular engagement across program duration, and focus on building respondent accountability and facilitating behavioural and attitudinal changes that address the consequences of their use of violence. The aim is to shift respondents from 'pre-contemplative' through the early stages of change. They have a strong emphasis on completion. Further, MCV and providers are introducing, for the first time, an outcomes measure based on the trans-theoretical model that support identifying respondents' movement across stages of change (for example from pre-contemplative to contemplative).

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<sup>7</sup> <https://www.sciencedirect.com/topics/nursing-and-health-professions/trans-theoretical-model>

## 4. Evidence of a positive effect on future family violence

*Opportunity 4 MCV's Family Violence Division (FVD) continues to explore the relationship between interventions and future family violence with will enable a better understanding of the relationship between family violence, respondent characteristics and policy interventions. Collecting additional information at the respondent level, or collecting information more consistently, will improve the efficacy of the analysis, leading to more defensible conclusions.*

The evaluation found that there was some evidence of a modest positive effect of the CMCOP on respondents who complete the program, as they appear to present a lower risk of future family violence, compared with respondents with finalised FVIOs (including those with Eligibility Assessment Orders) but who had not commenced court mandated counselling.

Specifically, respondents who completed the program were less likely to breach their FVIOs in the period between program completion and when the data was extracted for the evaluation. While the difference in breach rates between completers and non-completers is small, it was consistent.

MCV values the contribution of independent evaluation and acknowledges the important role it plays in shaping future investment as well as building the evidence base for identifying best practice in effectively intervening and stopping the use of family violence. MCV will continue to monitor individual-level, de-identified analyses of where respondents breach FVIOs and/or are subject to new FVIOs in the 12-month period and beyond following a finalised FVIO. This includes looking at long-term respondent court return journeys, compared with respondents who do not undertake CMCOP, and to explore the relationship between interventions and future family violence, including whether these positive effect indications are sustained, improved, and or reduced.

MCV will also explore the possibility of 'filling in the picture' of change journeys with providers by mapping what occurs immediately after mandated program completion. For example, referral to and uptake of other structured pathways for participants who choose to access further support and counselling services, including MBCPs.

Under the new CMCOP program, MCV has streamlined operational inefficiencies and consolidated our data collection to avoid duplication, reduce error and promote consistency to support data quality.

## 5. Characteristics of respondents who exit early

*Opportunity 5.1: The FVD consider interventions for respondents who persist in the use of family violence, acknowledging this is a group which is harder to engage and to promote behaviour change among. This work should demonstrate the principle of system integration, and the enduring effort and commitment required, drawing on Victorian Police, CMCOP service providers, SFVC staff, Lead Magistrates and the FVD.*

*Opportunity 5.2: The FVD re-visit the pathway for people initiating FVIO applications with the aim of strengthening support (from internal or external sources) at each point in the process, to identify the factors contributing to the finding that self-initiated matters are less likely to proceed.*

*Opportunity 5.3: The FVD monitor the pattern of self-initiated matters over time as adjustments are made to the applicant support system, in order to observe any changes in the finding that self-initiated matters are less likely to proceed.*

The evaluation found that there were three variables consistently present among respondents who do not progress along the CMCOP pathway:

1. Respondents with higher numbers of previous convictions or acquittals involving family violence
2. Respondents with higher risk ratings (as assessed by court staff)
3. Respondents in matters initiated by the AFM, who are both less likely to proceed along the pathway and less likely to complete the counselling order

Historically, CMCOP was largely considered to be appropriate for engaging low-risk offenders, and risk management of serious risk offenders was best left to the police and Corrections Victoria, and dealt with under the criminal jurisdiction of the Court. Under the new CMCOP grants program, there is increased capacity to engage some respondents who would have previously been deemed unsuitable due to their presenting complexities and higher risk rating. The new pathway includes options for individualised programs, including those not deemed suitable for group programs.

While the evaluators did not find a clear explanation for why self-initiated matters are less likely to proceed along the CMCOP pathway, MCV is committed to further investigating this and monitoring the operational, practice and stakeholder engagement implications. We have also established changes to court operations which may support a greater proportion of self-initiated FVIO matters proceeding into court mandated programs. The changes include seeking AFM consent for information sharing in self-initiated matters at the point of FVIO application, and the flagging of self-initiated FVIO matters, at the point of finalisation for consideration by judiciary, as candidates for EA orders. Additionally, MCV has introduced a number of measures to support AFM information about, and pathway to engage with, the family safety contact component of service providers' programs.

## 6. Variation across SFVCs

*The monitoring of respondents' progress along the CMCOP pathway by providers and MCV is a key source of data on timeliness and the quality of engagement.*

*Opportunity 6.1: The FVD work with practice managers, respondent practitioners and SFVC managers to set in place a consistent and simple system for optimising the utilisation of CMCOP places by monitoring the flow of FVIO respondents in the court-based stages of the CMCOP pathway.*

*Opportunity 6.2: The FVD use their data effectively and consistently through the implementation of the program to enable variations across SFVCs to be identified and addressed in a timely fashion.*

The suite of 13 SFVCs across Victoria includes large metropolitan courts, as well as regional courts with smaller satellite courts attached. The diversity of communities, geography and local resources produces a natural variation between courts. While this variation allows courts to draw upon the strengths of their local resource pool, it can also challenge the notion of program fidelity, where such variation may not be warranted or desirable. The evaluation found inconsistencies across court locations in respect to the time taken to complete, and proportion of respondents progressing through, the 20-week program stages. Some of these variations were attributed to the number of program spaces available at each location and on occasion, lengthy commencement wait times.

The evaluation also found that as the program matured, efficiencies were made – such as time between program activities. MCV has continued to build on these initial efficiencies with programmatic changes to the new CMCOP pathway. The launch of CMCOP 2.0 involved early training provided for court staff and judiciary, preparing all SFVCs to operationalise the new CMCOP with consistency, shared tools and knowledge. Regular engagement between MCV and counselling providers has helped identify and troubleshoot potential challenges, as well as sharing solutions for greater consistency. In addition, MCV has worked proactively with Rooftop Social to build the foundations for future evaluations, ensuring that the right data is captured from the beginning and that regular opportunities for shared reflection and learning take place throughout program implementation.

The new CMCOP grants program has doubled the program's capacity to accept respondents into the program. In addition, there is a great deal of flexibility relating to program placement due to mixed modality (on-line) program delivery. Each service provider has a fixed respondent target number, which is allocated to each of the 13 SFVCs, however these can be redirected across locations to meet demand, reducing wait times for acceptance into a program and occurrence of first appointments. This flexibility aims to smooth referral patterns and increase consistency.

Some service providers are also offering a rolling intake under the new CMCOP pathway, meaning respondents can commence the program at any time, at any program stage/module – supporting the ambition of CMCOP to have respondents enter a program within 10 days of the counselling order being made.

## 7. Information sharing consent and risk management

*Opportunity 7.1: MCV explore ways to improve information sharing in the interests of women and children's safety, specifically the provision of AFM contact details directly to authorised counselling program providers when a counselling order is made, for the purpose of offering family safety contact.*

*Opportunity 7.2: Legislative guidance could assist the Courts to resolve the information sharing tension in the FVIO context and enable risk information to be shared to some degree within the Courts. This aligns with objectives of the Victorian Family Violence Outcomes Framework: "services work together and share information to provide a coordinated quality response.... Informed by dynamic risk assessment"*

*Opportunity 7.3: MCV consider, with lead magistrates, the practices available to SFVCs that promote a culture of optimal communication while observing relevant legal and privacy obligations.*

The evaluation acknowledges that the dynamic and multifaceted nature of risk within the CMCOP context presents additional challenges. Factors such as mental health, substance misuse, unemployment and housing instability often compound the risks associated with family violence. Unlike some therapeutic interventions for criminal matters (e.g. Drug Court, ARC), the CMCOP pathway is designed to be linear and unidirectional. Once a respondent has been given a counselling order, they are not expected to return to court, though the Court will be notified upon completion of counselling or if there is an early exit.

It is recognised that accountability and prioritising AFM safety are foundational principles in addressing family violence. The integration of these two things requires close coordination between key stakeholders. It is also recognised that the information sharing challenge for the Court lies in balancing the need for comprehensive information in FVIO proceedings with procedural fairness.

The evaluation found that despite the various state-wide frameworks, such as the FVISS and CISS, there are still challenges in relation to information sharing between family violence agencies and the Court.

The evaluation acknowledges that the Court does not hold all risk-relevant information about respondents which exists in the broader family violence system - a feature of both the legislative construction of these schemes, and the courts in their role as an independent arbiter of law. This dual mandate can create tension as courts balance their judicial functions with broader service delivery roles.

The evaluation found family safety contact work to be a critical component of any authorised family violence counselling program, reflecting insights from the Royal Commission and research on the increased risk to AFMs, during and following court proceedings, particularly with a respondent's participation in a mandated counselling program. Moreover, feedback from participating AFMs during the evaluation reinforced the importance of access to this support. As such, it continues to be integrated as a standard component within CMCOP, ensuring that AFMs who opt-in to receive contact from the service provider are regularly consulted, informed and supported throughout the duration of the respondent's engagement with the program.

MCV is continuing to streamline and improve processes for registry staff to seek to obtain information sharing consent from the AFM, using the Information Sharing Consent Form, at point of application, or at first appearance for Victoria Police matters. In situations where the AFM does not give information sharing consent to court registry staff, the AFM is provided with collateral from the service provider that they can take away and re-consider at a later time.

MCV is also making changes to its respondent risk assessment process and is implementing a tailored version of the MARAM adults using violence risk assessment. This document is provided to the service provider at the time of referral and aims to strengthen risk assessments across stakeholders and remove unnecessary duplication.

While there are some limitations to the information that can be shared between the Court and our service providers, MCV will continue to support the provision of applicable information, via MCV's centralised Family Violence Information Sharing team.

## Looking forward

The evaluation of CMCOP 1.0 has provided useful insights and identified opportunities for improvement, many of which are already in the process of being implemented. The evaluation was conducted at a time that both MCV and the evaluators recognised was going to be subject to a range of operational and contextual changes. Yet, rather than this detracting from the evaluation process, it was built into the methodology, with emerging knowledge contributing directly to shape the next steps. Consequently, the new CMCOP Grants Program has afforded MCV with an opportunity to test new and innovative methods of delivering evidence-based programs that integrate therapeutic and accountability-focused approaches while maintaining a strong focus on AFM safety. CMCOP 2.0 has been designed from the very beginning to collect rigorous data that will, in turn, help to inform future improvements to service design and court user outcomes.

# Evaluation of the Court Mandated Counselling Order Program

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Final Report

Prepared for Magistrates' Court of Victoria

Jan 2025

## Authors

This report was prepared by Claire Grealy, Lucy Snowball and Kate Miller from Rooftop Social in January 2025.



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# Glossary

AFM	Affected family member
CDH	Counselling Direction Hearing
CMCOP	Court Mandated Counselling Order Program
CIJ	Centre for Innovative Justice
FVD	Family Violence Division
FVCIP	Family Violence Court Intervention Program
FVISS	Family Violence Information Sharing Scheme
FVCOP	Family Violence Counselling Order Program
FVIO	Family Violence Intervention Order
FVPA	Family Violence Protection Act
MARAM	Multi-Agency Risk Assessment and Management (Framework)
MBCP	Men's behaviour change program
MCV	Magistrates' Court of Victoria
RAMP	Risk Assessment and Management Panel
SFVC	Specialist Family Violence Court

# Executive summary

This is the final Evaluation Report of the Court Mandated Counselling Order Program (CMCOP), undertaken for the Magistrates' Court of Victoria (MCV) between July 2023 and December 2024. Rooftop Social, an external consultancy firm, are the appointed independent evaluators. This report addresses the design, implementation, operations and outcomes of CMCOP.

## Court Mandated Counselling Order Program

CMCOP operationalises specific legislative provisions outlined in Part 5 of the *Family Violence Protection Act 2008 (FVPA)*. It facilitates mandatory counselling orders for respondents with a finalised family violence intervention order (FVIO), with the aim to increase the respondent's accountability for the violence they use against a family member; and encourage the respondent to change [their] behaviour.<sup>8</sup>

CMCOP operation under the FVPA commenced in January 2020, superseding the Family Violence Court Intervention Program and Family Violence Counselling Order Program. Since January 2020, CMCOP has been implemented across 13 Victorian Specialist Family Violence Courts (SFVCs). CMCOP commenced in two tranches:

- Tranche 1, January 2020 – present: Ballarat, Frankston, Heidelberg, Moorabbin and Shepparton
- Tranche 2, January 2023 – present: Bendigo, Broadmeadows, Dandenong, Geelong, Latrobe Valley, Melbourne, Ringwood, and Sunshine.

Respondents to finalised family violence intervention orders (FVIOs) proceed along a pathway in SFVCs and (subject to an eligibility assessment and court order) on to a community-based provider of the authorised counselling program. Along this pathway are a series of touch points that may lead to a respondent continuing or exiting. For ease of language, in this report these touch points are referred to as the stages of CMCOP.

In the period of this evaluation, the counselling program authorised by MCV for the purposes of mandated counselling orders has been a men's behaviour change program, comprised of around 20 group sessions with one-to-one sessions available on a limited basis. Variations in delivery mode were made to groups that had been running in-person, to accommodate the public health restrictions of the COVID-19 pandemic.

## Evaluation objectives

In summary, the evaluation has aimed to:

- assess the quality and sustainability of the CMCOP delivery model, focusing on the Court's role in responding to family violence and examining how well the CMCOP model is being implemented

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<sup>8</sup> Section 127 of the FVPA. Original language in FVPA is 'encouraging the respondent to change the respondent's behaviour'.

- assess the program’s effectiveness in providing timely and appropriate access to mandated counselling without generating unintended negative consequences
- offer insights into any unintended consequences arising from the use of a mandated order in a civil jurisdiction
- offer insights and recommendations for continuous improvement in the design and implementation of CMCOP to meet legislative requirements
- consolidate the program theory and detail the evolution of CMCOP since its inception to the end of 2024, taking into account any changes in delivery over this period of time.

At the time of this report, MCV had made the decision to authorise alternative counselling programs in the interests of enhancing the inclusivity, reach, impact and sustainability of CMCOP. By expanding inclusiveness and prioritising both respondent accountability and affected family member (AFM) safety, MCV underscores its ongoing commitment to systemic reform and the delivery of justice responses which are equitable, efficient, and support the safety of people experiencing family violence.

In mid-2024 interim findings and improvement opportunities were provided to MCV. Many of these opportunities have now been acted upon. This is indicative of MCV’s commitment to learning through evaluation, review and reflection.

## Methodology overview

The approach employed for this evaluation prioritises the utility of the work for those making decisions within the timeframe of this work, and into the future. To this end, we have worked closely with FVD to gain insight and test preliminary findings, sharing learning as the evaluation proceeds.

For this report we have drawn on:

- analysis of extensive program documentation provided by MCV
- interviews with MCV judicial leadership, SFVC magistrates, court staff, counselling program providers, Victoria Legal Aid, FVD staff, court users and CMCOP participants
- observational visits to two SFVCs
- program and Court data from all SFVCs.

Working collaboratively with the Evaluation and Data team at MCV’s FVD, we have been provided access to two sets of court data:

- monthly totals (or counts of monthly activity) covering the period from January 2020 to August 2024 (for Tranche 1 SFVC sites) and January 2023 to August 2024 (for Tranche 2 SFVC sites) detailing various activities and outcomes linked to CMCOP. Some of these datasets includes data from January 2015 to December 2023 for comparative analyses.
- individual-level unit record data at the case level, incorporating selected background, demographic, and Court and MBCP outcomes for Tranche 1 and Tranche 2 SFVC sites.

The caveats and limitations that apply in the data analysis and findings are provided in the relevant sections and appendices.

Interview transcripts and notes are a significant dataset for this report. The method used is content analysis, which is a research method used to systematically interpret interview data by categorising and coding content into themes and patterns. The process used for this analysis included:

- familiarisation with the interview data, noting initial impressions and interesting points
- development and ongoing refinement of a coding scheme based on the research questions and objectives
- analysis of the frequency and patterns, considering sources, connections, or discrepancies in the data
- interpretation to enable conclusions to be drawn in response to the evaluation questions, in the context of the broader evaluation theory and approach.

## Interpreting program participant numbers

From the starting point of CMCOP in 2020 through to September 2024, there were 137,243 final FVIOs made across Victoria. In the same period, 4,715 counselling orders were made (meaning that 3.4% of final FVIO cases had a counselling order attached to them). As of 20 September 2024, 1.4% of these respondents have completed a CMCOP.

Operational criteria that restricted eligibility reflect the counselling service model in place during this period (2020–2024) of CMCOP, and the number of available counselling places in the programs. The criteria in place included the respondent being male, in an intimate relationship with a female AFM, with sufficient spoken English and sufficient health and wellbeing to participate in a group program. Further, counselling orders can only be made at SFVCs, and SFVC rollout has been staged over two tranches, with five only in the first three years, and 13 operating by 2023.

For all these reasons, only a small number of FVIO cases are valid for inclusion in CMCOP and this means that only a similar proportion are useful for this evaluation of the program. For the evaluation of the program there was a need to focus on recent cases to ensure data quality and consistency, and cases where there was an intervention order after CMCOP started. Therefore only cases starting after 2015 were selected for the evaluation dataset, and only those with a final intervention order between 2020 and data extraction (19 September 2024).

Some of the analysis also focused on an individual's journey through court systems, so it was necessary to identify individual people rather than cases. Due to this, some cases were discarded as the respondent was already captured via another case.

The need for a consistent sample for the unit record dataset means that this evaluation only focuses on the first five SFVCs for the bulk of the pathway analysis. This focus provides a more consistent population to sample from rather than using all SFVCs where CMCOP was only available for part of the period and where there was inconsistent implementation.

# 1 Introduction

## 1.1 Overview of CMCOP

In early 2020, CMCOP was implemented in accordance with the requirements of the *FVPA*, fulfilling the Royal Commission's recommendations to enhance and broaden the system response to family violence in Victoria. This brought the Family Violence Court Intervention Program (FVCIP) and Family Violence Counselling Order Program to a close.

CMCOP has now been implemented across 13 Victorian SFVCs in two tranches:

- Tranche 1, commencing in a staggered plan January 2020 – present: Ballarat, Frankston, Heidelberg, Moorabbin and Shepparton
- Tranche 2, January 2023 – present: Bendigo, Broadmeadows, Dandenong, Geelong, Latrobe Valley, Melbourne, Ringwood and Sunshine.

The primary objectives of CMCOP, as set out in the *FVPA*, are twofold:

‘to increase the respondent’s accountability for the violence the respondent has used against a family member; and encouraging the respondent to change the respondent’s behaviour’.<sup>9</sup>

On finalising an FVIO the legislation requires magistrates to order an eligibility assessment, except in limited circumstances, per section 129 of the *FVPA*.

Eligible respondents must be an adult male<sup>10</sup>, and either currently or have previously been in an intimate personal relationship with the AFM.<sup>11</sup>

As part of the mandated counselling program, MCV contracted three accredited community-based service providers to accept court directed referrals. In the first instance this involves an assessment of the respondent’s suitability for an MBCP. Service providers are required to deliver the MBCP in accordance with:

- Family Violence Counselling Order Program Operating Standards
- Family Safety Victoria’s MBCP Minimum Standards
- No To Violence’s (NTV’s) Implementation Guide: MBCP Minimum Standards.<sup>12</sup>

As indicated, CMCOP is delivered through a combination of court-based and service provider-led processes. Each step in the process reflects the requirements of the *FVPA*. At court, the processes are supported by the team within the dedicated registry and the practitioner team of the SFVC. Legal representatives also contribute as respondent advocates and police prosecutors. Once ordered to attend a designated service provider’s

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<sup>9</sup> *FVPA* 2008, Section 127, Victoria.

<sup>10</sup> It is important to note ‘male’ is an operational requirement of the current CMCOP practice direction, rather than a legislative one.

<sup>11</sup> Magistrates Court of Victoria, 2022, Practice Direction 10.

<sup>12</sup> MCV, CMCOP Operating Standards, December 2020; Family Safety Victoria, 2017. Men’s Behaviour Change Minimum Standards; No To Violence, 2018. Implementation Guide: MBCP Minimum Standards.

MBCP, staff of the service provider deliver the program and may liaise with the respondent practitioners<sup>13</sup> regarding respondent progress as needed.

In this way, the operation of CMCOP involves multiple elements, workforces and processes working together to achieve the intended outcomes. This combined approach is a distinctive feature of specialist family and domestic violence courts internationally, reflecting the connections such courts have worked to foster, since the 1990s in the US and the 2000s in Australia, between the justice system and the delivery of therapeutic consequences.

Legal, procedural and therapeutic paradigms are all at play in these courts, with an overriding shared purpose required to ensure a productive tension is maintained in what may otherwise be competing priorities.

## 1.2 Policy environment

### Royal Commission into Family Violence

*“...it is critical that perpetrators become engaged, or are forced to engage, with the family violence system and the criminal justice system at every possible opportunity to ensure they are not only held to account for their behaviour but also to ensure they receive appropriate treatment, counselling and management to assist them to change that behaviour.”*

– Victorian State Coroner Judge Ian Gray, Luke Batty Coronial Inquest

In 2015, the Victorian Government established the Royal Commission into Family Violence in response to a series of family violence-related deaths, most notably the murder of 11-year-old Luke Batty, who was killed by his father in 2014. The establishment of the Royal Commission highlighted the seriousness of family violence and its profound impact on families and the broader community.

In 2016, the Royal Commission issued 227 recommendations to enhance the systematic responses to family violence in Victoria. Several new approaches were recommended, as well as strengthening of some existing arrangements. The Royal Commission made two findings in relation to perpetrator accountability, risk and information sharing:

1. Efforts to hold perpetrators to account are grossly inadequate. AFMs are too often left to carry the burden of managing risk.
2. Insufficient attention is given to addressing perpetrators’ individual risk factors.

The Commission found that the safety of AFMs is undermined by inadequate methods for sharing information between agencies about perpetrator risk, and that this is exacerbated by outdated information technology systems.<sup>14</sup>

MCV was tasked with delivering 26 of the 227 recommendations, emphasising the significant role of the court system in helping respond to family violence. A key focus for MCV was to build on the approaches already adopted in the (then) Family Violence Court

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<sup>13</sup> The FVPA refers to ‘counselling assessor’. Eligibility assessments are exclusively performed by respondent practitioners, and as such, this term is used throughout.

<sup>14</sup> Ibid, pg. 6.



Division and specialist courts, including the provision of services to applicants and respondents in relation to FVIOs.

Recommendation 90, in particular, played a pivotal role in shaping the design of CMCOP.<sup>15</sup>

#### Recommendation 90

The Victorian Government, working with the courts and providers of men's behaviour change programs, establish an improved process for monitoring the attendance of perpetrators who are ordered to participate in behaviour change programs and the outcomes of their participation in those programs [within 12 months].

Source: State of Victoria, Royal Commission into Family Violence: summary and recommendations, Parl Paper No 132 (2014–16).

### Specialist Family Violence Courts

As a direct outcome of the Royal Commission, 13 SFVCs were established in Victoria, expanding upon the Family Violence Court Division. This final report focuses on these courts gazetted as SFVCs, which are the only courts able to make a counselling order for CMCOP.

CMCOP operates in the legislative and policy context of SFVCs. SFVCs bring together elements of practice that had been operating at different courts into one holistic model which includes more staff specialised in family violence (both legal and non-legal) and access to on-site supports. SFVCs include:

- specialist magistrates who have powers to mandate counselling, through CMCOP
- purpose-built environments that are more secure and accessible and provide choice for how AFMs participate in the court process, including separate entrances and waiting areas
- consistent listings policy and practices across courts
- a new ongoing family violence learning and development program for all specialist family violence staff working in courts.

The establishment of SFVCs represented a significant step forward in the state's efforts to address family violence comprehensively. The SFVC operating model sets out five operational elements: people, powers and listings (of which counselling orders are one), court experience and environment, targeted support services; and oversight and continuous improvement.

SFVCs include practical safety measures, such as safe waiting areas for AFMs and separate entry points for AFMs and respondents. Investment in training means all magistrates, registrars and SFVC managers and staff are trained in family violence, including the use of MARAM. Specialist magistrates have powers under the FVPA to make eligibility assessment orders and counselling orders (explained below in Section 1.3). Attention was given to listing policy and related case file preparation to ensure matters are fully prepared including completeness of documentation and maximum quality information is available to magistrates, and that matters are given adequate time for hearing.

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<sup>15</sup> The Royal Commission's recommendations 87 and 89 also informed the design of CMCOP.

Pre-court and pre-hearing engagement of court users is coordinated by registrars and administrative staff in the court's Pre-Court Engagement Team practitioners, solicitors and police, with funding available to book interpreters as required.

Operational guidelines also emphasise sectoral and systems integration, including appropriate information sharing, with the aim of collaboration with legal services, Victoria Police, agencies such as The Orange Door and established referral relationships to community agencies.

SFVCs adhere to detailed operational requirements, inclusive of CMCOP. These efforts are aligned with relevant state-wide frameworks, including the:

- MARAM
- Family Violence Information Sharing Scheme (FVISS)
- Child Information Sharing Scheme (CISS).

The response to family violence within MCV extends beyond SFVCs, encompassing state-wide changes. These changes include the introduction of an online application form allowing non-police applications to be made at any time, eliminating the need for physical attendance at court to self-initiate an application. Further, under Section 209 of the *FVPA*, AFMs may have flexibility about how they take part in their hearing, including 'via electronic communication', which may be via weblink or with support from the Remote Hearing Support Service. This flexibility was piloted prior to the COVID-19 response and its expansion contributed to sustaining operations.

## 1.3 Legislative framework for CMCOP

### Overview of eligibility assessment and counselling orders

In accordance with Section 129 of the *FVPA*, judiciary at SFVCs are mandated to issue an eligibility assessment order when a final FVIO is made against a respondent unless there are exceptional circumstances. This order compels the respondent to undergo an interview with a respondent practitioner to assess their eligibility for mandatory counselling. Section 129(2) of the *FVPA* provides exceptions where the magistrate is not required to make an eligibility assessment order. These include:

- the respondent is not already subject to a counselling order under Section 130
- there is no approved counselling that it is reasonably practicable for the respondent to attend; or
- in all the circumstances of the case, it is not appropriate to make the order.

As outlined in Section 129(3) of the *FVPA*, the eligibility assessment report considers various factors that affect the respondent's ability or capacity to participate in counselling. This includes the respondent's character, personal history, language skills, disabilities, presence of severe psychiatric or psychological conditions, substance abuse, and any other relevant matters disclosed by the respondent or available to the respondent practitioner via Court-held information, for example, risk assessment undertaken by Victoria Police or The Orange Door.

The outcome of the eligibility assessment is provided to the Court, and a magistrate determines whether a counselling order is appropriate. If satisfied that the respondent is eligible to attend approved counselling, the Court may make a counselling order. However, Section 130(2) provides exceptions where the Court is not required to make the order. These include the same reasons listed for the eligibility assessment order above.

It is important to note that although FVIOs fall under civil jurisdiction, failure to attend the eligibility assessment or comply with counselling order allows Victoria Police to pursue criminal action. Non-compliance may result in criminal penalties. Sections 129(5) and 130(4) specify that the maximum penalty for contravening an eligibility assessment or counselling order, respectively, is a fine not exceeding 10 penalty units (currently \$1,923.). Further, as per Section 130(6), a respondent breaching a counselling order may face prosecution for contravening the order, irrespective of the number of missed counselling sessions.

### Overview of MARAM and information sharing

Further, in response to the recommendations of the Royal Commission, the Victorian Government introduced three interrelated reforms aimed at improving information sharing among organisations to assess and manage family violence risk. Specifically, within the context to the operation of SFVCs and CMCOP, these reforms are the FVISS, CISS, and MARAM.

Although MCV is prescribed to MARAM, this does not apply equally to all roles, for example, SFVC practitioners must comply with the requirements and responsibilities for screening, risk assessment, risk management, information sharing and referral, across all levels and presentations of risk. The MARAM Framework, established under Part 11 of the FVPA, aims to deliver a consistent approach to family violence risk assessment and management across the system to increase safety and provide a stronger focus on respondent accountability. It encompasses evidence-based risk assessment tools designed to support workers in understanding and determining the level and nature of family violence risk.

The FVISS, established under Part 5A of the FVPA, empowers prescribed information sharing entities (ISEs) and select risk assessment entities (RAEs) to request, collect and use information for establishing and assessing family violence risk. These entities are authorised to share information between themselves for family violence risk assessment and risk management. Maintaining its independence, MCV is a voluntarily prescribed ISE. A central Information Sharing Team manages requests, which primarily relate to copies of FVIOs.

## 1.4 Funding

In 2018-19, the Victorian Government allocated \$29.06 million to the program over four years, with ongoing funding of approximately \$5 million per annum to support the implementation phase of CMCOP. The additional sum of \$2.7 million was allocated to 2021-22 budget over four years.

From the 2024-25 financial year, CMCOP will operate with an ongoing budget of \$5 million per annum.

## 1.5 The evaluation of CMCOP

This evaluation addresses an agreed set of questions about the design and implementation of CMCOP and its outcomes. The key evaluation questions for the full evaluation are in Box 1, and the full question matrix is included in Appendix B.

### Box 1: Key evaluation questions

1. To what extent are the objectives, intended outcomes and legislative requirements of CMCOP being achieved? For which stakeholders, under what circumstances, and why?
2. To what extent has CMCOP been implemented efficiently and within scope, including in adapting to contextual challenges?
3. How has the design and management of CMCOP contributed to the intended outcomes and legislative requirements being met? For which stakeholders, under what circumstances?
4. What is the overall value of CMCOP as an intervention?
5. What has been learnt about what works for the Court and the appropriateness of the Court's role in the promotion of respondent accountability, risk management and family violence systems integration?
6. What will key decision makers need to consider in future FVIO-respondent-focused interventions, including the role of the Court and other stakeholders, objectives, design, governance and sustainable resourcing?

Source: CMCOP evaluation plan December 2023

### Evaluation working group

The role of the CMCOP evaluation working group is to support the ongoing coordination and implementation of the evaluation, working closely with Rooftop Social to:

<b>Advise</b>	Guide decisions relating to project design and interpretation of findings
<b>Endorse</b>	Provide endorsement of deliverables to support project governance and approvals processes
<b>Integrate</b>	Ensure the evaluation's relevance and use in MCV decision-making, practice, and continuous improvement.

Meetings have been held regularly throughout the evaluation.

## 1.6 Methodology

Findings would be used to inform decisions within the life of the evaluation, which required a methodology responsive to the needs of decision makers, making optimal use of the available information at each stage of the work. To this end, a mixed methodology optimised the available data through a rolling analysis and process of sense-making. This method was supported by utilisation focused evaluation theory, which prioritises the utility of evaluation findings for very immediate use.

The overall inquiry has been informed by the program theory developed by Rooftop Social and MCV stakeholder consultation (Appendix A). A full summary of the key evaluation focus areas with corresponding data sources can also be found in Appendix B.

All evaluation activities have complied with the protocol approved by the Justice Human Research Ethics Committee convened by the Department of Justice and Community Safety in February 2024. Informed consent was obtained from interview participants. All datasets were de-identified prior to receipt by Rooftop Social.

Rooftop Social have made every effort to ensure the accuracy of descriptions and processes presented in this report.

## 1.7 Summary of information sources

### De-identified unit and court level data

Working in collaboration with the Evaluation and Data team at MCV, the Rooftop Social evaluation team were supplied with de-identified unit and court level data for respondents with finalised FVIOs from January 2020 to August 2024. This data includes respondents who have not engaged in CMCOP for comparative purposes. The data supplied was drawn from the Lizard, CARDS and Courtlink systems.

Courtlink functions as the Court's case management system; CARDS serves as the dedicated database for CMCOP, allowing for the management and tracking of participants in the program, with data shared between MCV and service providers. The Lizard database is used by family violence practitioners for documenting their interactions with respondents and AFMs.

In addition, monthly aggregate data at the court level (Tranche 1 sites) was provided for a variety of court outcomes. A complete description of the datasets provided to Rooftop Social for this analysis is provided in Appendix C.

### Court site visits

The evaluation team conducted visits to two of the five Tranche 1 SFVCs between November and December 2023. The purpose of these visits was to observe the proceedings within the courtrooms and interactions among all involved parties. This approach allowed Rooftop Social to gain insight into both the physical environment and the procedural aspects encountered by FVIO respondents and AFMs. The SFVC manager coordinated the team's schedule at each court, facilitating court room observations and interviews with key stakeholders, including SFVC lead magistrates and various court staff, over a span of two days at each location.

### In-depth interviews with people in professional roles

Interviews have been conducted with 95 individuals, all of whom hold professional roles in SFVCs, the three service providers contracted to provide authorised counselling programs, Victorian Legal Aid (VLA), and MCV FVD. In addition, MCV's judicial leadership and SFVC lead magistrates participated in interviews. Data was collected in two phases. Phase one focused on Tranche 1 SFVCs and phase two on the additional eight Tranche 2 SFVCs. Some key people were interviewed twice over the course of the evaluation.

Victoria Police were invited to contribute to the evaluation, via their SFVC liaison officers and a strategic level. At the time of this report being completed this contribution was not yet available.

Semi-structured interview guides were tailored to the scope of each group's role. A full breakdown of the interviewees can be found in Appendix D, along with the high-level interview guide. Guides were tailored to each group and role.

### **In-depth interviews with Court users**

The experience and perspectives of court users has been a priority in the evaluation. In the second phase of data collection, interviews were conducted with 28 men who had or were participating in the court-ordered counselling program, and 11 women whose partner or ex-partner received a counselling order. These women had access to their family safety contact workers throughout the evaluation process.

Court users were accessed via the three program providers, via a Justice Human Research Ethics Committee-approved recruitment process.

### **Review of documentation and operational guidance**

The evaluation team received and reviewed various implementation and operational documents produced throughout the lifespan of CMCOP. These include multiple versions of the CMCOP operating standards, and guidelines along with any associated amendments. Reviews of relevant elements of Victorian family violence reform were made available and have provided useful context to the evaluation.

## 2 Response to key evaluation questions and opportunities

This section provides the evaluation findings under each of the six evaluation questions.

### 2.1 To what extent has CMCOP been implemented efficiently and within scope, including in adapting to contextual challenges?

The implementation of both tranches of CMCOP faced challenges. Despite this, the program's operation has improved over time, as evidenced by respondents progressing more quickly through the pathway stages, with program commencement occurring closer to the issuance of counselling orders.

Most court staff and practitioners interviewed noted that the transition to CMCOP was relatively straightforward, particularly for Tranche 1 courts already familiar with FVCIP and FVCOP. There were early challenges in meeting the information needs of staff regarding new procedures and over time these were addressed with additional documentation and training. Further challenges were encountered in the Tranche 2 implementation, where the operational period was curtailed by the early exit of one service provider, and the later decision by MCV to reconsider the capacity and cost of the MBCP as the only authorised counselling program.

Lessons learned from Tranche 1 were applied to FVD's implementation of CMCOP in the eight Tranche 2 SFVCs, which benefitted from the involvement of experienced staff and judicial officers from Tranche 1 courts. Key improvements included:

- detailed guidance on transitioning from existing to new arrangements
- CMCOP operational guides tailored specifically for registry staff
- improved clarity on interagency relationships and information sharing between stakeholders, despite SFVC staff lacking a formal documented FVISS policy and procedure at the time of the report
- access to FVD staff members to address role-specific questions within the context of each court's practices and programs.

A recurring theme in consultations has been the scope of SFVC staff roles. CMCOP was launched with staff expectations that diverged in specific ways from the legislative framework of the FVPA. Many of the staff interviewed had anticipated court interventions would resemble therapeutic court models, which include judicial oversight and judicial recall. While these features were recommended in the Centre for Innovative Justice

report<sup>16</sup>, contributing to the reported expectations, they were ultimately not incorporated into legislative amendments.

During COVID-19 restrictions, a CMCOP interim program enabled the move to an online service for men, assessed as suitable to attend in this way. The online program removed the need for all men to physically attend the counselling program.

With many external agencies no longer attending court and all CMCOP service providers ceasing MBCP face to face engagement, the risk meetings shifted to Microsoft Teams which enabled continued operation.

It was recognised within the FVD that COVID-19 was likely to exacerbate family violence, and work continued with practitioner teams and providers to ensure the ongoing operation of the risk meetings, with an emphasis the continued sharing of risk information across the sector at this time of heightened family violence risk.

During the public health lockdowns, the courts remained open, and measures were available that enabled on-line applications for interim FVIOs and hearings. A larger number of interim orders were put in place to ensure AFMs were protected but due to the uncertainty of how long those measures would last, finalisations were delayed. EAs and consequently counselling orders fell off sharply. The interim program implemented during suspension of face-to-face MBCPs also ensured continuity for respondents with a counselling order and was supported by guidelines developed by FVD.

## 2.2 To what extent are the objectives, intended outcomes and legislative requirements of CMCOP being achieved? For which stakeholders, under what circumstances, and why?

CMCOP is implemented through a complex interplay of court-based and service provider-led processes, each aligned with the requirements of the *FVPA*. At the court level, the process is supported by dedicated registry teams and the practitioner staff of the SFVC. Legal representatives contribute as advocates for respondents, alongside police prosecutors. Once a respondent is ordered to attend a designated service provider's MBCP, the staff who deliver the program liaise with key stakeholders, including the SFVC practice manager and respondent practitioners on an as-needs basis, for example, if an application to revoke or a breach of the counselling order is planned.

This multi-faceted approach involves coordinated efforts from multiple elements, workforces, and processes, all working in unison to achieve intended outcomes. Such a collaborative framework is a hallmark of specialist family and domestic violence courts internationally, reflecting efforts since the 1990s in the US and the 2000s in Australia to strengthen connections between the justice system and therapeutic interventions.

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<sup>16</sup> Centre for Innovative Justice 'Beyond 'getting him to a program: Towards Best Practice for Perpetrator Accountability in the Specialist Family Violence Court context' (Literature Review, 2018) <[cor-literature-review.pdf \(cij.org.au\)](https://www.cij.org.au/cor-literature-review.pdf)>



## The funnel effect

An analysis of respondent data from the five Tranche 1 SFVCs (2020–2024) reveals significant attrition at each stage of the CMCOP pathway, highlighting a pronounced "funnel effect." This phenomenon became even more evident in Tranche 2 data (refer to Technical Report B for detailed data analysis and evaluation methodology).

The "funnel effect" refers to the pattern of a large number of individuals entering at the initial stage, but progressively fewer successfully advance through each subsequent stage, ultimately resulting in only a small proportion completing the pathway.

The analysis here uses a sample of the total FVIOs cases over the period of CMCOP implementation (in Tranche 1 and Tranche 2 respectively). The sample includes one case per individual, where cases can be accurately linked to a given individual (see more detail in Technical Appendix B) and only includes cases for which the respondent is male, and the AFM is female.

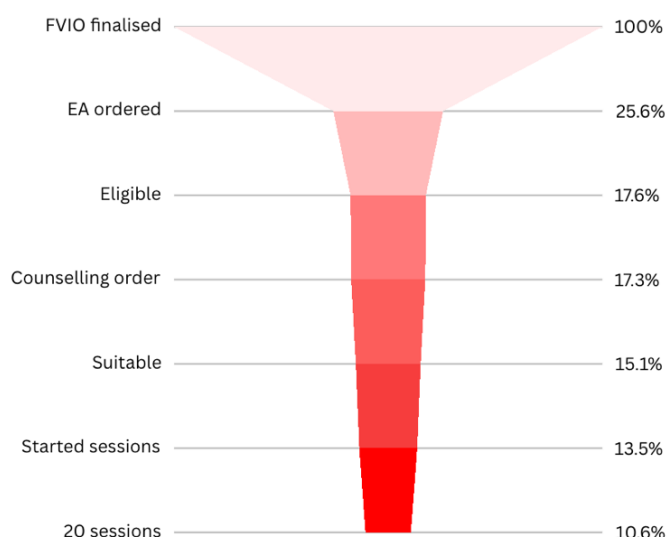
## Tranche 1 SFVCs (2020–2024)

The analysis focuses on a sample of 14,248 men who had at least one FVIO finalised during this period. While this dataset offers valuable insights, data quality limitations mean that the figures should be interpreted as indicative, and it is the downward trend that is of most significance. The analysis reveals substantial dropout rates at each stage of the CMCOP pathway, influenced in part by the limited availability of program places at any given time.

- 3,650 eligibility assessment orders were made (25.6% of FVIO)
- 2,507 men were assessed as eligible for a counselling program (17.6% of FVIO cases)
- 2,467 men received a counselling order and were directed to counselling (17.3% of FVIO cases)
- 2,156 men were assessed by the service provider as suitable for the counselling program (15.1% of FVIO cases)
- 1,929 men commenced a program (13.5% of FVIO cases)
- 1,512 men completed a program (10.6% of FVIO cases).

This attrition underscores the challenges inherent in guiding respondents through the entire CMCOP pathway, reflecting systemic barriers, capacity constraints, and engagement difficulties.

Figure 1: Funnel pathway for Tranche 1 SFVCs, Jan 2020 – Aug 2024



### Tranche 2 SFVCs (2023–2024)

This analysis focuses on a sample of 16,375 individual men who had at least one FVIO finalised between 2023 and 2024. As with Tranche 1, the sample may not include all men with a finalised FVIO in this period, as it was derived from a purpose-built linked dataset tracking individuals over the same timeframe. Due to underlying data quality issues, these figures should be interpreted as indicative rather than exact.

This analysis shows a more significant funnel effect compared to Tranche 1 (Figure 2) as respondents increasingly exit the CMCOP pathway at each stage. Of the 16,375 cases:

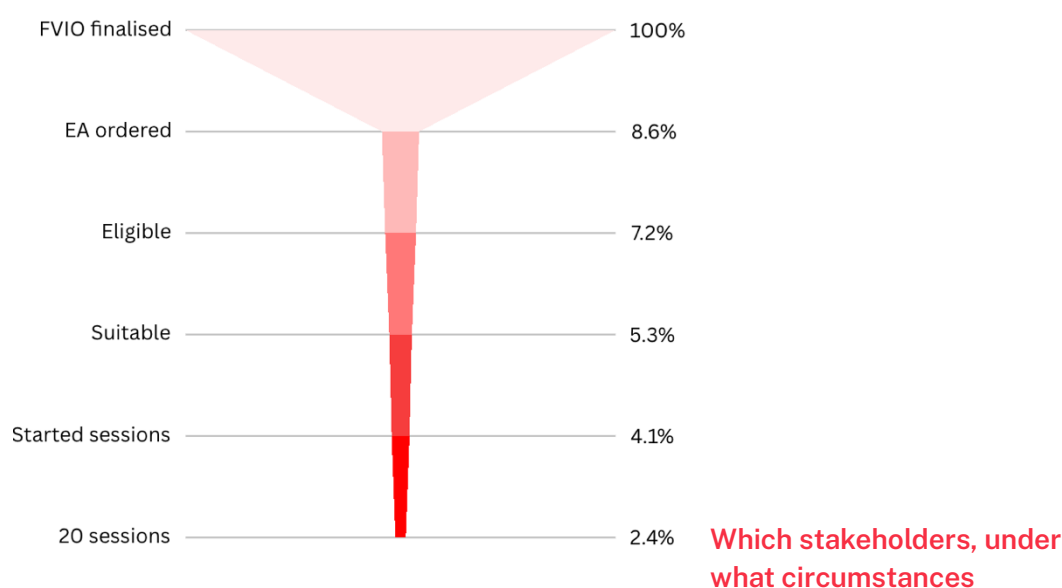
- there were 1,409 eligibility assessment orders made (9% of FVIO cases)
- 10 individuals with at least one breach of an eligibility assessment order recorded (failure to attend), where the breach may have been associated with the case of interest
- which resulted in 1,175 men assessed as eligible for a counselling program (7.2% of FVIO cases)
- 907 of whom received a counselling order and were directed to counselling (6% of FVIO cases)<sup>17</sup>
- 862 of whom were assessed as suitable by the service provider for the counselling program (5.3% of FVIO cases)
- which resulted in 678 starting a program (4.1% of FVIO cases)
- which resulted in 397 finishing a program<sup>18</sup> (2.4% of FVIO cases).

It should be noted that some men were still in the process of completing their program at the point of analysis.

<sup>17</sup> This figure (2,511) is not shown in the 'funnel' because it is proximate to the number of EA Orders made (2,564).

<sup>18</sup> For the purposes of analysis the 20<sup>th</sup> MBCP session is used to measure program completion due to data quality issues around the completion indicator.

Figure 2: Funnel pathway for Tranche 2 SFVCs



When considering CMCOP outcomes for which stakeholders under what circumstances, it's important to note program provider reflections that for some men, participation in CMCOP has been transformative. Even among resistant respondents, the program has created moments of realisation and accountability, with participants beginning to understand the impacts of their violence on others. It is likely that this has been achieved through characteristics of the participant combined with the skill of MBCP facilitators addressing resistance, employing evidence-based therapeutic techniques, including motivational interviewing and trauma informed care.

For some respondents interviewed, the group setting assisted them to reconsider aspects of their behaviour which they had not previously considered to be violent or coercive. The opportunity to listen to peers within the group setting (both in person and online) supported this reflection. Some described the vulnerability of the group setting which hindered or for others helped their engagement, and an expression of respect for peers who spoke up. The resonance of others' stories was a positive aspect of the group setting; one described a 'comradery' developing among the group, which was disrupted when new members joined.

Noting there is no independent indicator of change, it is feasible that the collective learning environment accelerated an attitudinal shift among some respondents.

The vast majority of respondents interviewed also identified the mandated nature of the counselling order as the primary reason for attending the MBCP and would not have attended without this requirement. Exceptions to this were men who reported curiosity as a motivator.

All interviewed men were aware of the consequences of non-attendance, and some had returned following re-engagement contact from a program provider. Generally, absences were reported to be of an unavoidable nature and communication ahead of time to the facilitator had been an acceptable approach for complying with participant obligations. In instances with no prior communication breaches were reportedly underway.

A proportion of men reported a shift from an extrinsic (mandated) motivation to intrinsic (personal) motivation as the program progressed. And where interviewees identified a benefit of the MBCP, it was most likely to be linked to a better understanding of their own reactivity, for example, learning that ‘how you react to a situation changes the outcome’.

A proportion of men described little sense of ‘agency’ over their life in general. This included references to previous police and court contact, where they had felt unheard and had resolved to comply rather than voice their opposition.

## 2.3 What has been learnt about what works for the Court and the appropriateness of the Court’s role in the promotion of respondent accountability, risk management and family violence systems integration?

### Appropriateness of the Court’s role in the promotion of respondent accountability

MCV occupies a significant and distinctive role within the family violence system. As the primary legal institution responsible for issuing and enforcing FVIOs and mandating respondent participation in behaviour change programs, the Court is uniquely positioned to simultaneously uphold the principles of justice and facilitate pathways for behavioural change. This dual role – of holding individuals who use violence to account and supporting them onto a pathway of change – places the Court at the intersection of legal enforcement, therapeutic intervention, and broader societal efforts to address family violence.

Key aspects of this accountability include the issuing of FVIOs, the making of counselling orders, and ensuring that breaches brought to the Court are heard for consideration of legal consequence, reinforcing the seriousness of these measures and the importance of compliance. This ability to impose legally binding consequences ensures that respondents face tangible repercussions for their behaviour, providing a clear message that family violence will not be tolerated.

Beyond enforcing accountability, MCV is uniquely positioned to act as a gateway to behaviour change programs, which are designed to increase respondents' understanding of the impacts of their behaviour on AFMs, challenge attitudes and beliefs that underpin violent behaviour, and develop alternative strategies for managing conflict and emotions.

This role reflects a growing recognition that holding individuals accountable can be effective in reducing family violence when coupled with interventions that seek to promote long-term change, in the context of comprehensive support and tailored approaches that consider the complexity of individual cases.

Notwithstanding the importance of the Court’s role, concerns remain that coercion may undermine behaviour change outcomes by fostering resentment among participants. For instance, interviewees highlighted the risk of men attending programs reluctantly, blaming their partners or ex-partners for being compelled to participate which could exacerbate, rather than reduce, risks of violence.

A further tension is the scope of the SFVCs' influence in promoting respondent behaviour change, without the practices and approaches of therapeutic courts, which emphasise accountability and rehabilitation through mechanisms like judicial recall and problem-solving strategies.

While this tension is widely recognised, it does not diminish the appropriateness of the Courts assuming this role as a contribution to addressing family violence.

### Respondent accountability

Accountability within CMCOP is a multifaceted and nuanced concept, reflecting the dual goals of promoting respondent responsibility and safeguarding AFMs. The purpose of the *FVPA* is to:

- a) maximise safety of people who have experienced family violence;
- b) prevent and reduce family violence to the greatest extent possible; and
- c) promote the accountability of perpetrators.<sup>19</sup>

Section 78 of the *FVPA* allows courts to issue final orders based on the respondent's consent without admission of guilt or opposition to the order. This mechanism resolves cases efficiently, reducing the demand on court lists and sparing parties from contested hearings. However, it also enables respondents to avoid formal accountability, as they neither admit to using violence nor face a finding to that effect by the Court. Consequently, respondents ordered into behaviour change programs may lack the foundational accountability necessary for meaningful engagement.

This inconsistency may be undermining the objectives of the *FVPA*, particularly when respondents are ordered into programs designed to promote accountability for their violent actions. This issue must be addressed to ensure the CMCOP aligns with the *FVPA*'s intent and purpose.

### Challenges to accountability

The evaluation identifies several systemic barriers that hinder optimal accountability in the CMCOP framework and behaviour change programs:

- Structural issues, such as limited program capacity relative to the number of respondents, delays in program commencement, and inconsistent responses to breaches. These delays leave respondents in limbo, heightening risks for AFMs.
- AFM-initiated FVIO applications are less likely to proceed through each stage of the CMCOP pathway. Possible contributing factors may be fragmented information-sharing practices, which sit beyond the Court's control. While this is a court process point rather than a CMCOP issue, it is an important finding for FVD to understand further.
- Respondents mandated to participate often exhibit limited motivation or acknowledgment of harm caused to AFMs. This resistance compromises program efficacy and may increase operational risks for facilitators and other group participants if resistance is expressed aggressively or violently by a respondent.

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<sup>19</sup> *FVPA 2008* Section 1

Accountability in behaviour change programs traditionally involves fostering recognition of harm caused to AFMs. These programs, initially designed for voluntary participation, have adapted to include men under Corrective Services Orders and, more recently, those mandated via CMCOP. However, respondents who consent to an FVIO through "consent without admission" often start programs with limited acknowledgment of their actions, presenting significant challenges for service providers. Group-based programs remain the primary intervention, but concerns persist about their suitability for respondents who lack motivation or present risks to facilitators and other participants. Service providers emphasise the operational risks of managing such individuals in group settings.

### **Consent without admission**

Under the FVPA, a respondent might choose to "consent without admissions" to a FVIO in several circumstances:

- by consenting without admissions, the respondent agrees to conditions of the order without admitting to the allegations, thereby avoiding a contested hearing
- consenting without admissions means the Court makes the order without deciding whether the respondent committed family violence, which can help protect the respondent's reputation and avoid admissions that could be used against them in other legal contexts
- this approach can be quicker and less costly, providing a more efficient resolution to the matter.

In essence, consenting without admissions allows the respondent to agree to the protective conditions without conceding to the allegations, which can be strategically beneficial in various legal and personal contexts.

### **Monitoring accountability**

Monitoring accountability within CMCOP remains a challenge. To date, monitoring has focused on contractual reporting metrics, such as program attendance. However, these measures fall short of assessing meaningful outcomes, such as acknowledgment of harm or evidence of behavioural change. As for this evaluation, program completion is often used as a proxy for success, which oversimplifies the complexities of achieving accountability.

Future evaluations should incorporate measures of participant engagement, progress toward accountability, and sustained behavioural change. This would provide a more comprehensive understanding of program effectiveness and help refine interventions to better align with the FVPA's objectives.

Providers highlighted barriers that hinder their contribution to CMCOP respondent accountability. These barriers were linked to program design, system limitations, and respondent engagement.

The milestone-based funding design of CMCOP was described by service provider and MCV stakeholders as driving an emphasis on session completion rather than meaningful behavioural change or harm acknowledgment. The extent to which this undermines the program's capacity to cultivate genuine accountability was a consistent criticism from providers.

Respondents are reported by providers to often participate without genuine acknowledgment of their behaviour. Providers observed that true change requires respondents to accept personal responsibility, which is complex and difficult to achieve within the current structure. And for respondents who are resistant to group settings, there are limited alternatives. Providers noted that without options like one-on-one interventions, accountability often remains superficial. And while the CMCOP model includes one-to-one sessions, the administration involved in having such sessions approved by the FVD and paid for, was described as a disincentive.

Fragmentation in information sharing, discussed elsewhere, is another factor providers identify as hindering accountability. With timely access to respondent history, providers believe they would have the opportunity for further accountability work.

### **Risk management**

The dynamic and multifaceted nature of risk within the CMCOP context presents additional challenges. Factors such as mental health issues, substance misuse, unemployment, and housing instability often compound the risks associated with family violence. Delays between the issuance of counselling orders and program commencement are particularly concerning, as they leave respondents ‘between’ stages during critical periods. This gap not only undermines accountability but also heightens risks for AFMs, who may be exposed to increased danger without adequate protective measures.

Further compounding these issues is the fragmented approach to risk assessments. Information-sharing delays across agencies reduce the effectiveness of risk evaluations, and once a respondent is deemed unsuitable or exits the pathway, their risk assessment often ceases to have a functional purpose. Integrating continuous, cross-agency risk monitoring could mitigate these challenges and improve overall safety outcomes.

In AFM-initiated applications, prior histories from Victoria Police are not made available to the Court. Information-sharing delays across agencies exacerbate these challenges, potentially heightening the danger for AFMs. Risk assessments conducted during eligibility assessments are not informed by prior evaluations, reducing their effectiveness. Once a respondent is assessed as unsuitable or exits the pathway, the risk assessment often serves no further purpose.

### **Family violence systems integration**

A significant part of integration hinges on timely information sharing between Courts, service providers, and community organisations. CMCOP has struggled with fragmented information flows, as discussed in risk and accountability sections. A limited capacity in programs, and delays between assessments and program start times worked against an integrated response, with respondents and AFMs experiencing long periods of time ‘between’ stages of the CMCOP pathway. Integration within the system requires faster transitions between court orders and program commencement.

CMCOP's evolution shows a trend toward piloting shorter interventions and testing new models, which may enhance integration by offering flexible, needs-based programs. However, alignment on purpose and shared objectives – such as safety, accountability, and behaviour change – remains critical.

Practical steps may include:

- ensuring service providers are promptly notified when a respondent reappears in Court
- ensuring AFMs are notified when a counselling order is made
- expand the capacity of the applicant practitioner role to include more AFM engagement and interim safety planning, ensuring AFMs receive support between Court orders and external program availability.

## 2.4 How has the design and management of CMCOP contributed to the intended outcomes and legislative requirements being met?

The strengths in the design of CMCOP reside in the legislative ability to enforce accountability and promote behavioural change. The mandatory nature of CMCOP is highlighted as a key factor in achieving outcomes, as voluntary programs often fail to engage or retain participants. In the experience of MBCP service providers, without the mandate many respondents would not enter or complete programs, underscoring the importance of this element in contributing to accountability and behavioural change.

The mandatory engagement element has increased visibility into high-risk populations, and created opportunities for intervention that might not occur otherwise. CMCOP has also shed light on the complex needs of some respondents, including mental health issues, substance misuse, and other life challenges.

In light of these complex presentations, the service providers have fostered connections across various services, including those relevant to complex presentations as well as child protection and police, at times activating multiple services in response to a single respondent. Referrals may be internal to programs within the same service provider, or to externally provided programs.

The inclusion of family safety contact work within the CMCOP counselling model has supported AFMs who opt in to support, ensuring their needs are addressed as their partner or ex-partner are mandated into a counselling program. This dual focus on respondents and AFMs as part of CMCOP has strengthened the system's capacity to respond comprehensively to family violence. This is supported by the experience of AFMs interviewed, who reported overwhelmingly positive engagement with their Family Safety Contacts, the provision of extensive referral options to support their needs, ranging from medical, practical, child-oriented, and therapeutic. This is in addition to rounds of safety planning as incidents of violence persisted and/or risk to their safety increased.

The insights provided into respondent engagement and the various system limitations provides a foundation for future improvements, as MCV and service providers engage in the next iteration of authorised counselling programs.

The complex interplay of legislative, procedural, and human factors that influence the effectiveness of CMCOP

The effectiveness of the CMCOP pathway is significantly enhanced by several key factors that contribute to positive outcomes. These elements play a crucial role in shaping the program's success.



The mandated nature of CMCOP provides eligible respondents with an opportunity to engage in behaviour change, without which, the likelihood of voluntary attendance would be low. Leveraging both mandated and personal motives can enhance the motivation of eligible respondents, which is essential for the transformative journey towards behaviour change. Extended engagement periods (20+ weeks) allow for sustained interaction, which is a factor for some participants in lasting behavioural changes.

The program benefits immensely from skilled facilitators who employ evidence-based therapeutic approaches, maximising the impact of the sessions. Additionally, the positive peer influence and collective learning environments can foster a supportive atmosphere that encourages personal growth and reflection. Family safety contacts serve as a pivotal element, ensuring the safety and support of AFMs, thereby reinforcing the program's integrity.

These factors collectively contribute to a framework that supports eligible respondents and aligns closely with the overarching goals of CMCOP – to promote accountability and the opportunity for behaviour change. Table 1 summarises these factors, with reference to the associated component of CMCOP.

Table 1 sets out the factors that contribute to positive outcomes, with reference to the associated component of CMCOP.

Table 1. Factors contributing to positive outcomes for some participants

Component	Factors
Legislation	Mandated participation
Program structure	Extended engagement periods
Practitioner expertise	Skilled facilitators employing evidence-based therapeutic approaches
Group dynamics	Peer influence and collective learning environments
AFM safety	Family safety contact
Respondent motivation	Leverage of judicial and personal motivations.

Turning to the concerns and limitations of the design and operationalisation of CMCOP, this section sets out aspects of the model's rigidity, procedural inefficiencies, and the aspects that lack alignment with both therapeutic and practical objectives.

**Mandated motivation**

Just as mandated participation can promote engagement in the opportunity to consider behaviour, the reverse can also apply, where the mandate is experienced as an unwarranted burden. And where the motivation is only extrinsic, i.e. the court order, the absence on personal motivation can contribute to resistance and lack of engagement among some men. Similarly, the likelihood of blaming external factors (courts, ex/partners) limits meaningful engagement and accountability. Resistance can be active

and passive – with some men demonstrating superficial compliance rather than an acknowledgement of harm, that generally precedes accountability and change.

### **Rigidity and procedural limitations of the FVPA**

Interviews with judicial officers, conducted through the evaluation period, indicated that some elements of the FVPA may be overly prescriptive, with potential to limit judicial discretion.

Examples provided include the requirement that all respondents (with some exceptions as per s129(2)<sup>20</sup>) undergo counselling assessments is considered impractical by judicial officers, given the high volume of cases and limited program places. This issue is compounded by a “first-in, first-ordered” system, which requires the court to consider making a CMCOP order for all matters where a final IVO is made, and therefore takes up program places sequentially as matters are heard, rather than by a more evidence-based prioritisation.

### **Barriers introduced by legislative procedural requirements**

Specific procedural elements of the legislation have contributed to delays, inefficiencies, and unintended respondent exit points within the CMCOP pathway. These issues effect not only eligible burden respondents, who may be required to attend court multiple times, but also undermine the system’s overall effectiveness. A notable example includes the requirement for police to serve notices for eligibility assessment hearings within ten days. If notices are not served within this timeframe, respondents frequently exit the system without consequence, despite no explicit legislative provision for an exit to occur. In such cases, the eligibility assessment order remains in place.

There were judicial observations that judicial processes and the therapeutic outcomes sought by CMCOP could be better aligned. An example of this is a disincentive that can arise when a counselling order is explained to an eligible respondent as a constructive opportunity, while at the same time a punitive consequence is attached to non-compliance. Some judicial officers report a concern that this can deter genuine engagement in programs, especially when respondents are mandated to attend without sufficient consideration of their readiness or willingness to change.

### **Gaps in tailored interventions**

Magistrates and other stakeholders have emphasised that the MBCP model utilised in the early years of the CMCOP was not designed to meet the diverse needs of all respondents. Specific gaps include:

- a lack of brief interventions for low-risk individuals
- the absence of intensive support options for high-risk respondents
- limited availability of culturally and linguistically tailored programs.

Additionally, high-risk respondents, often identified as a priority group due to their extensive histories of family violence, are frequently excluded at each point in the CMCOP pathway, because they are deemed unsuitable for group settings. This exclusion

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<sup>20</sup> Outlined earlier in Section 1.3.

undermines the goal of targeting those at the greatest risk of reoffending. It can occur at the point of a judicial officer deciding not to order an EA; a respondent practitioner assessing a respondent as ineligible; and by a service provider assessing the respondent as 'unsuitable' for a group program.

### **Gaps in communication**

Insufficient feedback on program results has made it difficult for courts to assess the effectiveness of the legislation or their role in its administration. This disconnect has at times diminished confidence in the system.

### **Balancing accountability and safety**

The legislation requires that both accountability and AFM safety be prioritised in addressing family violence. Accountability ensures that people using violence are held responsible for their actions, fostering a sense of justice and underscoring the legal and societal imperative to deter family violence. Prioritising AFM safety affirms the State's commitment to protecting those at risk, aiming for legal processes and interventions that are survivor-centred and mitigate the potential for further harm.

The emphasis on setting respondents on the pathway to behaviour change as a legal obligation not only reflects societal expectations for proactive solutions to family violence but also seeks to address its root causes by promoting long-term rehabilitation. This approach acknowledges that accountability extends beyond punitive measures, aiming to instil a genuine shift in attitudes and behaviours that perpetuate violence.

However, the consistent achievement of these dual objectives is hindered by competing priorities within the system. Legal obligations to ensure procedural fairness for respondents can sometimes appear at odds with the immediacy of ensuring AFM safety. Administrative challenges, including long family violence lists and judicial independence, further strain the system's capacity to deliver consistent outcomes.

Moreover, the integration of accountability and safety often requires close coordination between multiple stakeholders, including courts, police, support services, and program providers. Misalignment or gaps in this coordination can inadvertently undermine both objectives, leaving AFMs vulnerable and reducing the system's capacity to enforce meaningful accountability.

Thus, while there is a commitment to the legal and procedural application of these principles, ongoing systemic reform, adequate resourcing, and enhanced information flow are essential to fully realise the balance between accountability and AFM safety in practice.

Areas of tension between the legislative framework and the practicalities of implementation have been identified:

- **Judicial independence vs. collaboration:** courts are required to operate independently while increasingly collaborating with service providers and agencies to address the complex needs of respondents and AFMs. This dual mandate can create tension as courts balance their judicial functions with broader service delivery roles.
- **Inconsistent risk assessments:** risk assessments from agencies such as Victoria Police and The Orange Door are often inconsistent in the approach taken to completion or

provided to the respondent practitioners in an overly redacted format, which reduces their utility for court staff engagement in risk assessment and safety planning.

- Unintended exit points: structural vulnerabilities in the pathway allow respondents to disengage without facing meaningful consequences. An example of this is when a respondent does not attend an eligibility assessment. The notice of breach lapses if not served by police within the legislated 10-day timeframe, and no further action is taken.

### Safety of affected family members

The evaluation finds family safety contact to be a critical component of any authorised counselling program, reflecting insights from the research on the heightened risks associated with respondents' participation in men's behaviour change programs.<sup>21</sup> While family safety contact is not explicitly mandated by the FVPA, the principles of AFM safety and visibility align closely with the Act's broader safety objectives, and the MBCP model procured by MCV required family safety contact work as a key aspect of the standards expected of work in this field.

Under a strict interpretation of Part 5 of the FVPA, the focus is solely on respondent engagement in mandated programs, excluding direct measures for AFM safety. This narrow interpretation contrasts with a broader view that integrates support for AFMs as an essential aspect of the FVPA's purpose, as outlined in its stated objectives:

*"to maximise safety for children and adults who have experienced family violence, prevent and reduce family violence, and promote accountability for respondents."*

The MARAM Framework (Victorian Government, 2020) and the ANROWS national research program both emphasise that risk often increases during separation and court proceedings, including when FVIOs are initiated. These periods require intensive risk management and safety planning.

Concerns identified by interviewees for this evaluation include the potential for respondents to use court-mandated programs as a mechanism to manipulate or maintain control over AFMs, either through coercion or by exploiting gaps in safety oversight. For example, respondents were described by AFMs (in interview) as feigning compliance with behavioural interventions to present themselves favourably to the courts, while continuing to engage in abusive behaviour outside of the program's view. This underscores the importance of robust family safety contact mechanisms to monitor and mitigate risks throughout the process.

Other examples provided by AFMs in interview were being subject to angry episodes where respondents directed blame at their ex/partner for their counselling order. In one example provided within an AFM interview, a respondent had claimed the counselling order required them to pay for the MBCP and this was creating financial hardship. The AFM was burdened by this, not realising this was not the case.

Additionally, court proceedings themselves can serve as a source of trauma for AFMs. The requirement for AFMs to engage with legal systems – whether through attending hearings or navigating complex bureaucratic processes – can exacerbate their emotional

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<sup>21</sup> Risk to women is likely to increase if a man disengages from or fails to complete a behaviour change program (Chung, Anderson, Green, & Vlasis, 2020).

and psychological distress. Moreover, the absence of explicit mandates within Part 5 of the *FVPA* for direct AFM safety measures risks creating a procedural gap, wherein the respondent's program participation is prioritised over the immediate safety and well-being of AFMs.

In the current iteration of CMCOP, steps have been taken to increase information flow to AFMs, including:

- the proactive provision of information to AFMs about court mandated counselling orders and the programs
- AFM's being asked by registry at court if they consent to their details being provided to the counselling program's safety support worker.

The second point aims to resolve the prior practice of providers asking respondents for AFM's contact details.

While the *FVPA* broadly aims to "maximise safety for children and adults who have experienced family violence," this principle is not consistently operationalised in practice. Significant system limitations, including funding constraints and sector capacity issues, act to constrain a more comprehensive application of these safety aims. AFM safety does not form part of current requirements for consideration in making a CMCOP order, which means safety considerations are a resourcing decision..

The integration of family safety contact as a funded component of the court-mandated programs partially addresses this gap. Such measures help ensure that AFMs who provide consent to engage with the MBCP provider are regularly consulted, informed, and supported throughout the respondent's participation in the program. However, this process involves two critical steps: first, the service provider must have access to the AFM's contact details; second, the AFM must agree to be contacted and provide consent to receive ongoing support from the program.

In interview, some AFMs shared observations of change in their ex-partners' behaviour, for example, "less immediately retaliatory", and attempts to work things through rather than immediate recourse to abusive language. Equally, these glimpses were not sustained. One example of this was a respondent's assumption that the AFM had 'reported' his behaviour to the group facilitator. And while this was not the case, it led to a frightening episode where the respondent accused the AFM, denied having provided the program with her details, and demanded she not speak to them again: "I didn't give them permission to contact you – how dare you speak to them."

In another example, a woman described positive change for periods of time as her ex-partner attended the MBCP "which I thought was great – maybe this will help him – which will help the next woman. It didn't last long. The night he tried to choke me was when he was in the group." For this AFM, the contact worker's advice on safety planning combined with evident concern for her wellbeing was deeply valued.

Adopting this broader interpretation of the *FVPA*'s objectives would align with its overarching principles, reaffirming the primacy of AFM safety within the justice system. However, this requires systemic change, including clearer accountability for courts and service providers, enhanced resourcing for AFM support, and ongoing oversight to ensure the consistent application of these safety measures.

## Exploring alternative counselling programs

In response to the limitations of the current CMCOP structure and the increasing demand for expanded counselling capacity, MCV has taken the strategic step of exploring alternative counselling programs. This decision is driven by a recognition of the gaps identified in recent evaluations, which highlighted the need for more robust mechanisms to ensure respondent accountability while simultaneously prioritising the safety and well-being of AFMs. Based on available evaluation findings, this shift is supported as a strategic move to enhance the effectiveness and reach of the counselling response.

The current CMCOP model has faced challenges in meeting the complex and varied needs of both respondents and AFMs. These challenges include limited program availability due to resource constraints, insufficient tailoring to diverse respondent profiles, and the low rates of program completion. By shifting to alternative models, MCV aims to address these systemic shortcomings and enhance program outcomes.

Key objectives of this shift include:

- improving respondent accountability: alternative programs will seek to strengthen respondents' commitment to meaningful behaviour change by integrating evidence-based practices and tailoring interventions to individual risk and needs profiles. This includes addressing underlying factors such as substance abuse, mental health issues, or cultural attitudes that may perpetuate family violence.
- expanding access and capacity: by adopting scalable and flexible program designs, MCV intends to broaden access to counselling services, particularly in regional or underserved areas where resources are limited.

The decision to pursue alternative counselling programs also reflects a commitment to better align resources with evidence-based strategies. Research consistently supports the effectiveness of programs that integrate therapeutic and accountability-focused approaches while maintaining a strong emphasis on AFM safety. Such programs have demonstrated higher rates of participant engagement, lower recidivism, and improved outcomes for AFMs.

## 2.5 What is the overall value of CMCOP as an intervention?

The value of the Court Mandated Counselling Order Program (CMCOP) is multifaceted, encompassing programmatic, operational, policy, practitioner, and court user perspectives. In programmatic terms, CMCOP is operationally embedded across all Specialist Family Violence Courts (SFVCs) in Victoria, fulfilling the legislative goals of the *Family Violence Protection Act (FVPA)*. Specifically, it facilitates mandatory counselling orders for respondents with finalised family violence intervention orders (FVIOs), aiming to increase accountability for violent behaviour and encourage meaningful behavioural change.

From a systemic perspective, CMCOP has enhanced the broader family violence response by providing a justice-based intervention that directly addresses respondents' behaviour. While this explicit justice response is significant, the program's reach remains limited, with only a small proportion of eligible respondents accessing and completing programs.

designed to foster behavioural change. This limitation has raised concerns about the program's capacity to achieve its intended impact at scale.

The value of CMCOP to respondents is evidenced through feedback from program providers and court users. For some eligible respondents, the program has offered therapeutic benefits, including self-reported improvements in self-awareness, emotional regulation, and coping mechanisms. Facilitators report positive engagement from some participants, including high-risk individuals identified through the MARAM (Multi-Agency Risk Assessment and Management) framework at program commencement. Importantly, breach rates for FVIOs and counselling orders are lower among respondents who complete the program, though this applies to a relatively small cohort.

At present, there are no explicit success criteria for AFMs within CMCOP. However, the Family Safety Contact component of the Men's Behaviour Change Program (MBCP) has demonstrated value for some women, particularly in the areas of safety planning, psychological support, and access to referrals and resources. For AFMs whose ex/partners continue to use violence despite the FVIO and counselling orders, access to skilled support has been critical for safety and wellbeing. Nonetheless, there remains a significant gap in understanding how these interventions contribute to measurable improvements in safety and long-term outcomes for AFMs.

Despite substantial resources invested in the MBCP as the authorised counselling program, staff from MCV and SFVCs expressed concerns about the low rate of proportion of eligible respondents who commence and complete the program. While court-based eligibility assessments and suitability screenings engage many respondents, the tangible benefits of these interactions – both in terms of AFM safety and respondents' behavioural change – remain unclear. Without robust evidence of meaningful outcomes, the program's capacity to reduce violence or foster accountability is difficult to assess.

### **Adopting alternative counselling programs**

In response to these challenges, MCV has decided to pursue alternative counselling programs to address the limitations of the current CMCOP model. These alternatives aim to improve respondent flow, expand capacity, and enhance program flexibility, reflecting the need to better meet the growing demand for flexible interventions. The shift is justified based on the findings of this evaluation, with future program development needing to emphasise scalability, inclusivity, and measurable contributions to AFM safety and respondent accountability.

### **Economic sustainability and program costs**

Although this evaluation does not include a detailed analysis of program pricing or contractual arrangements, concerns about the financial sustainability of the MBCP model have been raised. Stakeholders across CMCOP consistently highlight the high per-participant cost of MBCP "places," which presents challenges in maintaining sufficient capacity across the 13 SFVCs. Future assessments could incorporate an economic analysis to evaluate the cost burden on key systems – such as police, courts, healthcare, and community services – as well as the financial impact on victims of crime. By comparing these costs to the potential savings generated through the program's successful implementation, it would be possible to assess whether CMCOP achieves cost neutrality or broader economic benefits.



Over time, any reduction in family violence incidents attributable to CMCOP will need to be carefully measured. This requires robust data collection on participant recidivism, not only concerning the initial AFM but also any future partners. Understanding the program's contribution to long-term behavioural change and systemic safety outcomes will depend on high-quality, longitudinal data.

## 2.6 What will key decision makers need to consider in future FVIO respondent-focused interventions?

### Role of providers and FVD in pilot programs and the grants-based approach

Transitioning to a grants-based system introduces flexibility, allowing pilot programs to test various intervention models. Such pilots are essential to assess the effectiveness and adaptability of programs ahead of determining efficacy and scalability.

The potential broadening of the criteria for CMCOP eligibility, for example, beyond English fluency, will necessitate contract management strategies to engage with variation across programs. Ensuring compliance with legislative requirements, especially regarding participant exits and program completion, will remain critical to the operational success of CMCOP.

### Objectives, design, governance

Counselling programs must align with legislative intents, which may be a new operating context for some providers. A well supported commencement stage for all providers under the grant program will increase the likelihood of successful operations, for Courts, programs, Victoria Police and for FVD.

Robust data collection and reporting frameworks will underpin continuous evaluation. Tracking participant progress, compliance with court orders, and program effectiveness will support evidence-based improvements and transparency.

As authorised counselling programs expand with a more inclusive eligibility criteria, new strategies for assessing and managing participant risk may be needed. Providers offering a range of programs and/or approaches will bring expertise to the task, which will need to feature an element of consistency to meet the requirements of the Court. There is a lot to be learnt about frameworks for assessing and mitigating risks, and tailoring interventions for individuals with varying levels of risk exposure.

System integration by providers within the broader service system, including connections with housing, mental health, and substance abuse services, will ensure CMCOP operates as part of a coordinated response to family violence. This holistic approach generally strengthens program efficacy and service continuity and aligns with the ambitions of the Victorian Government preventing and responding to family violence.

### Opportunities in the next iteration of CMCOP

1. **Earlier intervention and engagement:** there is interest among all groups to initiate respondent engagement at the interim order stage, with the aim of capitalising on early motivation, and reducing delays between legal proceedings and engagement in



appropriate programs. This is not an alternative to a potential counselling order at the point a FVIO is finalised however, if early engagement in reputable programs demonstrate a positive shift in a respondent's accountability for causing harm, judicial officers do consider using reduced restrictions or shorter FVIOs as incentives for program compliance.

2. **Tailored programs for diverse needs:** offering multiple program models will address the varying needs of respondents, from high-risk individuals to others appearing the first-time before the Court. This approach ensures culturally inclusive and context-specific interventions, particularly for Aboriginal communities and individuals in rural areas. Collaborating with local organisations will further enhance program relevance and accessibility.
3. **Addressing structural barriers:** expanding service availability while reducing the length of the authorised programs should contribute to less 'bottlenecks' in the pathway. Providers considering programs with on-line elements must be cognisant of connectivity problems encountered in many regional areas, and the limited access to devices and privacy for some respondents.
4. **Communication:** clear communication with participants regarding program expectations will also mitigate resistance and frustration. Proactive information provision to AFMs will ensure they have information about the counselling programs and are aware of the family safety contact service.

### 3 Conclusion

This evaluation has provided a detailed assessment of the CMCOP, revealing both its strengths and areas requiring further enhancement. As this report has documented, CMCOP has been a pivotal initiative in addressing family violence within Victoria through the judicial system. By mandating behavioural change programs for respondents and integrating judicial processes with therapeutic interventions, the program strives to balance accountability with the opportunity for behavioural transformation.

The implementation of CMCOP across two tranches of SFVCs has demonstrated notable achievements. Firstly, the program has successfully operationalised key legislative provisions aimed at increasing respondent accountability and encouraging behavioural change. Secondly, the integration of court processes with authorised counselling programs has highlighted the judiciary's unique role in fostering a supportive environment for behavioural change while maintaining the necessary legal rigour.

Despite these successes, the evaluation has identified several challenges and opportunities for improvement. The "funnel effect," where a significant proportion of respondents drop out at various stages of the program, points to issues in engagement and program capacity that need addressing to enhance completion rates and overall efficacy. Furthermore, the integration between legal mandates and therapeutic services, though well-conceived, requires more streamlined processes to reduce delays and increase the impact of interventions.

Future considerations for CMCOP involve several strategic enhancements. First, expanding the diversity and accessibility of counselling services to accommodate various respondent needs will help reduce the dropout rates and engage more respondents effectively. Additionally, increasing information sharing and coordination protocols within the family violence system will help support AFMs more effectively during their period of court involvement; noting that ongoing risk management responsibilities of the Court do not extend beyond the conclusion of legal proceedings.

Continuous learning and adaptation based on evaluation findings should guide the evolution of CMCOP. Implementing feedback mechanisms and adjusting the program in response to real-time data will bolster its responsiveness and effectiveness. As CMCOP moves forward, embedding these improvements will be crucial in realising its full potential to mitigate family violence and support community well-being.

In conclusion, while CMCOP is making significant strides in addressing family violence through a judicially integrated approach, ongoing enhancements and focused attention on identified gaps are the next priority. By continuing to refine and adapt the program, the Magistrates' Court of Victoria can continue delivering justice responses that are not only equitable and efficient but also profoundly supportive of societal efforts to eliminate family violence.

## 4 Summary of findings and opportunities

Summarised here are selected findings about the flow of respondents through the CMCOP pathway, the effect of CMCOP on the future use of violence, and the sustainability of the current counselling program. The analysis for this report has focused only on the 13 SFVCs, hence figures reported here vary from state-wide data that may be available elsewhere.

The opportunities identified at the interim evaluation stage pertained to future implementation, the CMCOP pathway through court-based activity, and the pathway for eligible respondents and AFMs following a counselling order.

The opportunities provided for MCV's consideration at this final point of the evaluation address systemic, strategic and operational areas.

### 4.1 The role of MCV in the family violence system

Legal accountability is a cornerstone of the justice system's response to family violence and a critical factor in deterring future violence. MCV occupies a central and distinctive role within the family violence system by holding respondents accountable for their actions and supporting them onto pathways to change. Its unique position at the nexus of legal authority and therapeutic intervention allows courts to balance the immediate need for justice with the long-term goal of preventing violence and encouraging behaviour change. This dual role not only strengthens the family violence response but also contributes to a broader societal effort to eliminate family violence. This aligns with the four domains of Victoria's Family Violence Outcomes Framework:

1. Prevention: family violence and gender inequality are not tolerated
2. Victim survivors: victim survivors, vulnerable children and families are safe and supported to recover and thrive
3. Perpetrators: perpetrators are held accountable, connected and take responsibility for stopping their violence
4. System: preventing and responding to family violence is systemic and enduring.<sup>22</sup>

Two examples demonstrate how the Court re-enforces the importance of addressing family violence as both a legal and social issue. First, the focus on AFM safety, underscoring the importance of survivor-centred justice, helping to ensure that AFMs are supported and protected throughout the process. And secondly, by mandating participation in programs that challenge the narratives, attitudes and behaviours of respondents. By doing this, the Court is actively working to dismantle the societal and individual factors that perpetuate family violence.

Notwithstanding this, the evaluation underscores the need for continuing efforts to integrate the work of the Court in operationalising CMCOP within the broader family

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<sup>22</sup> Family Violence Outcomes Framework Measurement and Monitoring Implementation Strategy, Department of Premier and Cabinet, 2020

violence system. While the Court's independence remains imperative, siloed operational practices remain, and enhanced collaboration between courts, service providers, police, and support agencies are essential to ensure a unified and effective response to family violence in Victoria. Prioritising integration supports the objectives of accountability and safety while advancing the shared mission of preventing and responding to family violence.

*Opportunity 1: the role of the Court in addressing family violence can be further strengthened by embedding integration as a foundational principle of CMCOP. Prioritising further integration as both a design principle and an operational goal would enable MCV to more fully embed CMCOP within Victoria's family violence system.*

## 4.2 Funnel effect: only a small proportion of respondents complete the CMCOP pathway

The "funnel effect" refers to the pattern of a large number of individuals entering at the initial stage, but progressively fewer successfully advance through each subsequent stage, ultimately resulting in only a small proportion completing the pathway. The flow of respondents through CMCOP at the five Tranche 1 SFVCs (2020 – 2024) illustrates the substantial dropout along all stages of the CMCOP pathway. The respondents included here are a sample of the broader population of people who have had a FVIO finalised in the period and are limited to cases where the respondent is male, and the AFM is female. Technical Appendix B includes more detail about how the sample of cases was selected.

Of the 14,248 finalised FVIO cases analysed from Tranche 1 courts, 3,650 eligibility assessment orders were made:

- 1,929 (14%) started a program
- 1,512 (11%) finished a program.<sup>23</sup>

A more significant drop-off effect is evident at the eight Tranche 2 courts (2023 – 2024). Of the 16,375 finalised FVIO cases analysed from Tranche 2 courts, 1,409 eligibility assessment orders were made:

- 678 (4%) started a program
- 397 (2%) finished their program.

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<sup>23</sup> For the purposes of analysis the 20<sup>th</sup> MBCP session is used to measure program completion due to data quality issues around the exit indicator.

*Opportunity 2: Combined action is required to address the low rate of completion as well as the substantial cohort of respondents who are considered ineligible or unsuitable for CMCOP. Actions for consideration include:*

- an operationally sustainable counselling program which provides continual availability across the SFVCs (within funding constraints)
- a suite of authorised counselling programs designed to be inclusive of FVIO respondents with presentations unsuited to a group-based program
- MCV monitoring data about reasons for ineligibility (and unsuitability where relevant) for program commencement to better understand and improve the range of respondents who are able to access the full pathway.

### 4.3 Positive retention rates once men commence the mandated program

Between January 2020 and August 2024, the proportion of respondents who started the program (n= 2,784) across all SFVCs and went on to complete 20 sessions, is 75%<sup>24</sup>. The strongest indicator of program completion is attending the first counselling session after completing the suitability and intake process. This speaks to the objective of CMCOP to encourage a respondent to change their behaviour. Notwithstanding this is a very low proportion of the overall population of eligible respondents, it is a positive finding in terms of retention to the program.

Reducing the barriers to accessing CMCOP may therefore lead to:

- more respondents commencing and in turn completing the program
- more and a greater diversity of respondents having access to needs assessment and thereby the opportunity to address factors relevant to behaviour change objectives.

*Opportunity 3.1: See above options for amplifying these benefits through reducing the eligibility barriers.*

*Opportunity 3.2: Program completion has been used as the measure of counselling order completion, and as a proxy for respondents receiving the optimum available opportunity to engage in behaviour change. Measures of change are challenging in this field. Nevertheless, MCV is well-placed to work with subject matter experts, including service providers, to identify and test relevant measures, and the necessary tools.*

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<sup>24</sup> We note this is likely an underestimate of the overall retention rate as respondents were still progressing through their counselling sessions at the time of the analysis.

## 4.4 Evidence of a positive (if small) effect of CMCOP on future family violence

There is some evidence of a positive effect of the CMCOP MBCP on respondents who complete the program, as they appear to present a lower risk of future family violence, compared with respondents with finalised FVIOs (including those with eligibility assessment orders) but who had not commenced a CMCOP MBCP.

Specifically, respondents who completed the program were less likely to breach their FVIOs in the period between program completion and the data extraction for this analysis in August 2024. While the difference in breach rates between completers and non-completers is small, it is consistent.

Causation cannot be established from this finding, because there are likely a range of factors influencing subsequent family violence that are not accounted for here. However, it may indicate that retaining respondents in the program has a protective effect, reducing the likelihood of FVIO breaches. Alternatively, it could reflect that individuals who are less likely to breach their FVIOs may be more motivated to complete the program. This suggests that the program may not be fully engaging respondents who are harder to impact. Nonetheless, because the analysis controlled for breach history, breach history alone is unlikely to fully account for this difference.

*Opportunity 4: MCV's family violence division (FVD) continues to explore the relationship between interventions and future family violence which will enable a better understanding of the relationship between family violence, respondent characteristics and programmatic interventions. Collecting additional information at the respondent level, or collecting information more consistently, will improve the efficacy of the analysis, leading to more defensible conclusions.*

## 4.5 Consistency in characteristics of respondents who exit the CMCOP pathway

Three variables are consistently present among respondents who do not progress along the CMCOP pathway:

1. respondents with higher numbers of previous convictions (which we can interpret as family violence consistent re-offenders) or acquittals involving family violence
2. respondents with higher-assessed risk ratings
3. respondents in FVIO matters initiated by the AFM, who are both less likely to proceed along the CMCOP pathway and less likely to complete the counselling order.

Given the intention of CMCOP is to be inclusive of all in-scope respondents, the consistency of the third point (above) across all stages of the CMCOP pathway is unexpected. No compelling rationale has been found, and the finding will need to be further explored in subsequent policy interventions.

In addition, respondents' participation in the FVIO process is related to their progression on the pathway, namely that respondents were less likely to commence, and subsequently progress, if they:

- were not present at the final FVIO hearing
- did not consent to the FVIO.

As discussed, the group-based nature of the authorised counselling program required an additional threshold of suitability of respondents to be part of a group program. Unintentionally, this has contributed to the exclusion of higher risk-rated respondents from CMCOP, and thereby the accountability levers built into the program.

*Opportunity 5.1: The FVD consider, as part of future program commissioning through government funding, interventions that fill service gaps, such as for respondents who persist in the use of family violence (acknowledging some groups can be harder to engage and to promote behaviour change among). This work should demonstrate the principle of system integration, and the enduring effort and commitment required, drawing on Victorian Police, CMCOP service providers, SFVC staff, lead magistrates and FVD.*

*Opportunity 5.2: The FVD re-visit the pathway for people initiating FVIO applications to identify the factors contributing to the finding that counselling orders in self-initiated matters are less likely to proceed through each stage of the CMCOP process.*

*Opportunity 5.3: The FVD monitor the pattern of self-initiated matters over time as adjustments are made to the applicant support system, in order to observe any changes in the finding that self-initiated matters are less likely to proceed along the CMCOP pathway.*

## 4.6 Variation across SFVCs

The variation in respondent experiences based on SFVC and program provider, in terms of time taken between stages as well as the proportion of respondents progressing through stages and completing, indicates an unwelcome difference in experience for eligible respondents (and by inference, AFM), based on location. Contributing factors may include the number of spaces contracted and available in an MBCP at any point in time, noting counselling orders were at times paused due to lengthy wait lists in some areas.

As the program has matured, efficiencies are being gained in indicators such as time between program activities, for example, the time between an eligibility assessment order and the intake assessment. This may be explained by the retention of providers from the Tranche 1 to Tranche 2 implementation. If this is a contributing factor, it is likely to continue through retaining providers and/or appointing providers with appropriate capability and commensurate capacity as future program providers.

*Opportunity 6.1: The FVD work with practice managers, respondent practitioners and SFVC managers to set in place a consistent and simple system for optimising the utilisation of CMCOP places by monitoring the flow of FVIO respondents in the court-based stages of the CMCOP pathway.*

*Opportunity 6.2: The FVD use their data effectively and consistently through the implementation of the program to enable variations across SFVCs to be identified and addressed in a timely fashion.*

## 4.7 Information sharing practices have implications for risk

The analysis of interviews indicates instances where issues link to information sharing practices along the CMCOP pathway. In summary, these include:

- There is a lack of clarity regarding which agency is responsible for managing risk at different points in the CMCOP pathway<sup>25</sup>, e.g., the period between the counselling order being made and an intake session with the program provider being available.
- Access to AFM support services is impeded by information-sharing limitations set by legislation (privacy and consent requirements), which prevent service providers from accessing AFM contact details unless explicit consent is given, or a risk of harm is imminent.
- Information pertaining to risk to an AFM may be available within the family violence system, but not all information held within the system is a pertinent legal consideration for specific matters before the Court.

## 4.8 Responsibility for risk management

The question of ‘who holds the risk’ along the CMCOP pathway was raised in interview by many of the stakeholders in CMCOP. In part, this question arose from the assumption that the court, the police or the service provider would have the respondent ‘in view’ as they proceeded along the pathway (this is further described in Section 2.1).

The most significant gap identified where risk may escalate is that between a counselling order being made, and the eligible respondent commencing their counselling program. While this level of monitoring was not part of the CMCOP design, the program commencing in January 2025 aims to close this gap with a redesign of the counselling program and the pathway into a program. Noting these changes, no further recommendation is made.

## 4.9 AFM access to support services within CMCOP

The legal constraints on information sharing under FVISS mean that practitioners can share and receive information within set parameters. Practitioners cannot use this information in court proceedings but can and do use it for safety planning and for

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<sup>25</sup> The CMCOP pathway starts with the finalisation of a FVIO and ends at completion of the counselling order.



referrals. While information about respondents and associated risks can be shared without consent, AFM information cannot be shared unless consent is given, or a serious threat exists. This results in incomplete information for court mandated counselling service providers seeking to establish family safety contact with AFMs.

To date, service providers have received AFM contact details in one of two ways. The applicant practitioner may ask an AFM if they can consent to their details being provided to the service provider's family safety worker. Or, the service provider requests AFM contact details from the respondent ordered into counselling.

Section 144NA of the FVPA pertains to the consent of the primary person who is an adult. According to this section, an information sharing entity must not collect, use, or disclose confidential information about a primary person who is an adult unless:

- a) The primary person consents to the collection, use, or disclosure of the confidential information by the information sharing entity.
- b) The information sharing entity reasonably believes that the collection, use, or disclosure of the confidential information is necessary to lessen or prevent a serious threat to an individual's life, health, safety, or welfare.

*Opportunity 7.1: MCV explore ways to improve information sharing in the interests of women and children's safety, specifically the provision of AFM contact details directly to authorised counselling program providers when a counselling order is made, for the purpose of offering family safety contact.<sup>26</sup>*

## 4.10 Reconsidering the information shared in relation to different functions of the Court

An information sharing challenge for the Court lies in balancing the need for relevant legal information in FVIO proceedings with procedural fairness. Magistrates must avoid exposure to prejudicial information, which, if shared in court and accessible to both applicants and respondents, could inadvertently increase risk for AFMs. In accordance with their role and the relevant legislation, magistrates may make decisions without access to risk information available elsewhere in the system (e.g., SFVC Family Violence practitioners). This places increased responsibility on legal practitioners and police to communicate family violence risk factors effectively to the magistrate.

Both the Coronial Inquest into the Death of Luke Batty and the Royal Commission into Family Violence emphasise the dangers of siloed decision-making and the necessity of integrated risk management. To fulfill the Royal Commission's intent, a coordinated, whole-of-government approach is required:

*"A whole-of-government response calls for the police, courts, human services and other relevant service providers to share information from different systems. Clear information-sharing arrangements are also vital to ensure that decision makers are fully informed about*

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<sup>26</sup> The CMCOP commencing in 2025 includes a new process whereby the SFVC Registrar will seek the AFM's consent to provide AFM contact details to the counselling provider.

*the circumstances of individual cases, so that victims' safety and wellbeing is protected."*<sup>27</sup>

Courts already receive specialised reports under legal frameworks such as the Child Youth and Families Act 2005, demonstrating that nuanced reporting tailored for judicial decision-making is possible. Similar structured reporting mechanisms could be explored to ensure magistrates have access to risk-relevant information while upholding legal safeguards.

*Opportunity 7.2: Consideration be given to resolving the information sharing tension in the FVIO context to enable risk information to be shared to some degree within the Court. This aligns with objectives of the Victorian Family Violence Outcomes Framework: "services work together and share information to provide a coordinated quality response.... Informed by dynamic risk assessment"*<sup>28</sup>

*Opportunity 7.3: MCV consider, with lead magistrates, the practices available to SFVCs that promote a culture of optimal communication while observing relevant legal and privacy obligations.*

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<sup>27</sup> Royal Commission into Family Violence (Full Report, March 2016) p12.

<sup>28</sup> Ibid Department of Premier and Cabinet 2022, p 8

# Appendices

# Appendix A: Program logic and theory of change

Figure 2: CMCOP program logic

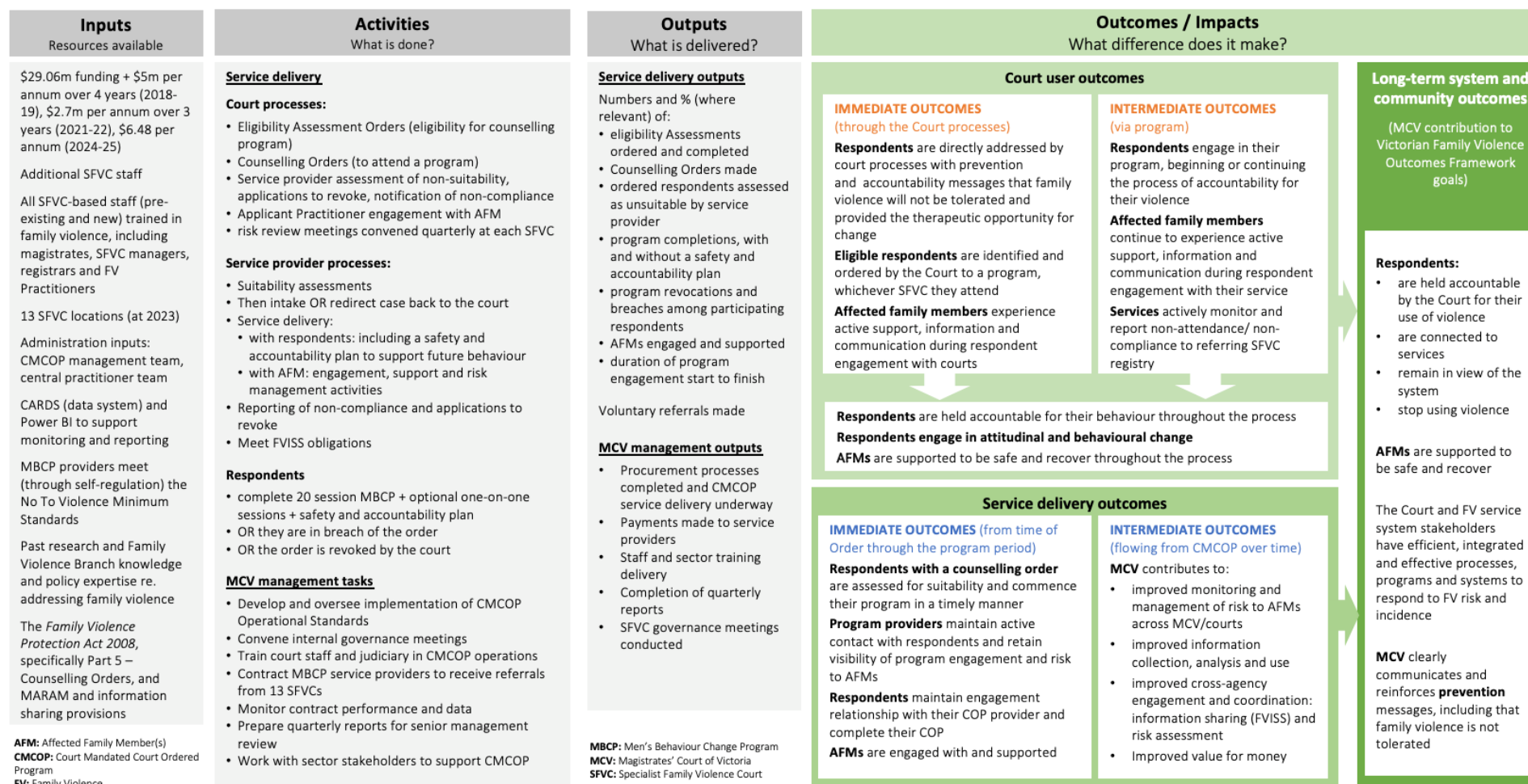
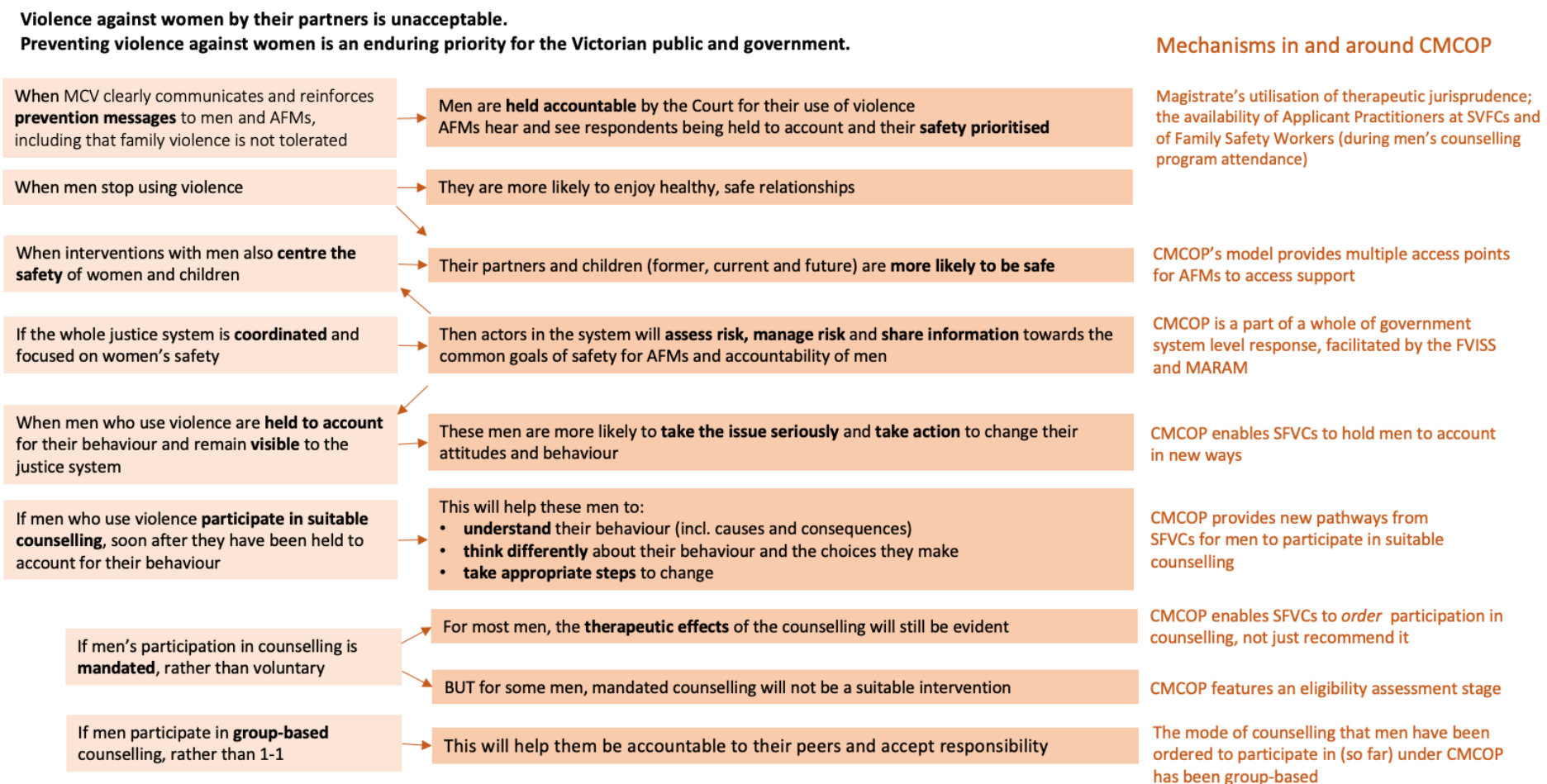


Figure 3: CMCOP theory of change



Assumption: The marketplace will be able to supply appropriate counselling programs at the scale required, within the budget available

Known limitation: CMCOP is not available in all courts; only in SFVCs

# Appendix B: Evaluation focus areas and data sources

Table 1: CMCOP evidence matrix: documentation, courts data and contributors in professional roles

Evaluation focus	Quantitative		Qualitative (interview, focus groups)					
	Docs, lit review	Courts data	MCV	Judiciary	Police	SFVC Managers, Registrars	RPs, APs, Practice Managers	Service providers
<b>Overview</b>								
<b>Context</b>								
The role of the Magistrates Court in responding to family violence	•		•	•		•	•	
What works with respect to the Court's contribution to respondent accountability and the prevention of the recurrence of violence	•		•	•		•		•
<b>Intent</b>								
The needs and opportunities CMCOP was intended to address	•	•	•	•	•	•	•	•
The aim of CMCOP	•		•	•	•			•
<b>Design and governance</b>								
Alignment of CMCOP with the requirements of Part 5-Counselling Orders of the Family Violence Protection Act 2008*	•		•	•	•	•	•	•
CMCOP's underpinning theory of change, including causal linkages and assumptions	•		•	•	•			•
Optimisation of the relative strengths and roles of the Court and other key stakeholders in the justice and family violence response system (including Victoria Police and MBCP providers)			•	•	•	•	•	•

Evaluation focus	Quantitative		Qualitative (interview, focus groups)					
	Docs, lit review	Courts data	MCV	Judiciary	Police	SFVC Managers, Registrars	RPs, APs, Practice Managers	Service providers
Alignment of CMCOP the relevant Victorian standards and frameworks			●				●	●
CMCOP governance arrangements	●		●	●	●	●	●	●
<b>Evolution over time</b>								
Changing need and context of CMCOP since commencement	●		●	●				●
Changing CMCOP model and delivery approach	●	●	●	●		●	●	●
<b>Implementation of CMCOP</b>								
<b>Implementation at Court</b>								
CMCOP implementation planning	●		●	●	●	●	●	
Contribution to implementation of program guidelines, training, new processes, policies, governance, and risk management	●		●	●	●	●	●	●
Adaptation in practices to changes in context e.g., the challenges of COVID, online service delivery, developments in Vic FV systems	●		●	●	●	●	●	●
The value and effectiveness of adaptations	●		●	●	●	●	●	●
<b>Operational efficiency</b>								
Adequacy of resourcing to deliver the core functions of CMCOP; the resourcing required (incl. funding, staffing, number of service providers approved to provide counselling, IT and/or systems etc.)	●		●	●	●	●	●	●
Optimisation of processes and strengths of the Court and key delivery stakeholders			●	●	●	●	●	●
Efficiency of working arrangements for MBCP providers	●		●	●			●	●

Evaluation focus	Quantitative			Qualitative (interview, focus groups)				
	Docs, lit review	Courts data	MCV	Judiciary	Police	SFVC Managers, Registrars	RPs, APs, Practice Managers	Service providers
Efficiency of working arrangements between Courts and service providers		●		●	●	●	●	●
Extent to which service delivery activity meet expectations		●					●	●
Consistency of good practice across MBCP providers	●	●				●	●	●
Delivery of CMCOP within its scope, budget, expected timeframe, and in line with appropriate governance and risk management practices?	●	●	●	●	●	●	●	●
<b>MCV management and support</b>								
CMCOP management	●		●	●		●	●	●
Time and resources to implement CMCOP	●		●	●	●	●	●	●
MCV/CSV efficiency in program management and delivery	●		●	●	●	●	●	●
<b>Outcomes from CMCOP</b>								
<b>Service users</b>								
Meeting the needs of court users (eligible respondents with counselling orders and associated AFMs i.e., current or previous intimate partners)		●	●	●	●	●	●	●
Pathways to behaviour accountability and change for men who may not have voluntarily engaged with behaviour change programs		●	●	●	●	●	●	●
Implications of the inclusion and exclusion criteria of CMCOP	●	●	●	●	●	●	●	●
Promoting respondent participation and engagement in MBCPs	●	●	●	●	●	●	●	●
CMCOP supports to AFMs		●		●	●	●	●	●



Evaluation focus	Quantitative		Qualitative (interview, focus groups)					
	Docs, lit review	Courts data	MCV	Judiciary	Police	SFVC Managers, Registrars	RPs, APs, Practice Managers	Service providers
Visibility and accountability of eligible respondents				•	•	•	•	•
<b>System outcomes</b>								
Facilitation/promotion of inter-agency collaboration			•	•	•	•	•	•
Evidence to support the continued need for CMCOP, and the role for Government and Court in delivering this program	•		•	•	•			
<b>Insights for future activity</b>								
<b>Funding and sustainability</b>								
Risks of ceasing funding to CMCOP	•	•	•	•	•	•	•	•
CMCOP model continuation	•	•	•	•	•	•	•	•

Table 2: CMCOP evidence matrix; eligible respondents and AFMs only

Evaluation focus	Qualitative (interview)	
	Eligible respondents	AFMs
<b>Implementation of CMCOP</b>		
Efficiency of working arrangements between Courts and service providers	•	•
<b>Service user outcomes</b>		
Meeting the needs of court users (eligible respondents with counselling orders and associated AFMs i.e., current or previous intimate partners)	•	•
Pathways to behaviour accountability and change for men who may not have voluntarily engaged with behaviour change programs	•	•
Implications of the inclusion and exclusion criteria of CMCOP	•	•
Promoting respondent participation and engagement in MBCPs	•	•
CMCOP supports to AFMs		•
Visibility and accountability of eligible respondents	•	•

# Appendix C: Datasets, analysis and limitations

## Summary of analyses undertaken

### Mixed method analysis

Each set of data (quantitative and qualitative) has been analysed individually and then in combination (triangulation) to produce well supported findings, noting caveats provided at each relevant point of the report. Data interpretation has been validated through a process of ‘sense-making’ within the Rooftop Social evaluation team and through consultation with the FVD Evaluation and Data Team and evaluation working group, which comprised of various representatives across the FVD.

A priority in this evaluation is producing practical, implementable recommendations. To this end, principles of realist method have been applied. This enables the identification of the outcomes within the context in which they occur, for whom they are occurring, as well as any mechanisms that are enabling or hindering the desired outcomes.

For data focused on implementation and improvement (as well as other data unrelated to outcomes), a thematic analysis has been used. The evaluation focus areas have provided the analytical framework, with several cycles providing an understanding of the strength of sentiment leading to the reported insights.

### Court data analysis

The analyses for this stage of the evaluation are focused on comparing the characteristics and outcomes for respondents at critical decision points throughout their intended CMCOP pathway. These key points, which we refer to as CMCOP outcomes, are outlined in Table 4 below.

Table 3: CMCOP 'outcomes' by decision point

Jurisdiction	CMCOP 'outcome'	Group of interest	Comparison group
Court	Eligibility assessment order	Eligibility assessment conducted	Eligibility assessment not conducted
Court	Eligibility assessment outcome	Assessed as eligible	Assessed as ineligible
Service provider	Intake assessment outcome	Assessed as suitable	Assessed as unsuitable
Service provider	Completed 20 weeks after commencement <sup>29</sup>	Completed program	Started but not yet completed program

When analysing each CMCOP outcome, we compared results based on the following characteristics and variables:

- available demographic markers (respondent age and Indigenous status)<sup>30</sup>
- court location and MBCP service provider
- time elapsed between each CMCOP decision point, for example, court orders, assessments and counselling dates (where relevant)
- Whether the respondent was present at the FVIO finalisation hearing
- Whether the respondent consented to the finalised FVIO
- whether the case was initiated by the AFM or by another party (most commonly Victoria Police, with small number of cases categorised as 'other')
- respondent's previous and parallel interactions with the justice system in relation to family and other violence, for example, criminal convictions for family violence, FVIOs and PSIOs
- MARAM-aligned risk rating assigned to current case by a respondent practitioner (from Lizard)
- breaches subsequent to the current FVIO finalisation case, for example, eligibility assessment breaches, counselling order breaches and FVIO breaches. Noting that for respondents where there are concurrent finalised FVIOs in place, the FVIO breach cannot be linked to a specific FVIO.

A range of other data variables were requested for analysis but could not be provided due to concerns from MCV about quality, consistency of recording, access or the field is not captured. These data variables included:

- respondent background demographic data, such as disability status, CALD status

<sup>29</sup> Data on number of sessions attendance were considered more accurate than program exit and therefore 20 sessions attended was used to measure program completion.

<sup>30</sup> In practice, Aboriginal and Torres Strait Islander men are generally excluded from CMCOP due to the non-culturally inclusive design of the current authorised counselling program. The data indicates a small number of men have proceeded through the eligibility assessment and counselling order processes and attended MBCPs. This is discussed through the findings.

- magistrate ID, which was anticipated to provide insights into the variation in patterns of court orders
- outcomes to criminal prosecution following breaches of orders (Rooftop Social requested this data but it could not be supplied for this evaluation).

### Rationale for analyses undertaken

Tracking the individual's journey through the CMCOP pathway enables outcomes at court and program decision points to be measured and compared across individual characteristics, court location (and CMCOP provider) and time period. Because the pathway involves a number of decision points (see Figure 4 for a visual representation of the number of decision points), in implementation they represent possible exits from the pathway and therefore are necessary to consider and analyse.

By focusing on the individual and choosing one case per individual (either the first case with an Eligibility Assessment Order or the first case if the respondent has not been subject to an Eligibility Assessment Order after January 2020) we are able to identify, analyse and compare the characteristics of individuals who exit or progress at each of the decision points thereby considering the universal nature of the program's intention.

## Implications for analysis and interpretation

Due to historical weaknesses in MCV data collection systems and practices, there are some methodological limitations and caveats that should be considered when interpreting the findings discussed in this interim report. They include:

- a number of variables, most specifically the MARAM-aligned risk rating (recorded in the Lizard system) and Indigenous status have a high number of missing or incomplete data
- there is a risk that the number of associated finalised FVIOs and PSIOs as well as the number of previous criminal cases involving family violence may be inaccurate, due to the challenges about linking cases to create an individual level dataset. As noted above the link uses first name, last name and date of birth and sex at birth and will be inaccurate if any of these are incorrectly recorded or have changed between cases.
- dates provided for court orders, assessments and counselling sessions are not always 'possible', such as an assessment occurring before an order was made, indicating an error in their input.<sup>31</sup>

A detailed description of each data variable's limitations is explained in Appendix C.

At the time of finalising this report, improvements have been made and continue to be made to data collection.

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<sup>31</sup> It is possible that an EA is commenced prior to the finalisation of a respondent's FVIO, however it is not possible to differentiate between a date error and the occasions when a prior date is not an error.

## Data provided for evaluation

The table below details the datasets and included variables provided to Rooftop Social by the FVD for the purposes of this evaluation.

Table 4: Datasets and included variables provided to Rooftop Social

Dataset	Included data variables
Monthly count data Jan 2015 – Aug 2024 <sup>32</sup>	FVIO orders and breaches
	Eligibility assessment orders and breaches
	Counselling orders and breaches
Tranche 1 and 2 court sites	Intake assessments
	CMCOP exits
Unit-record level record data January 2020 – August 2024	Court location
	Service provider
	Sex
Tranche 1 court sites	Indigenous status (in current case)
	Age at FVIO finalisation
Tranche 2 sites (January 2023 onwards)	FVIO initiating party
	Number of cases involving a finalised Personal Safety Intervention Order (PSIO) that could be linked to the respondent in the case of interest
	Number of cases involving a finalised FVIO that could be linked to the respondent in the case of interest
	Previous criminal court case involving family violence (with conviction and acquittal)
	Eligibility assessment outcome and reason for ineligibility (where relevant)
	Eligibility assessment date/s
	Intake assessment outcome and reason for unsuitability (where relevant)
	Intake assessment date
	Number of counselling sessions completed
	Date of first and last counselling session
	Eligibility assessment order breaches
	Counselling order breaches

<sup>32</sup> January 2020 for CMCOP related outcomes.

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FVIO breaches (occurring after current FVIO finalisation, but could not be linked to current FVIO case)

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## Data limitations and caveats

The table below details the specific data limitations associated with the overarching datasets and with specific variables.

Table 5: Data limitations and caveats

Issue	Limitation and/or caveats																		
Matching	<p>To obtain individual-level variables for the unit record data, respondents in cases across different time periods were matched based on identifying information stored in Courtlink. This matching process relied on consistent and accurate recording of information such as first and last names, sex, and date of birth.</p> <p>However, inconsistencies or errors in recording, such as misspelled last names, posed challenges to the matching process. For respondents with difficult-to-spell last names or names with variations in spelling, there was a higher likelihood of missing matched cases. Consequently, this could lead to underestimation of previous orders and criminal cases associated with those respondents. There is also the slight risk that the matching could result in tow unrelated cases being assigned to the same individual.</p>																		
Breaches	<p>The Courtlink data system lacks the capability to link a breach case to the original FVIO case. Therefore, for the purpose of this evaluation, any breach occurring after the FVIO finalisation date was assigned to the individual of interest. It is essential to interpret the analysis as indicative of a breach rather than measuring a breach for the originating order.</p> <p>There is a risk that the number of associated finalised FVIOs and PSIOs as well as the number of previous criminal cases involving family violence may be inaccurate.</p>																		
MARAM-aligned risk rating	<p>The MARAM-aligned risk rating is inconsistently captured in the dataset, with data available for only 3,657 individuals (24%) out of the complete dataset, despite risk assessments being carried out for 5,191 cases (34%). The table below highlights the distribution of risk ratings in the dataset.</p> <table><tr><th>MARAM Rating</th><th>Respondents in dataset</th><th>Proportion with a risk assessment</th></tr><tr><td>At risk (1)</td><td>1,829 (12%)</td><td>35%</td></tr><tr><td>Elevated risk (2)</td><td>1,249 (8%)</td><td>24%</td></tr><tr><td>Serious risk (3)</td><td>531 (3%)</td><td>10%</td></tr><tr><td>Serious risk requiring immediate protection (4)</td><td>48 (0.3%)</td><td>1%</td></tr><tr><td>Missing</td><td>1,534 (10%)</td><td>30%</td></tr></table>	MARAM Rating	Respondents in dataset	Proportion with a risk assessment	At risk (1)	1,829 (12%)	35%	Elevated risk (2)	1,249 (8%)	24%	Serious risk (3)	531 (3%)	10%	Serious risk requiring immediate protection (4)	48 (0.3%)	1%	Missing	1,534 (10%)	30%
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	<div> <div>Risk assessment not conducted (or not recorded)</div> <div>10,058 (70%)</div> <div>-</div> </div> <p>Given this inconsistency, it is not possible to determine whether the absence of a risk rating is random in the dataset provided. Therefore, it would be inappropriate to infer characteristics based on those for whom a risk rating is identified. Due to the high rate of unknown values, drawing firm conclusions from the analysis would be inappropriate and should be considered indicative rather than definitive.</p>
Indigenous status	<p>Indigenous status is classified as Aboriginal, Torres Strait Islander, Both Aboriginal and Torres Strait Islander, Neither Aboriginal nor Torres Strait Islander and Unknown. The Indigenous status is often not routinely asked or recorded in Courtlink, resulting in a high number of 'unknown' values in the dataset. Overall, 6,715 individuals (44%) were classified as 'unknown'.</p> <p>Without a systematic method of collecting this information, it is challenging to determine if the absence of Indigenous status is random in the dataset provided. Therefore, it would be inappropriate to draw conclusions about the characteristics of individuals identified as Indigenous in the dataset, as the data may not accurately represent cases involving Indigenous respondents who are not recorded as such.</p>
Date	<p>Dates provided for orders, assessments, and sessions in the data are not always accurate and 'possible'.</p> <p>There are instances where dates are incorrect due to errors in recording, such as entering the wrong year or month. For example, a first counselling session may be recorded as occurring before an intake assessment, which is not logically possible.</p> <p>In cases where impossible dates have been identified, a NULL value has been assigned to the "elapsed time" variable to avoid skewing the average elapsed time calculation with large negative differences. However, it's reasonable to assume that dates that appear possible may also be entered incorrectly, but these errors are unlikely to be identified and corrected during the cleaning process. Therefore, it's important to acknowledge that the estimates of elapsed time may have errors associated with them due to inaccuracies in the recorded dates.</p>



# Appendix D: Site visits and stakeholder interviews

## Interview participants

The table below summarises stakeholder interviews conducted during two phases: in-person court site visits (November-December 2023) and virtual interviews (March-April 2024 and August-November 2024).

Table 6: Number of interview participants by role type

Role type	Number of interview participants
MCV judicial leadership	5
FVD staff	15
SFVC magistrates	16
SFVC court staff	40
Service provider staff	13
VLA staff	6
<b>Total</b>	<b>95</b>

## High-level discussion guides

The discussion guides used for this evaluation varied depending on the participants' professional role, duration of time and their level of involvement in the implementation of CMCOP. The five topics here were explored to greater and lesser extent with judiciary, service providers and people in professional roles.

### Involvement

1. Involvement with CMCOP, including description of role and organisation.

### Intentions and design

2. Understanding of the problem(s) CMCOP was established to address
3. The extent that there is a shared understanding of CMCOP and its aims to support the legislation
4. The degree that CMCOP has been effective in addressing these problems
5. Evolution of the Court's response to family violence over time.

## **Implementation**

6. Rollout and training
7. Governance arrangements
8. Resourcing and technology / data systems
9. Adaptations to processes
10. Barriers and enablers when implementing CMCOP
11. Benefits and challenges associated with utilising an external service provider.

## **Outcomes**

12. Suitability of specific respondent types for group counselling
13. Accountability for eligible respondents who fail to comply with orders
14. Management of respondent risk
15. Impact of CMCOP on AFM safety
16. Observed benefits for eligible respondents and AFMs
17. Referral to services
18. Collaboration and information sharing between different stakeholders and across the wider system.

## **Insights for future activity**

19. Key elements that are core to CMCOP's effectiveness
20. Which elements of CMCOP could be improved
21. Any significant learnings.

# Appendix E: References

1. Centre for Innovative Justice 2018. Beyond 'getting him to a program': Towards best practice for perpetrator accountability in the specialist family violence court context
2. Magistrates Court of Victoria, 7 February 2020. Court Mandated Counselling Order Program Operating Standards, Version 1.1, TRIM ID: CD/19/884519
3. Magistrates Court of Victoria, December 2022. SFVC Operational Guidelines – Mandated Counselling Program
4. No to Violence, 2018. Implementation Guide: Men's Behaviour Change Minimum Standards. [https://ntv.org.au/wpcontent/uploads/2020/06/Minimum\\_Standards\\_manual\\_August\\_2018\\_FINAL\\_140818\\_Screen-ready\\_FA1-1.pdf](https://ntv.org.au/wpcontent/uploads/2020/06/Minimum_Standards_manual_August_2018_FINAL_140818_Screen-ready_FA1-1.pdf) State of Victoria, 2014-2016. Royal Commission into Family Violence: Report and recommendations, Vol I, Parl Paper No 132
5. State of Victoria 2020, Family Violence Outcomes Framework and Monitoring Implementation Strategy.  
<https://www.vic.gov.au/family-violence-outcomes-framework#fvof-measurement-and-monitoring-implementation-strategy>
6. Royal Commission into Family Violence. (2016). Report and recommendations (Volumes I–VII). State of Victoria. Retrieved from <https://www.vic.gov.au/family-violence-recommendations>