

Family Violence: Myths, Stereotypes and Misunderstandings and Judicial Voice and Language in the Courtroom—An Educational Resource

Judicial communication

Communication is a key aspect of performing the judicial function.¹ Judicial officers use communication skills to convey decisions—in writing in judgments or orally via *ex tempore* decisions—and to interact with courtroom participants, including legal counsel, individual parties or people affected by matters, and witnesses. As part of this, judicial officers listen to the language used by people in submissions or evidence and may need to consider at various times whether and how to respond to what is said, and the language to employ when doing so. This includes language in dialogue with counsel, parties or witnesses during court proceedings, and in making subsequent references in *ex-tempore* and written decisions to what has been said in statements, evidence and submissions.

The language that judicial officers employ—what is said and how it is said—is a critical aspect of court-craft in the context of [family violence](#).² There is a developing appreciation, drawing on behavioural sciences, of the notion that language matters in a range of settings both within and outside of the law.³

*Effective communication about complex issues requires deep consideration of how messages are received by those most directly affected, as well as the broader social impact such language can have.*⁴

Communications by judicial officers from the bench, for example the delivery and expression of a sentencing decision, can be ‘important sites for the affirmation or articulation of social norms or emotional expression’.⁵ Language that is used in the law ‘conveys the norms, values, beliefs and perceptions that ... help define the boundaries of social discourse’.⁶

In the context of family violence, the ‘critical role of the courts in changing cultural values and disavowing the instrumentality and usefulness of violence has been strongly emphasised’.⁷

12 myths, stereotypes and misconceptions about family violence and the realities

It is well recognised that there are myths, stereotypes and misconceptions about family violence. Perpetuating these can lead to minimising or excusing family violence, and be harmful to victim-survivors, including both adult and children victim-survivors. Further, they can exacerbate recognised issues linked to the complexity of family violence, such as the insidious nature of [coercive control](#), [mischaracterisation of victim-survivors as perpetrators](#), and [systems abuse](#).

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The [National Domestic and Family Violence Bench Book](#)⁸ identifies and describes some key [myths and misunderstandings about domestic and family violence](#). Drawing on these and key research (‘*Reference list for myths, stereotypes and misunderstandings and realities*’ [attached](#)),⁹ below are 12 common myths, stereotypes and misconceptions about family violence and some key ‘realities’ that counter these myths, stereotypes and misconceptions. These realities reflect a contemporary and evidence-based understanding of the [dynamics and patterns of behaviour involved in family violence](#), as well as its [impacts](#).

✖ **Myth 1: ‘“Choosing” to Stay in Relationships’** ... A victim-survivor is able to leave the relationship.

✓ **REALITIES:** Many victim-survivors will want to leave – however research shows they face a ‘myriad of barriers’ to leaving violent relationships such that the ‘stay/leave binary’ is rarely applicable.

✖ **Myth 2: ‘Separation Ends the Violence’** ... The violence will stop when the victim-survivor and perpetrator separate

✓ **REALITIES:** Research has shown that one of the most dangerous times for a victim-survivor is in the months after separation when the perpetrator may use a variety of tactics to reassert control over the victim-survivor.

✖ **Myth 3: ‘But He Doesn’t Hit You?’** ... Family violence involving physical violence is more serious than other controlling behaviours

✓ **REALITIES:** Research indicates that the majority of women who experience family violence report that the most difficult form of abuse is non-physical, especially emotional abuse, which has deep impacts on sense of self and freedom and long-lasting effects. Such types of violence are often pre-cursors to intimate partner homicide.

✖ **Myth 4: ‘It’s Not My Fault! Alcohol, Drugs etc are to Blame’** ... Family violence is caused by external factors, such as alcohol or drug use, financial pressures or a prejudicial family law system

✓ **REALITIES:** Perpetrators commonly minimise family violence by attempting to shift the blame to the victim-survivor and others. Although some research shows that alcohol and drugs can be correlated with the occurrence of family violence; correlation does not equal causation. For example, there is no evidence that alcohol use is a primary cause of violence against women. Violence occurs in the absence of these factors, and there are many situations where these factors are present, without violence occurring.

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✱ **Myth 5: ‘*DV is Cultural*’** ... Family violence only affects particular groups of people

✓ **REALITIES:** Research shows that family violence happens in all parts of society, regardless of race, gender, age, sexual identity, socio-economic status, location, culture or religion. Some groups of people are more vulnerable to experiencing violence, and its effects due to their circumstances or needs, or can face barriers to seeking help.

✱ **Myth 6: ‘*Men Suffer DV as Much as Women*’** ... Men and women are equally victim-survivors and perpetrators of family violence

✓ **REALITIES:** The greatest threat to the health of, and risk of premature death for, women aged between 15 and 44 years is family violence and family violence is most often perpetrated by men against women. The nature and consequences of men’s violence are significantly different from women’s violence.

✱ **Myth 7: ‘*Sexual Assaults are Not DV*’** ... Family violence does not include sexual assault

✓ **REALITIES:** Research shows that women’s experiences of family violence include sexual assault, for example, often co-occurring with coercive control. For women who experience sexual assault, in the majority of cases it is a sexual assault by a man they know, most commonly an intimate partner. Many victim-survivors do not report or even make disclosures about sexual assault, even when reporting other forms of violence.

✱ **Myth 8: ‘*She’s Making It Up!*’** ... Women often make false or exaggerated claims to obtain a tactical advantage in parenting proceedings

✓ **REALITIES:** There is no research to suggest that women make false or exaggerated claims of family violence to get an advantage in court cases about parenting. Research shows that family violence is under-reported, and barriers to reporting, include fear of not being believed. People who have used violence often deny or minimise family violence, with false denials of true allegations more common than false allegations of family violence.

✱ **Myth 9: ‘*DV is just a “Toxic” relationship*’** ... Family violence is a relationship issue or caused by dysfunctional relationships; both parties are responsible

✓ **REALITIES:** Research shows that perpetrators attempt to shift the blame to another source, often ‘mutualising’ violence or labelling it as ordinary difficulties in relationships. They can also focus on the violence being unique to ‘this’ relationship and the ‘behaviour’ of their partner, implying that the next relationship will be different and without violence. For a myriad of complex reasons, victim-survivors may accept blame for the violence or return to violent relationships. Violence in relationships is almost always underpinned by an underlying dynamic of coercive control. Research shows that both prior offending and reoffending are common among family violence offenders.

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✖ **Myth 10: ‘Only “Weak” Women are Victims of DV’** ... Victim-survivors of family violence are weak, passive or powerless

✓ **REALITIES:** Victim-survivors and their circumstances and experiences of violence are as diverse as people in the broader population. There is no particular ‘type’ of victim-survivor or typical way of responding. People of any class, culture, religion, sexual orientation, marital status and age can be victim-survivors or perpetrators of family violence. Research with victim-survivors about their experiences demonstrates their strength and resilience in overcoming adversity.

✖ **Myth 11: ‘DV Should be Endured to Keep the Family Together’** ... Mothers who experience family violence have a duty to keep the family together and to protect children from violence

✓ **REALITIES:** The risk of harm is not static and confined to the status of the relationship or family unit. A victim-survivor may be constantly reassessing the risk of harm to herself and her children and balancing complex and competing factors but is not responsible for the violence of the perpetrator. Despite this, a victim-survivor’s sense of duty to protect children from further harm may directly influence decisions to leave, which can in turn potentially threaten her own safety and that of her children.

✖ **Myth 12: ‘The Kids are All Right!’** ... Family violence that is not directed at children does not impact them

✓ **REALITIES:** A significant number of Australian children are exposed to violence; perpetrated most often against their mother by their father or their mother’s current or former male partner. Research shows that infants, children and adolescents experience serious negative psychological, emotional, social, and developmental impacts to their well-being from the traumatic ongoing experiences of violence. Children do not need to see or hear the family violence to be exposed to it.

Language and the power of judicial voice

Language plays a powerful role in the family violence context. Language can reinforce harmful myths, stereotypes and misconceptions, and shift responsibility away from responsible parties and onto victim-survivors. Language can also have positive impacts; by affirming inherent rights of people to be free from violence and reflecting norms and values of society that family violence is harmful and unacceptable. Language from a wide range of sources can contribute to this ‘dialogue’ about family violence, either reinforcing, or challenging, violence-supporting narratives about family violence, and underlying attitudes and beliefs towards victim-survivors and perpetrators. Further, language can directly impact individuals to whom communications are directed.

The language employed by judicial officers in their communications about the law in matters involving family violence has the potential to be powerful, more powerful than other voices within this dialogue. Acting from a position of judicial power, judicial language filters down and sets the tone and dynamic in the courtroom regarding conversations about family violence.

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In the judicial education context, there has been a recognition of the power of judicial language in promoting [perpetrator accountability](#) and the potential for judicial court-craft to also have an impact beyond the instant case ‘to promote awareness and understanding about domestic violence ... to set standards ... and guide a social dialogue around this insidious harm’.¹⁰

[Research](#) examining legal responses to family violence has identified the significance of judicial language in communications about the law, regarding [acts of violence](#), the behaviour of [victim-survivors](#), [relationship contexts](#) for violence, [children](#) as victim-survivors of family violence and the implications of family violence for [parenting](#). From this research, a central concept is the ‘judge as powerful voice’.¹¹ This concept recognises the dual aspects of communication when employed as a tool in performance of a judicial officer’s functions.

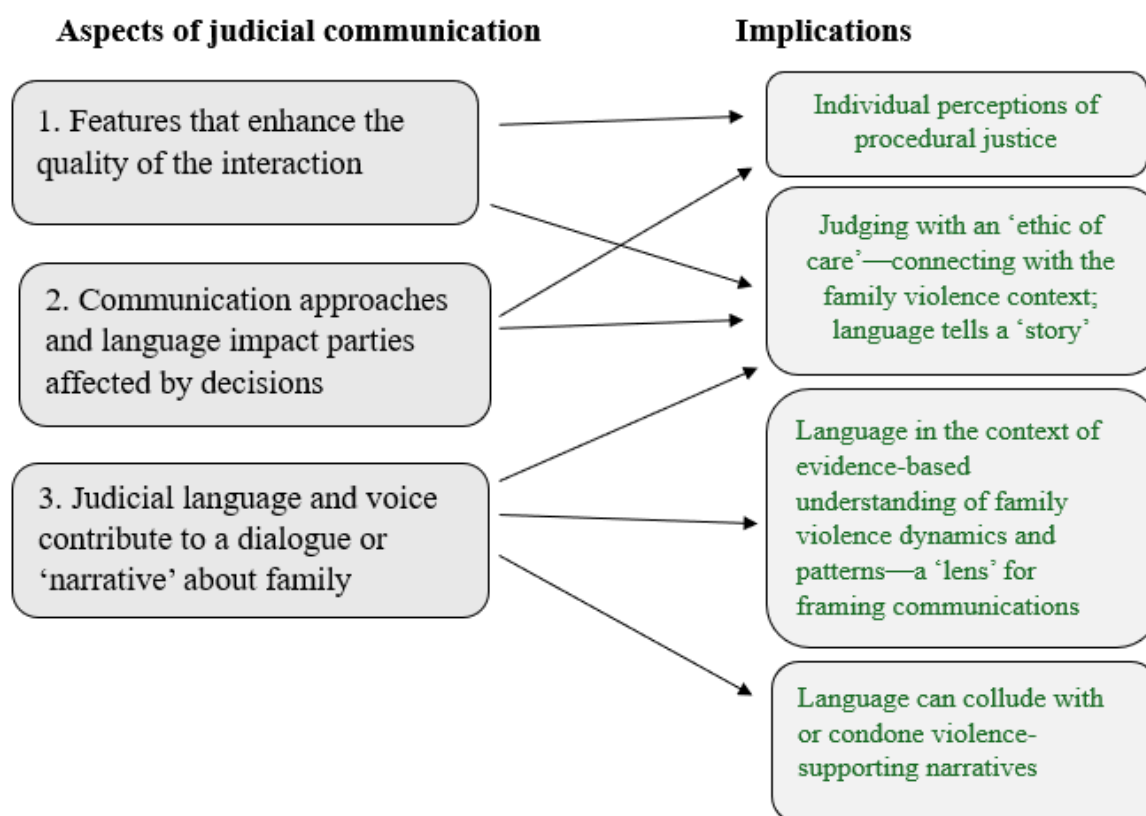
Judicial communication operates on a personal level, directed at the individual parties involved, and influencing their own narratives, but also at a public level, contributing to a broader conversation about family violence.¹² Other elements of the judicial voice are captured in descriptions of judgment writing (whether ex-tempore or reserved), as an expression of ‘individuality and creativity, ... within the framework of the facts and law of the particular case’.¹³ The potential power in harnessing these aspects is reflected in the description of judicial officers as

*the custodians of the richest and most dramatic and poignant human stories. In your courts, the fundamental patterns of society are enacted every day, with pathos and tedium and ferocity. ... [Your] voice comes from the centre of you, from your gut, your character, even your soul. I realise this might sound a bit over the top. I know you are writing a judgment, it’s not a poem. But I think everybody would agree that the plainest, most direct sentence spoken in an undefended voice, without artifice, from the deepest place we know, can reverberate right through a reader to powerful intellectual and emotional effect.*¹⁴

In this way, the power of the judicial voice is akin to a solo, cutting through the ensemble performance of others within the law. The judicial voice requires the employ of language that reflects a rational and unbiased application of the law in accordance with applicable rules and principles to the ‘rough and ambiguous terrain of human relationships’.¹⁵ At the same time, in the delivery and communication of decisions, each note rings out to inform the audience, including the individual parties, and the wider community, what the decision is and why it has been made. Similarly, other communications during court proceedings provide opportunities for judicial voice to use and model language as part of their court-craft—within applicable procedural rules—to set the tone and manage courtroom dynamics.

Research has explored communication approaches by judicial officers in exercising their judicial function in a wide of legal contexts.¹⁶ Drawing from this, the diagram below highlights three key aspects of judicial communication with implications regarding myths, stereotypes and misconceptions and the narrative power of judicial voice and language in the courtroom in the context of family violence matters.¹⁷

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Key takeaways and tips: the power of judicial voice and language as court-craft in the family violence context

Language used in the courtroom in family and domestic violence matters **can mirror (and potentially reinforce)** attitudes and beliefs of perpetrators and mischaracterise and misconceive domestic and family violence by drawing on myths, stereotypes and misconceptions.

Language that mischaracterises or misconceives family violence can contribute to a **'narrative' in legal contexts about the nature of family violence**, which does not reflect a contemporary and nuanced understanding of domestic and family violence that is evidence-based.

Judicial language, including judicial language in response to the language of others, has potential power in **promoting offender accountability**, as well as having impacts beyond the instant case to **guide a social dialogue around family violence**.

Research examining legal responses to family violence has identified the significance of judicial language in communications about the law—a central concept is the **'judge as powerful voice'**.

The potential individual- and community-level impacts of language in judicial communications reflect the broader **significance of judicial voice and language as court-craft** in communications from the bench.

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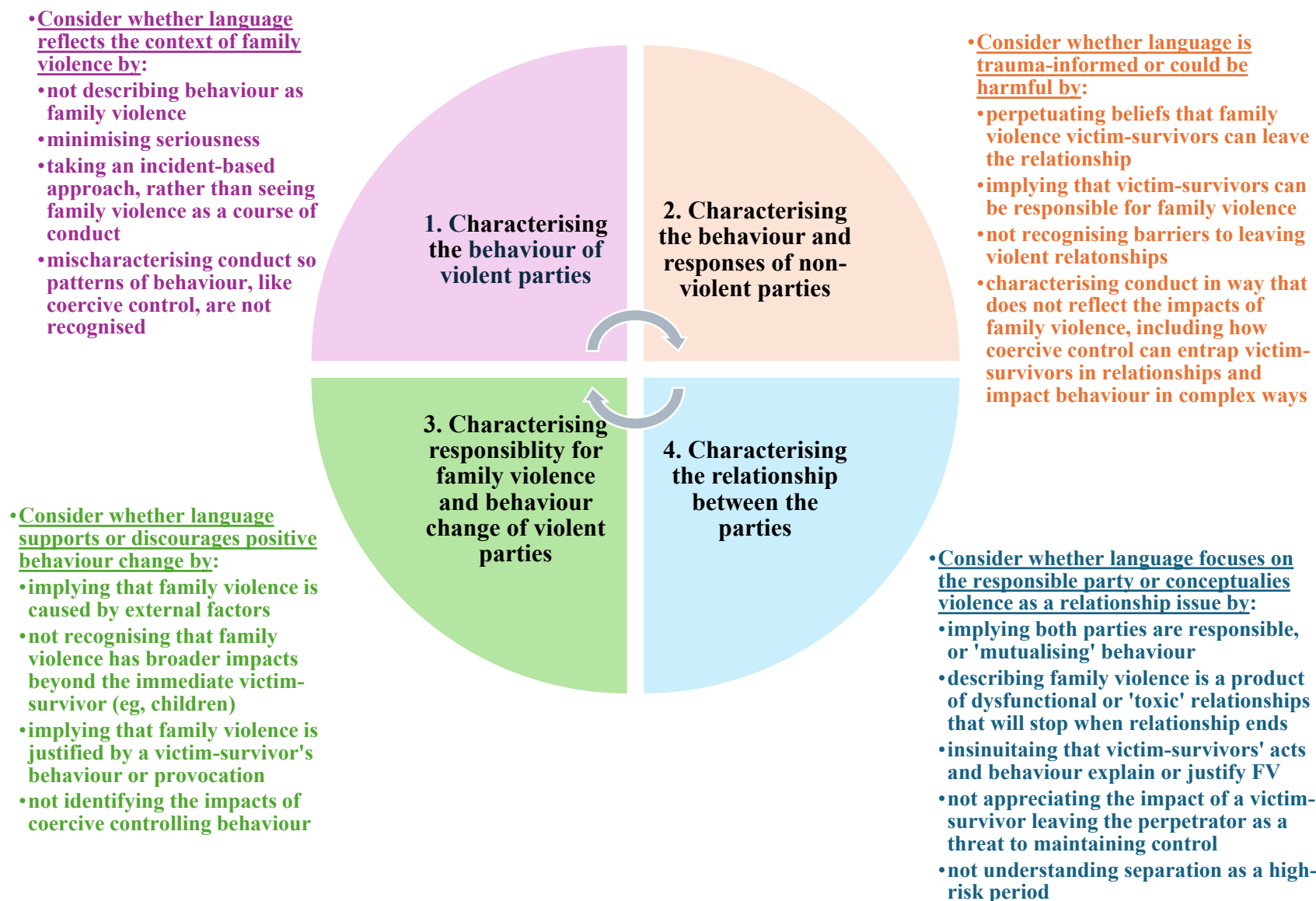
Language that is trauma-informed and informed by an evidence-based understanding of family violence supports communication approaches that avoid falling back on myths, stereotypes and misconceptions that can detract from the aims of the law, be harmful to victim-survivors, and can diminish perpetrator accountability and reinforce violence-supporting attitudes and beliefs.

Employing language and voice as part of judicial court-craft in the family violence context is about developing a **skill set** around language and choosing when and how to use judicial voice.

A non-exhaustive list of approaches to consider drawing on in developing this skill set is set out below.

<i>The skills</i>	Recognising the language of others.
	Using knowledge about the evidence in practice.
	Responding to the language of others.
<i>When to use them</i>	Responding to language in submissions—choosing to interrupt or challenge?
	Interacting with parties—personalising the message.
	Language in judgments—ex tempore and written.
<i>How to use them</i>	Consider ... Does language reflect a neutral approach, or invoke or even reinforce myths in four key areas: 1. Characterising the behaviour of violent parties. 2. Characterising the behaviour and responses of non-violent parties. 3. Characterising responsibility for family violence and behaviour change of violent parties. 4. Characterising the relationship between the parties. <i>See over page for considerations in these four key areas.</i>

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Endnotes

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- ¹ Sharyn Roach Anleu and Kathy Mack, *Performing Judicial Authority in the Lower Courts* (Palgrave Socio-Legal Studies, 2017).
- ² The term ‘family violence’ is used to encompass the broader term of ‘domestic and family violence’. See further, Australian Institute of Judicial Administration (AIJA), *National Domestic and Family Violence Bench Book* (Bench Book, August 2025, AIJA, University of Melbourne, Australian Government, Attorney-General’s Department) [3] ‘Terminology’ <<https://dfvbenchbook.aija.org.au/home>>.
- ³ Network of Alcohol and Other Drug Agencies (NADA) and NSW Users and AIDS Association (NUAA), *Language Matters* (Adapted from National Council for Behavioural Health, United States, 2015 and Matua Raki, New Zealand, 2016).
- ⁴ National Centre for Action on Child Sexual Abuse, *The Child Sexual Abuse Language Guide* (Terms and Definitions Preferred by Victims and Survivors of Child Sexual Abuse, 2025) 6.
- ⁵ Roach Anleu and Mack (n 1) 139.
- ⁶ William B Hill Jr, ‘A Need for The Use of Nonsexist Language in the Courts’ (1992) 49(2) *Washington and Lee Law Review* 275, 276.
- ⁷ Christina (Nina) Hudson, *Straight-Talking, but from the Heart: Exploring Judicial Court-Craft in Sentencing Offenders for Intimate Partner Violence* (PhD Thesis, University of Tasmania, 2022) 23; Domestic Violence Resource Centre (DVRC), ‘Out of Character? Legal Responses to Intimate Partner Homicides by Men in Victoria 2005–2014’ (Discussion Paper, 2016) <<http://www.dvrcv.org.au/knowledge-centre/our-publications/discussion-papers/outcharacter>>; Kate Warner, ‘Sentencing the Violent Spouse’ (1996) 3 *Psychiatry, Psychology and Law* 107; David Indermaur, ‘Offender Psychology and Sentencing’ (1996) 31(1) *Australian Psychologist* 15; Patricia Easteal, ‘Sentencing Those Who Kill Their Sexual Intimates: An Australian Study’ (1993) 21 *International Journal of the Sociology of Law* 189.
- ⁸ Australian Institute of Judicial Administration (AIJA), *National Domestic and Family Violence Bench Book* (Bench Book, August 2025, AIJA, University of Melbourne, Australian Government, Attorney-General’s Department) [4.1] ‘Myths and Misunderstandings’ <<https://dfvbenchbook.aija.org.au/home>>.
- ⁹ See Attachment: ‘Reference list for myths, stereotypes and misunderstandings and realities’.
- ¹⁰ Judicial College of Victoria, ‘Events: Language, Sentencing and Public Discourse’, Judicial College of Victoria (Web Page, 23 July 2019) <<https://www.judicialcollege.vic.edu.au/programs-and-events/language-sentencing-and-publicdiscourse>>, involving presentations by Scott Mills (No To Violence) and Anna Butler, Manager of the NSW Domestic Violence Death Review.
- ¹¹ Kate Fitz-Gibbon et al, ‘The Views of Australian Judicial Officers on Domestic and Family Violence Perpetrator Interventions’ (Research Report No 13, ANROWS, June 2020) 11, 72–4: ‘judge as powerful voice’. See also Shellee Wakefield and Annabel Taylor, ‘Judicial Education for Domestic and Family Violence’ (State of Knowledge Paper Landscapes No 02/2015, ANROWS, June 2015) <<https://www.anrows.org.au/publication/judicial-education-for-domestic-andfamily-violence-state-of-knowledge-paper/>>.
- ¹² Hudson (n 7) 22; Fitz-Gibbon et al (n 11) 72–4.
- ¹³ The Honourable Justice Margaret McMurdo AC, ‘From Ex-Temps to Treatises, How Leading Judges Write’ (Presentation, Judicial Conference of Australia, Colloquium. 8 October 2016) 1.
- ¹⁴ Carolyn Ford, ‘Getting to the Heart of the Matter’ (2018) (Technology Special Edition, September) *Law Institute Journal* 83, 84, quoting Helen Garner.
- ¹⁵ Hudson (n 7) 1.
- ¹⁶ See generally, Hudson (n 7).
- ¹⁷ See generally, Hudson (n 7).