

The Hon Martin Pakula MP  
Attorney-General  
Level 26, 121 Exhibition Street  
Melbourne VIC 3000

7 September 2015

The Hon. Martin Pakula,

### **Reform of Birth Registration Statements**

We understand that your Department may be in the process of undertaking a review of birth registration statements and birth certificates in Victoria. Our work in this area shows that the antenatal and postnatal period are very high risk times for victim/survivors of family violence and these women are often unaware of the legal process or the options available to them. We therefore respectfully write this letter with a number of recommendations in relation to the birth registration process.

#### Background

Inner Melbourne Community Legal (IMCL) is a not-for-profit community organisation that provides legal assistance to individuals experiencing disadvantage and marginalisation in the City of Melbourne area. Our mission is to promote social justice through advocacy, education and casework delivered by a passionate and talented team.

Acting on the findings of the Legal-Australia Wide Survey<sup>1</sup>, we are committed to collaborations and partnerships and conduct a number of Health-Justice Partnerships and outreaches with partner organisations including health and welfare organisations in the community.

Our Health-Justice Partnership with the Royal Women's Hospital (**the Women's**), known as the Acting on the Warning Signs project is the first of its kind in a major, metropolitan hospital and aims to address family violence through a multi-disciplinary approach. The project complements a free on-site legal service for patients of the Women's with training for front-line health professionals. To date, the project has provided training to 219 frontline health professionals at the Women's to enable them to address family violence through a multi-disciplinary approach and has provided over 300 instances of free legal advice to patients of the Women's in a range of areas of law including family law, civil law and criminal law. Recognising that the antenatal and postnatal period are high-risk times for victim/survivors of family violence, many of the patients seen at the Women's raise legal issues arising from their experience of family violence. Approximately 62% of the clients seen as part of this Health-Justice Partnership since 2009 have indicated that they are at risk of family violence.

---

<sup>1</sup> Christine Coumarelos et al 'Legal Australia-Wide Survey: Legal need in Australia' (Report, Law and Justice Foundation of New South Wales, August 2012).

## Birth registration and birth certificates

A common question that arises amongst the patient population seen by our service at the Women's is around birth certificates. There can often be confusion and anxiety regarding whether victim/survivors of family violence are required to provide details of their child's father in situations where they may have fears for their safety. Often, victim/survivors do not understand the risk factors of including the father's name including the risk that he may be notified of their home address or of the birth nor do they understand the ramifications of not listing the father on the birth certificate, including significant ramifications for receipt of child support. Accordingly, it is critical that if confusion or anxiety arises in relation to the birth registration statement that women are provided an opportunity to seek legal advice.

Generally, whilst still an inpatient at the hospital, an attending midwife or nurse provides a mother with a child health and development record, birth registration statement form, information on paid parental leave as well as other Centrelink forms where appropriate. In addition to these documents, all mothers should also be provided with a list of relevant telephone numbers including details for family violence services as well as free legal services to ensure that new mothers are able to seek advice in relation to their rights and entitlements at law.

IMCL supports the right of a child to know both of their parents. However, in our work, we are aware of many situations in which to simply list the father on the birth registration statement without further support and information provided to the mother would place women and/or their children at serious risk of harm. Accordingly, the birth registration process should provide women with more information about their rights and entitlements and provide women with further clarity about the process.

Victim/survivors of family violence may be hesitant to list the name of the father of the child on the birth certificate for fear of harm to herself or to her child/children. An example of a situation in which a woman may feel at risk may be that her violent ex-partner threatened to harm her if she did not have a termination of the pregnancy. Deciding to continue with the pregnancy, the woman may have fled the relationship and not indicated to her ex-partner that she had decided to keep the child.

A concern amongst patients is that by registering a birth, it may prompt a violent ex-partner to attempt to locate the mother by applying to the Registry of Births, Deaths and Marriages for a copy of the birth certificate, particularly as the birth registration statement requests the addresses of both parents.

In 2013, IMCL submitted a report on this topic to the Victorian Law Reform Commission (VLRC) and several of its recommendations were referred to by the VLRC.<sup>2</sup> IMCL supports the recommendations of the VLRC in its August 2013 report which states that the registrar of Births, Deaths and Marriages should develop a policy for processing birth registration statements where the applicant is at risk of family violence. IMCL has also lodged a submission to the Royal Commission into Family Violence in which it makes recommendations to this effect.

---

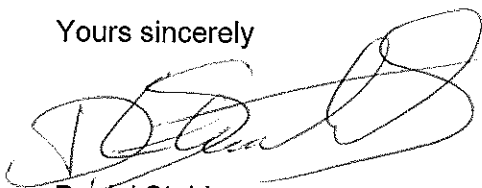
<sup>2</sup> Victorian Law Reform Commission, *Birth Registration and Birth Certificates*, (August 2013) 33

## Recommendations

1. Recognising that the antenatal and postnatal period are high risk times for victim/survivors of family violence, the process for registering births in Victoria should be amended and the birth registration statement should include information of state-wide service providers including health, welfare and legal services who are available to assist victim/survivors of family violence.
2. This includes the need for the adoption of the recommendations made by the Victorian Law Reform Commission in its report of August 2013 that:
  - 2.1 The VLRC recommends that the Registry should be required to contact the applicant before contacting the alleged perpetrator if there is any indication on a birth registration statement of a risk of family violence.
  - 2.2 Step 4 of the birth registration statement should be amended to: include a question about whether the applicant fears that family violence may be an issue if the Registry contacts the alleged perpetrator; clearly outline what information may be sought from the alleged perpetrator and whether it will appear on the birth certificate; and note that if potential violence is identified as an issue, the Registry will not include the address of the applicant on the birth certificate and contact the applicant before contacting the alleged perpetrator.

We sincerely hope that the above recommendations will be taken into consideration in any review of the birth registration process undertaken by your Department and we would be pleased to have an opportunity to meet with you to discuss these recommendations further.

Yours sincerely



Daniel Stubbs  
CEO