

FAMILY VIOLENCE AND YOUTH JUSTICE PROJECT WORKSHOP TOOLKIT

September 2014



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Note: While every effort has been made to produce informative and educative tools, the applicability of these may vary depending on country and regional circumstances.

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PJDP TOOLKITS

Introduction

For over a decade, the Pacific Judicial Development Programme (PJDP) has supported a range of judicial and court development activities in partner courts across the Pacific. These activities have focused on regional judicial leadership meetings and networks, capacity-building and training, and pilot projects to address the local needs of courts in Pacific Island Countries (PICs).

Toolkits

Since mid-2013, PJDP has launched a collection of toolkits for the ongoing development of courts in the region. These toolkits aim to support partner courts to implement their development activities at the local level by providing information and practical guidance on what to do. These toolkits include:

- Judges' Orientation Toolkit
- Annual Court Reporting Toolkit
- Toolkit for Review of Guidance on Judicial Conduct
- National Judicial Development Committee Toolkit
- Family Violence and Youth Justice Project Workshop Toolkit
- Time Goals Toolkit
- Access to Justice Assessment Toolkit
- Trainer's Toolkit: Designing, Delivering and Evaluating Training Programs

These toolkits are designed to support change by promoting the local use, management, ownership and sustainability of judicial development in PICs across the region. By developing and making available these resources, PJDP aims to build local capacity to enable partner courts to address local needs and reduce reliance on external donor and adviser support.

Use and support

These toolkits are available on-line for the use of partner courts at http://www.fedcourt.gov.au/pjdp/pjdp-toolkits. We hope that partner courts will use these toolkits as / when required. Should you need any additional assistance, please contact us at: pjdp@fedcourt.gov.au

Your feedback

We also invite partner courts to provide feedback and suggestions for continual improvement.

Dr. Livingston Armytage Team Leader, Pacific Judicial Development Programme

September 2014

PREFACE

Both family violence and youth justice are substantial issues in the Pacific. The occurrence of family violence is high and worrying. Although all pacific country are parties to the United Nations Convention on the Rights of the Child, much more needs to be done to promote a special way in which our young people should be treated in the justice system.

PJDP has already raised awareness and provided assistance through the running of four day workshops in Palau, Vanuatu, Tonga, Samoa, Cook Islands and Solomon Islands, and the programme is committed to continuing this assistance.

As a result of the workshops held thus far, PJDP sees as the ideal, assisting individual Pacific countries to arrive at a collaborative model so that all agencies can work together. There is a place for the Judiciary in this model too. For countries to arrive at a memorandum of understanding as to who will do what is seen as helpful. Specifically, PJDP can help by:

- i. promoting sustainability through capacity-building and skill transfer;
- ii. facilitating encouragement through local processes; and
- iii. enabling local participants to deliver development activities and outcomes and to use such assistance from elsewhere in the Pacific or from PJDP as is required.

This toolkit is designed to give effect to this emphasis by improving judicial knowledge, skills and attitudes (i.e. competence) of judicial and court officers relating to family violence and youth issues, law, contemporary practice and procedure, with reference to appropriate approaches to associated issues in the courtroom.

This toolkit will continue to be refined as it is put into effect and as feedback is received. In time, the object will be to have an electronic toolkit which is interactive and electronically user-friendly.

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ABBREVIATIONS

MFAT - New Zealand Ministry of Foreign Affairs and Trade

MoU - Memorandum of Understanding

MSC - Managing Services Contractor - Federal Court of Australia

NGO - Non-Government Organisation

PIC - Pacific Island Country

PJDP - Pacific Judicial Development Programme ('Programme')

UNCROC - United Nations Convention on the Rights of the Child

UNESCAP - United Nations Economic and Social Commission for Asia and the

Pacific

WHO - World Health Organization

1 Introduction

1.1 WHY WORKSHOPS AND WHY A TOOLKIT?

Family violence is destructive of families and of societies. Such is the prevalence of domestic (or family) violence against women and children that a judicial and broader response is called for. It is important to recognise that family violence is complex and includes psychological abuse such as verbal abuse, harassment and economic violence as well as physical and sexual assaults. And with children, the violence may not necessarily be directly on them. Being present and hearing violence can itself be very destructive.

These statistics make the point.

The prevalence of family violence against women in selected Pacific countries								
Country	Prevalence rate %	Source						
Kiribati	68	Kiribati Family Health and Support Study on Violence against Women and Children 2010						
Papua New Guinea	67	UNESCAP: Economic Social Survey of Asia and the Pacific 2007						
Solomon Islands	64	Solomon Island Family Health and Safety Study – a study or Violence against Women and Children 2009						
Samoa	47	WHO Multi country study on Women's Health and Domestic Violence 200-2003 published in 2007						

By working collaboratively within your country, judiciaries, law enforcement agencies, NGOs and other important people such as village chiefs can bring about change.

So also with youth justice, focus needs to occur on the special needs of young people who offend and they need to be treated quite differently to adults.

Even when countries do not have special youth justice legislation, by working collaboratively, in the same way as achieving a response to family violence, much can be done to better promote the UNCROC.

1.2 What do we mean by a toolkit?

It is helpful to have a template to work from when bringing people together to discuss these issues with a view to effecting change.

The toolkit sets out everything you will need to stage a workshop and the object is to ensure that workshop time is well used, has the right people attending and stands the best chance of achieving real change.

1.3 How to use this toolkit?

Once a Pacific country has decided to stage a workshop, the contents and resource material in this toolkit should enable you to conduct all of your planning and run the workshop through to a successful conclusion. We have assembled the material in a helpful chronological order or what needs to be done at the very outset through to implementing the outcomes that you reach.

By way of examples we have included a standard programme, a list of who should be invited, actual material that you will want to use such as PowerPoints and video clips, and examples of evaluations that might be used both before and after the workshop so that you can check on what has been learnt and what attitude shifts there might have been.

As we become more and more electronic, this toolkit will have hyperlinks, enabling you, upon the click of the mouse or the touch of the screen, to access directly the material you are most interested in. We see this as a developing process and the toolkit will change as it is used.

You will see that the toolkit covers both family violence and youth justice and that the proposed workshop programme suggests that there should be two days of family violence followed by two days of youth justice. However you need not necessarily adopt this format. For instance, you may wish to stage a workshop on family violence alone and the toolkit should enable you to do this. The same is so for the youth justice part. We have included both subjects in the one toolkit because often, Pacific countries wish to deal with both and those who might be invited to each part are very similar. But the two parts can stand alone if you wish.

Every country and need will be different. Adapt and apply this toolkit to meet your local needs - two suggested approaches:

The toolkit is a suggested approach as to content and style. But because each PIC presents differently, just how the toolkit will be used will need to be considered and discussed with PJDP.

Two areas in particular spring to mind. The first is that if new legislation is being contemplated or has been passed, you may benefit from outside experience and expertise from another country. If on the other hand the prime wish of the workshop is to up-skill on practice locally, you may have less of a need for outside expertise. The second area relates to your own infrastructure. Sometimes judicial officers are so busy with their work that there is no capacity to spend any great deal of time on the setting up and running of a workshop such as this. But if your country does have a dedicated national trainer whose task relates to the running of judicial training, you may be able to use this toolkit without any outside assistance at all.

And so, use PJDP as you wish. This could be on the obtaining of advice on how you wish to customise the toolkit and provision of further materials. Beyond that you may have your own internal resources to run the workshop entirely.

If for whatever reason you need in-country support from PJDP and the presence of a subject matter expert, ask for them but try and do as much as you can yourselves. PJDP exists to encourage and support. But a lot of that can occur by providing administration and advice. If your subject matter calls for the presence of an outside expert, PJDP can make sure that that happens.

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2 FAMILY VIOLENCE

2.1 What are the components of a training programme?

You have two days for both aspects of this workshop. And so, how do we approach family violence?

Obviously an important question to ask is what needs to be covered. The answer to this may depend on whether or not you currently have, or are contemplating having, specific Family Violence legislation. But leaving that to one side the following are probably the essentials:

1. Session One – The Definition of Family Violence

Spousal and family discipline: What is the ambit of perceived acceptable customary discipline and when does such discipline become abuse? What is acceptable and what is not? Having regard to changing social norms, what do we see our current challenges as. Achieving gender equality. Recognising that there may be discrimination, particularly against those who are marginalised. Being conscious of this and discussing how to address it.

2. Session Two – The Background and the Drivers

What should be borne in mind when discussing family violence in the context of the Pacific? What is it that should be borne in mind when developing an approach and a model? What is being done in the Pacific to cause change to occur and how family violence is managed and perceived? In particular, what is the relevance of religion, the Old Testament and what the church teaches, colonisation in terms of pre and post colonisation standards and what is it in culture that must be understood and applied?

3. Session Three – Police Philosophy and Charging Practice

Work continues to be undertaken by other countries with police forces in the Pacific on the subject of family violence. But how equipped are police forces in the Pacific to deal with family violence cases? What is police philosophy and charging practice? When can we expect the police to intervene and when will they not? What are the types of charges that will be laid and how soon will a charge reach a court?

4. Session Four – The First Appearance

How will the judicial officer determine that there is a family violence case in the list for the day which will carry with it, special risks and tensions? What safety factors should be borne in mind for the victim? We shall discuss the family and cultural tension that will be at work when a domestic case reaches the public arena? Having discussed the victim's position and ongoing safety, we shall turn to the defendant, the person who is alleged to have been violent and discuss the taking of a plea and bail options.

[The first role play will occur as to the taking of a plea, the reading of facts and discussing bail and safety.]

5. Session Five – Defended Hearings

This will be the longest of the sessions and the time we take will be customised by how much time is thought to be needed in the other components of the workshop. All participants will be invited to take part in role plays. In the defended hearing, the following will be taught and discussed:

- i. withdrawal of "complaint" and wish of the victim to recant;
- ii. the cultural and family pressures that will be at work and how this will be played out;
- iii. personal and family disgrace how that will be recognised and addressed;
- iv. courtroom organisation; and
- v. the components of evidence and how these components are best applied.

[The role play here will involve the use of a courtroom, selected fact situations and the testing of situations that will frequently arise.]

6. Session Six – The Guilty Plea or Finding of Guilt after a Defended Hearing

There are three components to this part of the workshop. The first is to discuss when and how a restorative justice meeting might be invoked and held. What are the advantages and disadvantages of restorative justice. What must be particularly considered in a family violence case. Secondly, the Pacific constitutional imperative of reconciliation will be addressed and applied. The third component is to discuss with judicial officers what to do pending sentence. What counselling or other programmes might be put in place pending sentence. What are the ongoing safety issues and where should the defendant live.

7. Session Seven - Sentence

What are the available sentencing options. A look at the legislation of specific Pacific countries is vital to this part of the workshop. Sentencing philosophy will be looked at, together with precedent, that is looking to see what superior courts have said in order to apply the law. When will imprisonment be inevitable or appropriate. Finally, what is the relevance and importance of reconciliation or a restorative justice meeting on sentencing outcome.

[This session will involve role plays wherein course participants will be asked to sentence in actual factual situations.]

8. Session Eight – The Role of the Judicial Officer

What are the messages and leadership initiatives that a judicial officer, when sentencing, should consider and apply? What part does a judicial officer play in the community and what leadership role should be taken both in the court and outside the court?

9. Session Nine – The Future: Setting Goals

This will be the conclusion of the workshop and will aim to engage all participants on their individual attitudes and philosophy. All of the tools that a judicial officer should ideally have to undertake a family violence case from start to finish will be assembled and once again discussed.

The workshop will conclude by a statement of our vision. What is the legacy we would like to leave as judicial officers when it comes to the handling of family violence cases.

2.2 Who should be invited?

Our experience so far has been that a truly collaborative workshop achieves the best outcomes. While you may wish some parts of training to be for judicial officers alone, for the most part, having everyone who plays a part in addressing family violence present, is best. It seems to us that judicial officers have welcomed discussing the work they do with other agencies and that in turn those agencies have gained a better appreciation of how the judicial process works. Keep your invitation list as broad as you can and include as many players in the family / justice system as possible.

Special to the Pacific is the place of the church and chiefs. In the February 2013 Vanuatu Family Violence Workshop, the Council of Chiefs presented in a very powerful fashion on the relationship between custom and family violence. We see the invitees to a workshop as being one of the single most important doors to success.

Examples of who you may wish to invite are set out in *Annex 1*.

2.3 WHAT SHOULD BE THE PROGRAMME DESIGN?

To give effect to the components already referred to above, a standard programme might look like what we have attached as *Annex 2*. You will see that this includes youth justice as well.

However the position is a little different in each country and so you will want to customise your programme to reflect this. For instance Vanuatu has its own anti-violence legislation in the form of the Family Protection Act since 2008. The real and ongoing issue for Vanuatu is implementation. Much more recently legislation has been passed in Pohnpei State in the Federated States of Micronesia, the Marshall Islands, Samoa, Solomon Islands, Tonga and Fiji and draft Bills are before the Parliaments of Kiribati and the Cook Islands. It follows that what that country might regard as important might be quite different to another country. Our recommendation is that you take the draft attached but discuss it with proposed invitees before you settle on a final version of the programme.

Our experience has been that workshop attendees prefer to commence each day at 9.00am and to have finished by 4.30pm. This enables judicial officers to undertake some other work each day if needed. It pays to be sensitive to what the requirements of each judiciary are and particularly what view the Chief Justice has as to appropriate workshop times.

In 2.7 we refer to outcomes. To some extent, what you are looking for is an outcome that will of course influence your programme design. And so, looking to see what other countries have achieved and what you may wish to similarly achieve may influence your approach. It is often the case that some "settling down" within a workshop needs to occur and that engagement amongst participants slowly gathers momentum. It may be good for your planning if you concentrate the initial sessions on presentations by others and work towards interactive discussions and more engagement as time goes on.

2.4 How do we plan this workshop?

PJDP has developed a *National Judicial Development Committee Toolkit* and that has the most detailed information necessary to plan this workshop from start to finish. The following are the essentials:

- i. Fix the date well in advance so that judicial officers can be rostered out of normal duties in sufficient time.
- ii. Obtaining the early support of your Chief Justice or other chief judicial officer is crucial because support at this level can make a world of difference to the potency of outcomes.
- iii. Settle your list of intended invitees and double check this with others in the community. Quite unintentionally, you may miss someone really important. And then, get your invitations out with a draft of the programme well before the date given for the workshop. At least a month sounds right.
- iv. You are going to be together as a group, for both parts of the workshop, for four days. And so, your venue needs to be comfortable. There may be a wish to use a court facility. Just bear in mind that judicial officers can sometimes be tempted to work in the court instead of

- coming to the workshop. Perhaps a neutral venue away from the court stands the best chance of keeping people focused on the workshop.
- v. Who will you have to lead and facilitate? It is really important to select people who can communicate well and who know the subject matter. You may have everyone you need incountry, but do not be afraid to ask for a trainer from another Pacific country or through PJDP. Use of a national trainer or one from another country through the regional training team is a very good starting point.
- vi. You will want to produce a booklet for all attendees and much of the content of that can simply be downloaded from this toolkit. But allow yourself time and resource to assemble the booklets.
- vii. You will see from the programme that a variety of activities works best and so does variety in forms of presentation. Our experience has been that PowerPoint is used often and effectively. And so, have PowerPoint available to use.
- viii. Finally, someone needs to be in charge. This might be your National Coordinator or incountry trainer. Communication, if it is good, can make the workshop work really well. If it is not good you risk embarrassing lapses in the programme which might reduce its credibility and impact.

2.5 PRE-WORKSHOP ASSESSMENTS

When you start the workshop it is probably helpful to know how much those present know about family violence. Not only does this give you good information so that your focus is clear for the workshop itself, but it also enables you, at the end of the workshop, to assess what sort of an impact the workshop has had.

PJDP has used a pre-workshop evaluation as set out in Annex 3. This was used for our workshop in Vanuatu but for Tonga we used a simpler question and answer / multiple choice format. This is also included in *Annex* 3. You may wish to use either of these models or customise so that you achieve the pre workshop evaluation that you find most helpful.

As a matter of practicality you may not be able to have the pre workshop assessments filled out until the morning of the first day of the workshop however there is obviously merit in having this information before you complete detailed planning and so, if you are able to send out the pre workshop assessment for attendees to fill out beforehand, then so much the better. You decide whether this is practical. It may be better to wait until the commencement of the workshop.

2.6 Use of materials

In our workshops so far we have used material to good effect. In addition, we have included examples of presentations made by police and other agencies to give you a guide as to what you might ask for your particular workshop. All of this is attached for you in *Annex 4*.

- i. Background reading: Family violence some Pacific considerations (pgs A-11-15)
- ii. Cultural Considerations a PowerPoint prepared by the Vanuatu Women's Crisis Centre (pg A-16)
- iii. PowerPoint The Drivers and Customary Considerations Vanuatu National Council of Chiefs (pg A-17)
- iv. PowerPoint: Typologies in Family Violence prepared by Vanuatu National Council of Chiefs (pg A-18)
- v. Vanuatu Police statistics illustrating cases coming into court (pg A-19)
- vi. Case scenario for role play: Loane v Loane (pgs A-20-23)

- vii. Case scenario for role play: Paul Jones (pgs A-24-25)
- viii. A video clip of Once Were Warriors (pg A-26).

Before settling on the resources you will use, make sure that you communicate with other Pacific countries by way of checking whether they have specific family violence legislation and if so whether they have produced training material and what practices they have found to have been useful. As more and more Pacific countries pass family violence legislation, consulting with others to see what is working well or what the problem areas have been, is a practice we thoroughly recommend.

2.7 DESIRED OUTCOMES

It is easy to talk about our problems and agree that we can and should do better. The risk is that we will not do enough.

It is a good idea, at the very outset, to have in mind what you want to achieve at the end of the workshop. Of course it may change as the workshop progresses.

In workshops undertaken so far, there has been an overwhelming wish to have a firm commitment to change. In this regard, the Palau workshop resulted in a Memorandum of Understanding (MoU) which sets out a very helpful collaborative template of how agencies including the judiciary, will work together. Please refer to **Annex 5** for a copy of the Palau MOU.

In Vanuatu, where there is already specific family violence legislation, the MoU reached was more focused on in-country procedures so that the legislation could work better. This will also be relevant in the other countries who have recently enacted legislation. That is attached as **Annex 6**.

You may think it would be helpful to have a document like this agreed to, signed and circulated.

However when we undertook the Follow-Up visit to Vanuatu we learned that a mistake we had made in the first MoU was not to have agreed on and implemented a "court users group" to ensure that items agreed to and which required action, were actually attended to. It was not clear who should take the leadership role. Our suggestion is that as part of the MoU you create court users group, have the chair of that elected by the workshop and ask that group to meet before the workshop concludes in order to set up their first post workshop meeting. To meet monthly seems wise.

Most Pacific countries have Non-Government Organisations (NGO's) who are available to undertake some counselling or mediation. Forming a relationship with such groups seems crucial because they can help in so many ways in handling referrals from the court. We recommend that you identify what counselling and mediation groups are operating in your country, ensure that they form part of your training and consider forming an ongoing relationship with them. Counsellors and mediators can contribute much to stopping violence programmes for men, victim support programmes for women and in mediating in family conflicts even although family violence may be a factor.

2.8 POST-WORKSHOP ASSESSMENT

We recommended that you check at the beginning of the workshop what the level of knowledge was. You may find it helpful to check again at the end of the workshop to see what part of the workshop has worked well and what those attending have learnt.

Attached in *Annex* 7 is the post-workshop questionnaire which was used in Vanuatu which is a little different to the pre-workshop questionnaire. However for Tonga we used exactly the same questionnaire for both pre

and post workshop assessment (already provided in *Annex 3*) and simply compared the level of knowledge in order to assess what had been learnt.

2.9 FOLLOW-UP

It can be so hard to sustain change. It is not because we do not want to change, but because the ordinary demands of our every day work can make it difficult to spend the time we need to implement change.

And so, your workshop should not be seen as fulfilling the complete task. You may want to organise a follow-up meeting, though of course not a full workshop, to check on implementation. Perhaps putting aside half a day, six months away, will be seen as really important.

We recommend that the lead trainer or workshop organiser assumes responsibility for settling the follow-up procedure including setting a date at the end of the workshop, for the follow-up meeting, and then ensuring that it happens.

3 YOUTH JUSTICE

3.1 What are the components of a training programme?

In the programme that we have already attached you will see a suggested design for the youth justice component of the workshop.

In essence, Day 1 will be theory where participants will learn what the characteristics of young people are and what is special about youth crime.

Day 2 will be a practical day where we talk about the treatment of young people by the police, by the judiciary and those connected with the court, and of course by correctional facilities such as prisons.

3.2 Who should be invited?

The invitation list for family violence will be a good starting point for youth justice, but you may want to add in others who deal specifically with young people. These will be correctional facilities, some NGOs and others such as schools.

Our suggestion is that you make it clear to invitees that there are two distinct components to the workshop, and in this way you find out whether they wish to come for both components of just one. There is no reason why the police should not attend the whole of the workshop. But, different parts of the police may attend the first and second components.

3.3 What should be the programme design?

If you look at the programme that we have attached, you will see that day one deals very much with:

- i. Brain development of adolescents and why this is so important.
- ii. The different types of youth offenders, for instance persisters and desisters.
- iii. What our international obligations are and in particular, UNCROC.
- iv. What the typical 10 characteristics of a desirable youth justice system are in your country.

In Day 2 we need to move to more practical considerations and these should include:

- i. Is there a standard police practice in when young people are charged and if so what is it?
- ii. Is there a diversion scheme in place and if there is how does it work?
- iii. How does the court process work and in particular do young people occupy a separate place in the courts schedule? Are their cases called along with adult cases?
- iv. When you are dealing with young people who do you have in the courtroom?
- v. How is the court set up and is it used friendly? Should the set-up be different to what it is for adults?
- vi. What sort of language do we use when dealing with young people? To what extent is it different from the language we use for adults?

Once these aspects have been covered, it is useful to move into role plays in order to let participants practice the theory. You will want to appoint one of the judicial officers to act as the role of the judge / magistrate, to have a police officer ready to "prosecute", and then to involve others to act out the parts of the young person, the young person's parents, and other resource people. By approaching things in this way, participants will be trying out the theory and putting it into practice.

3.4 Use of materials

Just as we have done with family violence, we have assembled some resource material which is attached and which you may find useful. All of this is attached for you in *Annex 8*. This includes:

- i. Suggestions for youth justice specific justice process (pgs A-37-38)
- ii. Group discussion notes (pgs A-39-41)
- iii. PowerPoint: 10 Characteristics of a Good Youth Justice System (pg A-42)
- iv. The South Pacific Council of Youth and Childrens Courts 15 point assessment of a youth justice system. This is a very useful "self-assessment" tool for your country (pgs A-43-52)
- v. Types of youth offender (pgs A-53-58)
- vi. PowerPoint: Brain development (pg A-59)
- vii. PowerPoint: UNCROC (pg A-60)
- viii. Best practice (pgs A-61-70).

3.5 Pre- and Post-Workshop assessments

Our experience has been that participants had demonstrated a very large shift in their knowledge and practice in this component of the workshop. Very similar questionnaires can be used pre and post workshop. Examples of these are attached as *Annex 9*.

3.6 DESIRED OUTCOMES

By working collaboratively, some major shifts can occur without a great deal of expenditure of resource. For instance:

- i. police colour code cases coming into the court, for instance by designating young offenders cases, a specific colour file;
- ii. by ensuring that when young people are charged proper details are set out as to their age;
- iii. the court scheduling young offender cases at a specific time and away from adult cases;
- iv. all of those people who will form part of good outcomes for young people know when the cases are going to be called and dealt with so that it is inclusive; and
- v. community groups are used to achieve good outcomes particularly where diversion of young people away from conventional sentences are possible.

In an ideal world there would be specific youth justice legislation for each country. But in the absence of that, an agreed process to act collaboratively can provide a very sound foundation. As an example, a MoU reached as a result of the February 2013 Vanuatu Workshop is attached as *Annex 10*.

3.7 FOLLOW-UP

You will see that the design of this workshop is based on the two distinct components of family violence and youth justice. In the follow-up that we have suggested occurring in relation to the family violence component, it seems sensible to include in that follow-up for youth justice.

FAMILY VIOLENCE AND YOUTH JUSTICE PROJECT WORKSHOP TOOLKIT ADDITIONAL DOCUMENTATION

Available at:

http://www.fedcourt.gov.au/pjdp/pjdp-toolkits/PJDP-Family-Violence-Youth-Justice-Toolkit-AD.pdf





Pacific Judicial Development Programme FAMILY VIOLENCE AND YOUTH JUSTICE PROJECT WORKSHOP TOOLKIT

PJDP toolkits are available on: http://www.fedcourt.gov.au/pjdp/pjdp-toolkits

