

BREACHING SAFETY

IMPROVING THE EFFECTIVENESS OF VIOLENCE RESTRAINING ORDERS FOR VICTIMS OF FAMILY AND DOMESTIC VIOLENCE



Government of **Western Australia**
Department for **Child Protection**
and **Family Support**



Curtin University



Acknowledgements

The Women's Council for Domestic and Family Violence Services would like to thank Lotterywest for funding the research project and acknowledge and thank the following people for their contribution to the research:

Research Team Donna Chung (Chief Investigator) - Curtin University (formerly UWA)
Damian Green & Gary Smith - Communicare
Nicole Leggett - Department for Child Protection and Family Support

Reference Group Donna Chung – Curtin University
Kate Davis - Women's Law Centre
Angela Hartwig - Women's Council for Domestic and Family Violence Services (WA)
Carolyn Harris-Johnson – University of Western Australia
Ryan Murphy & Paul Nayler – Western Australia Police
Sherrilee Mitchell & Nicole Leggett – Department for Child Protection and Family Support
Michael Hovane & Nawdy Rousetty – Legal Aid Western Australia
Stephen Clarke - Department of the Attorney General
Mark O'Hare and Linda Maule - Department of Corrective Services
Damian Green - Communicare

Project Support Terri Aldridge and Bernie Sermon - Women's Council for Domestic and Family Violence Services (WA)

Appreciation and thanks are also extended to the men who participated in the research interviews and the service providers that contributed to the focus group.

Special thanks are also extended to the Women's Council Executive Committee for their initial and ongoing support of the project.

TABLE OF CONTENTS

Acknowledgements	i
Table of Contents	1
1. Executive Summary	2
2. Introduction	4
3. The Present Study	8
4. Sample	10
5. Findings	11
6. Conclusions and Recommendations	20
7. References	22
8. Appendix One: Restraining Orders Act 1997 Definitions	24
9. Appendix Two: Flow Chart Violence Restraining Order Court Process	25
10. Appendix Three: Participant Information Form	26
11. Appendix Four: Participant Consent Form	28
12. Appendix Five: Practitioner Participant Information Sheet	31

1 Executive Summary

Protection orders are an important legal instrument for supporting the safety of women and children experiencing family and domestic violence. However, they are not always effective for stopping or containing a perpetrator's use of violence. Data from police and the courts and feedback from victims and service providers demonstrates that some perpetrators of domestic violence continually breach their protection orders through continued abuse, harassment and violence towards the person/s protected.

This small exploratory study sought to identify and investigate breaches of protection order from the perspectives of the perpetrators in particular, men who use violence in an intimate or family relationship, who have been bound by a protection order/s and breached the order/s.

Specifically, the study aimed to:

- gain an understanding of men's perspectives and experiences about being charged with breaching a protection order;
- document men's understandings of why the protection order was put in place and what events led to them being charged with a breach, the consequences of them being charged and the assistance that would have been of most use to them; and
- identify implications for improving policy and service delivery which could promote safety of victims in the future.

METHOD

Ten men were recruited from a Western Australian men's behaviour change program to participate in a semi structured, individual interview. The interviews were complemented with a focus group of service providers including representatives from men's and women's domestic violence services, Family Violence Court, Family Court, Legal Aid and the Department for Child Protection and Family Support.

FINDINGS

Themes arising from the interviews can be broadly grouped into the following three categories.

Attitudes towards their use of violence and protection orders

The men minimised their use of violence and externalised responsibility to 'the relationship' and/or their partner. They diminished or minimised the role and purpose of protection orders, commenting that they are 'just a piece of paper' and 'anyone can get one'. Most men agreed that protection orders were important for 'those that really need it' however they did not see their partners as being in need of protection describing them as being unreasonable or over-reacting. The men's deflections and minimisations about their violence including breaches of protection orders were reinforced (and strengthened) through, what they perceived to be, violence supportive responses by police or service providers, for example when breaches did not result in police investigation or charges.

A pronounced theme throughout all aspects of the interviews was the participants' lack of empathy or regard for the safety and wellbeing of their current or former partners.

'Unfair' processes

A further strong theme throughout the interviews was a narrative about protection order processes being unfair or unjust. In particular, the men exhibited a lack of understanding about how their violence towards their intimate partner, children and family could result in restrictions to their contact with their children and/or exclusion from their property.

The perception of unfairness was exacerbated by a lack of understanding about the process for obtaining a police order or violence restraining order (VRO) including the grounds in which an order can be made, court processes, the conditions an order can impose and penalties of a breach. For example, the participants conflated the civil process with criminal proceedings making comments like 'there was no evidence of violence so how could they get the protection order'.

Responses to breaches

Participants' explanations for breaches of violence restraining orders could be grouped into three categories: men who took responsibility for the breach and related consequences; describing the partner as being responsible for the breach e.g., initiating or 'agreeing' to contact; and 'accidental breachers' where the breach occurred because the protected person and respondent were 'accidentally' in the same physical location.

The latter two explanations align with the themes of minimisation and externalising responsibility for violence described earlier. However, the issue of partner initiated contact does raise an important issue for the women who require flexibility to their protection order to enable them to remain safe and legally protected from unwanted partner contact, but allow communication and face to face contact if necessary e.g., child contact visits.

Focus group – Future Directions

Discussions within the focus group centred on the findings of the study and implications for the service system with regard to making protection orders safer and more effective for women and children protected by them. Focus group discussions are reflected in the below recommendations.

RECOMMENDATIONS

1. A future study be undertaken at the time of application for a VRO which includes the applicant and respondent being separately interviewed and followed up subsequently to gain a greater understanding of factors which can enhance and compromise women's and children safety when there is a VRO in place.
2. Identify strategies which could enhance women's and children's safety in situations where women may have contact with partners or former partners when there is a VRO in place but there are ongoing obligations such as child care and contact or employment where both parties may rely on a joint business for their sole income.
3. Current models of practice are enhanced with the addition of a proactive contact and information service for men who are VRO respondents. This would include a coordinating worker at local sites being responsible for contacting all respondents 24 hours after being served with a VRO to provide information, answer questions and assess risk. They would be the ongoing contact person for the respondent throughout the process. The contact and information service would include:
 - provision of telephone and face-to-face contact on a regular basis;
 - provision of information about the processes and consequences of what is occurring;
 - printed and web based information;
 - referrals to relevant services; and
 - contact with relevant agencies where men are deemed to be high risk so that safety plans can be implemented and risk management strategies increased.
4. Consideration is given to changing the name from a Violence Restraining Order to more accurately reflect its purpose with the term Family Violence Protection Order.

2 Introduction

Protection orders are being used increasingly in Australian jurisdictions as a legal response to perpetrators of family and domestic violence (Alexander 2002). In Western Australia, the number of protection orders issued (including police orders and violence restraining orders) has increased by 63.5%¹ over the last five years (Department for Child Protection and Family Support 2014). The effectiveness of these orders however, has been the subject of significant debate with many service providers and community members questioning whether they are a meaningful deterrent to men who use violence against their intimate partners, children and family members.

This sentiment is supported by research which estimates that between 23-70% of protection orders are breached by the respondent (the person using violence who has been restrained by the order) (Carlson, Harris & Holden 1999; McFarlane et al 2004; Spitzburg 2002). Aside from the obvious safety implications including further violence and abuse, the effect of these breaches on victims of domestic violence 'protected' by the orders includes continued fear and intimidation, emotional harm, disillusionment with the service system and intensified feelings of hopelessness and powerlessness (Laing 2013; Young, Byles & Dobson 2000).

In order to improve the effectiveness of protection orders, this exploratory study sought to interview men who have been responsible for protection order breaches. The purpose of the study was to obtain insight to respondents' experiences of protection order processes, enforcement and penalties in order to inform recommendations for improving the protection order system to make it safer for women and children. The specific aims of the study were to:

- gain an understanding of men's perspectives and experiences about being charged with breaching a protection order;
- document men's understandings of why the protection order was put in place and what events led to them being charged with a breach, the consequences of them being charged and the assistance that would have been of most use to them; and
- identify implications for improving policy and service delivery which could promote safety of victims in the future.

Ten men were recruited from a Western Australian men's behaviour change program. The interviews were complemented by a focus group of domestic violence service providers. This report includes background information about family and domestic violence and protection orders followed by the research findings and recommendations about how protection orders can be more effective in so far as women and children are safer and experience fewer breaches.

FAMILY AND DOMESTIC VIOLENCE

Family and domestic violence is a gendered crime perpetrated mainly by men against their female intimate partners and children. Violent and abusive tactics are intentional, systematic and ongoing; used to create fear and obtain power and control. Forms of abuse used by perpetrators of domestic violence are wide ranging and include physical and sexual violence, emotional/psychological abuse, social isolation and financial or economic abuse (Department for Child Protection 2012).

In Australia, anywhere between one in three (Mouzos & Makkai 2004) and one in five women (ABS, 2005; 2013) experience violence by an intimate partner or family member, and one in four children witness this abuse while they are growing up (Indermaur, 2001). For Aboriginal women and children, the rates of domestic violence are even higher with anywhere up to one in two experiencing family violence (Mouzos & Makkai 2004; AIHW 2006).

The impacts of family and domestic violence for adult and child victims are serious and pervasive, affecting all aspects of health and wellbeing. Family and domestic violence is the leading cause of: perceived and actual threats to safety for women and children (ABS 2005); non-accidental injury and death for women

¹ This figure has been calculated based on number of violence restraining orders granted and police orders issued in 2008-09 compared to 2012-13. The increase is mainly associated with increased use of police orders by WA Police.

aged between 15 and 44 (VicHealth 2004); homelessness for women and children (Tually, Faulkner, Cutler & Slatter 2008); mental health and substance misuse issues for women (Golding, 1999; Keys & Young, 1998); and physical and emotional harm (or risk of) for children (Humphreys 2007). It is estimated that family and domestic violence costs the Australian economy 13.6 billion dollars per annum (Department of Families, Housing, Community Services and Indigenous Affairs 2009).

Responses to family and domestic violence require a holistic approach. Women's and children's physical and emotional safety cannot be guaranteed without work towards accountability of the man using violence. In Western Australia, processes for perpetrator accountability are formalised and supported through an across government and community sector integrated response. *Western Australia's Family and Domestic Violence Prevention Strategy to 2022* (2013) describes an 'integrated response' as government and non-government agencies working collaboratively to identify people experiencing family and domestic violence, share information relevant to risk and safety and coordinate agency responses to increase the collective capacity of the service system to keep women and children safe and hold perpetrators accountable.

An important legal instrument for supporting safety and accountability are civil protection orders. Protection orders are legal tools designed to promote safety for the person/s protected by placing restrictions on the actions and behaviours of the person determined to pose risk of future harm (Logan & Walker 2010). The conditions placed on respondents can be tailored to the unique needs and circumstances of the victim including (but not limited to) restrictions on contact or communication, requiring a party to vacate a premises and removal of, or restricted access to firearms (Legal Aid WA 2013). Breach of a protection order is a criminal offence (Legal Aid WA 2013).

PROTECTION ORDERS IN WESTERN AUSTRALIA

In Western Australia protection orders are administered under the Restraining Orders Act 1997 and include *police orders* and *violence restraining orders*. To inform when and how protection orders are administered the Restraining Orders Act 1997 defines *family and domestic relationship* and *act of family and domestic violence*. These definitions are provided in Appendix One.

Police Orders

A police order is a short term, up to 72 hour restraining order that can be issued by police officers if they reasonably believe that an act of family and domestic violence has or will occur, or that a child has or will be exposed to family and domestic violence (Legal Aid WA 2013). In 2012/13 WA Police responded to 46,874 incidents of domestic violence and issued 16,786 police orders (CPFS 2014). The number of police orders issued by WA Police over the last five years has increased by 92% from 8,727 in 2008-09 (Department for Child Protection and Family Support 2014). Over the same time period, the number of domestic violence incidents attended by WA Police has increased by 42.8% (Department for Child Protection and Family Support 2014).

Violence Restraining Orders

Violence Restraining Orders (VRO) are made by the court. Applications for a VRO can be made by victims of domestic violence (referred to as the applicant or person protected); a police officer on behalf of a victim of domestic violence; or a parent, guardian, police officer or child protection worker on behalf of a child under the age of 18. VROs can also be imposed during proceedings taking place in other courts e.g., criminal proceedings or family law matters (Legal Aid WA 2013).

An application for VRO will be granted if the court is satisfied that: the respondent has committed an act of abuse against a person seeking to be protected and the respondent is likely again to commit such an act against that person; or the applicant reasonably fears that the respondent will commit an act of abuse against the person seeking to be protected. The court is also required to consider whether the VRO is appropriate given the circumstances, which includes consideration of a range of factors related to the person to be protected and the respondent (Legal Aid WA 2013).

The process for obtaining a VRO is outlined in the flow chart in Appendix Two.

In Western Australia in 2012-13 there were 7,949 applications for VRO. 65% of these (n = 5191) became final orders (Department for Child Protection and Family Support 2014).

Breaches of Protection Order

The nature and dynamic of family and domestic violence means that separation is rarely an effective means for stopping perpetrators' use of violence (Campbell et al 2003). Up to 76% of women and children experiencing family and domestic violence from an intimate partner or family member continue to do so after separation (Humphreys & Thiara 2003; Young, Byles & Dobson 2000). In fact separation is widely considered to be a time of increased or elevated risk. In Australia, up to 25% of all domestic homicides occur following separation (Mouzos & Rushforth 2002).

The association of separation with continued or elevated violence makes effective protection orders a critical component of service system responses to family and domestic violence. 'Effective' in this sense refers to protection orders being accessible, tailored to the needs and circumstances of the person seeking to be protected and enforceable by police and criminal justice systems (Laing 2013).

Findings from a range of studies have demonstrated that overall, women with protection orders experience less violence and abuse from their (ex) partner compared to women who do not have a protection order (Holt et al 2002; McFarlane et al 2004; Young, Byles & Dobson 2000). However, the rate at which breaches occur is unacceptably high, ranging between 23% and 70% of protection orders with a median rate of 40% (Carlson, Harris & Holden 1999; McFarlane et al 2004; Spitzburg 2002).

In 2011-12 Western Australia Police recorded 1,949 breaches of protection order, which is likely an underestimate of the overall rate at which breaches occur. Hotaling and Buzawa (2003) found that as many as half of protection order breaches were not reported to police or authorities.

The high prevalence of breaches has led to a loss of confidence among some victims of domestic violence and service providers about the usefulness of protection orders. This was evident in a Western Australian study conducted by Goulding (2007) which interviewed 44 women about their experiences of violence restraining orders; twenty three of whom reported that their (ex) partners had breached the protection order. For these women, protection orders were regarded as fairly ineffective mechanisms for improving safety:

"he's mad. A VRO is just a piece of paper and he's told mum and me that a bit of paper won't stop him killing us"

"it [the VRO] doesn't make me feel any safer. It's only a piece of paper and he knows how to work it"

"I feel safe right now only because he is in prison. I know that a VRO is only a piece of paper and it wouldn't stop him. He breaks the law as a matter of course. That's his life. A VRO will not protect me in any way. In fact the very fact that I took it out against him means he already has good reason to hit me... what no one seems to understand is that reporting domestics can cause the violence to escalate".

Goulding's study about women's experiences of protection orders highlights the fraught nature of civil orders as a response to family and domestic violence, reinforcing the importance of an integrated response to family and domestic violence that includes a protection order system that is accessible and enforceable.

Penalties for Breach of Protection Order

Current penalties for breach of protection order in Western Australia include a fine up to \$6000 and/or two years imprisonment (Legal Aid WA 2013). In June 2011, the criminal code was amended to introduce a presumption of imprisonment following three breaches of protection order (colloquially referred to as 'three strikes'). The amendment introduced one of the toughest legal responses to breach of protection order in Australia. At the time it was introduced, Attorney General Christian Porter said that *"courts will be told to impose a prison sentence for a third breach of a violence restraining order, with exceptions only in extraordinary circumstances"* (Perth Now 2011).

Between May and August of 2012, 105 people were convicted for breaching a protection order three times or more. Of those, 20 were imprisoned and 11 received suspended sentences (Perth Now 2012).

Between 2008-09 and 2011-12 the number of charges laid for breach of restraining order by WA Police increased by 23% up to 1,949 (Department for Child Protection and Family Support 2014).

3 The Present Study

To examine whether protection orders can be more effective for creating safety for women and children, this study interviewed men who have breached a protection order. The interviews included the men's stories about their violence and the events that led up to the breach/es and gathered information about the wide range of factors and processes that may affect their effectiveness including the process (application, notification, hearings, service) and responses to breaches by police and the courts.

In recognition of the ways men who use violence 'construct' or explain the reasons for this behaviour including minimisation, externalising and victim blaming (James, Seddon & Brown 2002; No to Violence 2005), the men were recruited from a men's behaviour change program and were interviewed by an experienced researcher. To qualify and contextualise the interview findings, a focus group with service providers was conducted.

STUDY METHODOLOGY

The aims of the project are to:

- Gain an understanding of men's perspectives and experiences about being charged with breaching a protection order (Violence Restraining Orders or Police Orders).
- Document their understanding of why the protection order was put in place and what events led to them being charged with a breach, the consequences of them being charged with a breach and what assistance would be of most use to them.
- Identify implications for improving policy and service delivery that could promote safety of victims in the future.

This exploratory study examined the perspectives of men charged with breaching a protection order. Men were recruited from a family and domestic violence (FDV) men's behaviour change program run by a non-government organisation. The study received approval from the Human Research Ethics Committee of the University of Western Australia.

A limitation of this small exploratory project was that it only included interviews with men and there is no account about events or experiences from their partners' or former partners' perspectives. This limitation was unavoidable because the administering organisation, the Women's Council for Domestic and Family Violence Services (WA), did not have contact details for or access to the men's partners and it was considered ethically inappropriate to request this information from the men participating in the study. However, those involved in the study have all been involved in working with perpetrators and victims and are aware that very often these accounts differ significantly with men often minimising the violence and abuse perpetrated. The implications of this limitation for future research are discussed in the final section.

The study involved 2 methods, individual semi-structured interviews with men who are or have been charged with breaching a protection order and a focus group with practitioners and managers from a diverse range of services that have contact with perpetrators of domestic violence who have been served with police orders or VROs.

Method 1: Individual Interviews

Men charged with breaching a protection order who were undertaking a FDV men's behaviour change program were recruited for this study. The men had to be over 18 years of age and have undergone an assessment with the service provider prior to being accepted into a program. This is important as it means they will have been screened for mental ill health and capacity prior to entering the program. Program facilitators advised men of the opportunity to participate in the research and they were then given information and followed up with the researcher.

Times were scheduled for interviews and upon completion of interviews men were paid \$50 for their out of pocket expenses and time. It proved time consuming to recruit men and only 10 could be recruited during the project. Interviews were tape recorded and later transcribed with all identifying information removed. The semi-structured interviews took between 30 minutes and 90 minutes to complete.

Method 2: Focus group with key service provider stakeholders

Once the men's interviews were analysed, the findings were discussed in a focus group. The purpose of the focus group with key stakeholders was to consider the interview findings and 'test' out what could be improved with policy and practice to promote women's and children's safety when they had taken out a VRO. The focus group included a wide cross section of stakeholders including managers and practitioners involved in responding to men's use of violence and abuse. This included program providers working with male perpetrators and female victims, those involved in various aspects concerning the law such as Family Law and FDV courts, Corrective Services and Department for Child Protection and Family Support representatives. There were 12 participants in the focus group.

Data analysis

Interviews were transcribed and common themes were identified amongst the men's interviews. For the focus group a number of propositions were tested with participants to identify whether the findings were consistent or differed from their practice experience and changes to policy and practice suggested to test their viability and the opportunity to identify new approaches.

As mentioned this was a small exploratory study. A limitation of the study is that there was not a composite interview with the partner or former partner so it is important to acknowledge this is a particular subjective perspective provided by the male participants.

4 Sample

It was difficult to recruit men to the study and for some participants a few appointments were scheduled. The sample included 10 men.

Male participants were:

- All currently attending a FDV men's behaviour change program.
- Nine out of 10 had children, there were combinations of biological and step children living with the men and/or partner during the relationship and post separation when violence was occurring
- 3 participants had served prison sentences (2 had parallel drug charges)
- 3 had child protection involvement with their family.

Four participants had previously attended FDV men's behaviour change programs. For two of the men the current program was their third program and for the other two men this was their second program.

In relation to VROs it was not always the case that there was one perpetrator and one victim as the table below indicated.

Number of VROs	Participant numbers
1 VRO with 1 partner/ex-partner	N=3
2 VRO with 1 partner/ex-partner	N=3
2 or > VROs with 1 partner/ex-partner	N=2
2 or > VROs with at least 2 different partners	N=2

One participant who reported using violence against his partner and against people inside and outside of the family had two active VROs initially, one to provide protection for his partner and one for his father-in-law. When the participant's partner had the VRO removed it effectively isolated her from her family support, placing her safety at greater risk. Another participant had two consecutive VROs from his most recent ex-partner, one related to a previous partner and one from his father when he was 18.

English was the first language of all participants, eight identified as white, one as Indigenous and one as from the Pacific Islands.

5 Findings

The interviews were structured to try and capture events in a time sequence beginning with what events preceded a police order or VRO being served on the participants.

Nine of the men advised that the police clearly explained what the police order or interim VRO was and what needed to happen as a result of the order at the time it was served such as not making or trying to contact partners and/or children, and any other specific conditions of their individual orders.

Men described being 'surprised' that an interim VRO or police order could be served without the police 'having full evidence', 'the true story' etc. That is to say with only the woman's account for the need for protection from her partner/former partner. There was concern by men that this partial information was showing them to be guilty without a right of reply and hence was unjust. Therefore whilst the conditions of the order were well understood by the men the legal basis and process for VROs was not. Men feeling that they had not had their story heard imply that they understood it more as an adversarial court process where evidence of violence had to be provided to the court such as when they are charged with assault.

*I don't know if this guy [a counsellor] advises her or she does it on her own but all of a sudden there is a VRO against me. I hadn't touched, threatened or done anything. I didn't even know what a VRO is. The cops are at my door two days later and handed me a piece of paper saying it was a VRO. "What is this f*** thing, what is a VRO? A Violence Restraining Order, I haven't done anything, I haven't been charged with assault, haven't been arrested or nothing and there is a VRO, f*** what does this mean?" This means you can't see your kids for two years or your family, you can't do f*** all including going back to the house that you paid for with all your things in or anything. I didn't realise the ramifications of that so I didn't even fight it. I didn't even realise that I could object and before I knew it I had missed the Court date and it was in place and that's what happened with the first VRO.*

A common theme that is consistent with previous research is that men minimised the seriousness of their violence and abuse and in most instances describing their female partner or former partner as contributing to the violence in the relationship due to her substance misuse, mental ill health or pregnancy hormones. The other way that men minimised the circumstances leading to the VRO was to talk about the 'relationship having problems' as if it existed separate from the participants and their individual behaviour. Examples included descriptions such as 'the relationship was dysfunctional' and 'breaking down anyway'. They also used terms to describe the specific incidents that did not denote male to female violence and implied mutual responsibility such as 'argument', 'tiff' and 'retaliation'. One participant explained that his partner did not wish to take out a VRO but the Department for Child Protection "advised her, or pretty much said, that she had to take one out; she didn't really want to but she had no choice". In the following example the participant acknowledges the use of violence to others who are not his partner but uses the descriptions of being drunk and arguing.

What led to a Violence Restraining Order being put in place?

Me being drunk, a big argument at home and various different types of things. How much detail do you want me to go into?

What took place?

The neighbours came out and I beat up a few of the neighbours that came out and they phoned the police and they considered there was a safety problem and they put a 24 hour Restraining Order on me then.

The police one?

Yes. That gave her enough time to go down to the Court House the next day and get the two year VRO that I am on

The participant whose father-in-law had taken out a VRO minimised the dangerousness of his use and threats of violence to his father-in-law. In the following excerpt the participant describes the incident leading up to the VRO application and then later in the interview his perception of the threat. The participant who uses firearms did not appreciate he could not possess firearms or a firearm licence as he suggests the threat 'was not serious'.

When was the first one [VRO taken out]?

The first one was her dad. I was drunk, yet again, and he basically tried to come and put the hard words on me and I ended up picking him up by his throat and pinning him against the wall and told him I was going to shoot him. He rang the police and told them I threatened his life and that and they didn't issue the mini VRO [police order] at that time they just went straight to Court the next day with a letter from the police.

[Later in the interview] Was the relationship [with his partner] affected by what her dad did?

Yes that affected us quite a lot. I think he put it on just because he could. My partner obviously thought he put it on because he was genuinely scared for his life, but you know where I stand on that [participant believed it was to force his daughter to separate from the participant].

Another way in which some participants showed disapproval of violence, distanced themselves from the use of violence and minimised their own behaviour was with reference to the importance and legitimacy of VROs in mentioning that they are needed where women are unsafe. This was typified by expressions such as 'for genuine cases'. One participant stated, 'I know you need them as our friend was murdered by her boyfriend'. Another participant acknowledges the need for women needing protecting from dangerous men but also advises the VRO will not be effective with such men.

Not dismissing that she may have felt some kind of intimidation, I am not dismissing that at all. I feel that she used her knowledge of the system to basically make it very difficult. In that, these VROs are essential because there are some dudes out there that are really bad. They have every intention of hurting their partners in front of their kids or whatever and these ladies need to be protected. At the end of the day this piece of paper doesn't mean anything [to the dangerous men], it's just sensible people who will embark on it [comply and not breach] because they don't want to go to prison.

These participants implied that either they did not see themselves as a threat and/or their partner had unfairly sought a VRO.

A further minimising mechanism that denounces the VRO and by association the seriousness of the woman's concern for her safety is the dismissive expression, 'anybody can get a VRO'. This can also imply that there was no violence, abuse or threats leading to seeking a VRO and that some women partners or former partners may apply for a VRO to be vindictive when separating.

These ideas form part of the participants' justifications about the 'unfairness' of being subject to a VRO. Such ideas circulate within the community and are often taken up by men who are subject to a VRO and their supporters (e.g. his family and friends). For example one participant who migrated to Australia suggests that the VRO is something 'Australians use very commonly and he'd never heard of it in X (his country)'. His home country was one where VROs are commonly used. In any case it was the beginning of the discussion of how it did not seem appropriate or necessary for him to be the respondent to a VRO. When asked what led up to the VRO the participant advised 'I'm trying to repair the relationship' by attending a program. In essence the participant and his partner were due to both meet with the counsellor,

his wife arrived at the counsellor early and spoke to the counsellor for 30 minutes on her own before the participant arrived.

*When I find out I get upset, I tell him how I feel about that how it's supposed to be fair. I felt betrayed that she got heard because I know how bloody smart this woman is and she would've got her manipulative ways in this stuff. I was upset about the situation and I told him. He had spoken independently to her for half an hour! I got a little bit too upset BUT I didn't swear or break anything but (voice raised) when I get upset you f***** know about it it's f***** bullshit. (Voice lowered) OK so that's just an example of how quickly I can sabotage myself. All of a sudden there is a VRO against me I haven't touched, threatened or done anything. The police turn up and what is this f.thing I haven't done anything I haven't been charged with assault or been arrested or nothing.*

Later in the interview the participants reports that 'the only reason she needed to get it was because she said she was scared'. He does not perceive this as a valid reason for him not then being able to have contact with his children or be excluded from his property that he paid for. In a later relationship the participants second 'Australian partner' takes out a VRO which he cites as further evidence of how VROs are unjustifiably used by women where he is 'set up'.

As an indicator that some men did not perceive themselves to be threats they raised that it was unreasonable for final VROs to be of two years in duration in their cases.

There was no actual violence involved, a two year Restraining Order is going overboard. By putting a two year Restraining Order on people what they are doing is playing with people's emotions. Everything doesn't carry on for two years, it is a 5 minute burst of anger I suppose. A two year Restraining Order isn't right. If a person has been physically harmed I agree with a two year Restraining Order for that. If a guy is bashing his partner, put a two year Restraining Order on him, but if his partner is going to Court just saying "I'm scared". A two year Restraining Order means you are not allowed to have contact them, no-one lives at that address. That's really, really hard. I believe every person loves their children and that's where it hurts. To be denied contact with your children and your partner for two years. (The participant had been charged with grievous bodily harm and served with a VRO at the time of being arrested. At the time of arrest his partner was not present).

This highlights a lack of understanding about women fearing for their safety and that of their children. It is also a further example of participants' perception that VROs represent some form of unfair treatment towards them and prevent them from having relationships with their children and partners.

Overall the men's interviews had a strong theme of unfairness and injustice. This is strongly related to the assumption that the VRO represents that there is evidence that they have committed acts of violence towards their partner or former partner. Underlying claims of unfairness is often the idea that women are equally responsible for the violence in the relationship and that only the men are being 'punished' or discriminated against via the VRO process. The two areas most described as unfair in relation to being the subject of a VRO were not being allowed 'in their own house' or 'to see their kids'. In relation to the sense of injustice about not being able to return to their houses, this was particularly pronounced in the few instances where men had a mortgage on the property (with their partners).

Four of the men had partners who were pregnant at the time women sought VROs. Pregnancy is a known time of high risk (Taft et al 2004). In one case the participant argues that it was his partner's 'hormones being all over the place' that led to the 'conflict' that resulted in him being subject to a VRO. In the participants' interviews there was not consideration given to how this affected the woman and unborn child. For two of the participants this was a further indication of how being subject to a VRO was unfair as they could not be at the birth of their children.

I missed out on being there for the birth and that chopped me up pretty bad and I blamed her for that, it was her fault that I got the VRO, it was her fault she put it on me, her fault that I missed the birth and it just ate at me for a while.

Men did not display any empathy or sympathy for their partner or former partner during the interviews. In the focus group discussion when this was mentioned one participant suggested that the men had progressed from this position as a result of program participation as all the men were commencing the program when interviewed. Whilst this is an important and relevant point, it needs to be considered in the context that many men who are subject to VROs presently will not be attending programs so there is not the opportunity for this change.

Four men had previously attended other men's behaviour change programs. One participant reported that he had not found the previous program helpful as the group was too large. As a result of its size he explained, *'It was just listening to stories and not getting any help out of it'*. This has also been noted by researchers when reviewing programs who have raised concerns about too much time being spent on 'introductory and weekly rounds' where men are asked to talk about their experiences in detail on a weekly basis which if not facilitated appropriately can take most of the session (Day et al 2009). This leaves little time for any opportunities to consider intervention. Another participant suggests that his previous program was not effective because he was gaining education and working towards change but his partner was not receiving any intervention to change. The program was not viewed by the participant as one for stopping his violence and abuse but rather one where he was learning to be a good partner but she was not. There was DCP involvement with the family, consequently, both parties were required to attend programs which are described below.

While I was doing the course [previous men's behaviour change program] I was getting better a little bit by little bit and I realised that as much as I could do everything I learned in my course when I come back home to see her and everything she wasn't learning anything as well. By me doing all the work, me changing everything, I just felt let down. I thought we were working for a better future and I started getting angry with her and then one day she was supposed to drop me off at work, I had just started a new job, and she didn't, she went to some DCP camp, and I was just dirty on her because she said on the Saturday that she would take me to work. I had organised it with her two weeks before and asked her if she supported me in changing jobs and if you do then you will have to drive me to and from work. It wasn't just down the road. So when she didn't take me work that day I was pretty pissed off 'cos I felt let down, I thought I was doing the right thing by the family getting a better job, I was paid more so I wouldn't have to work so much after hours. She didn't take me to work that day and the fight started over the weekend when she said on the Sunday she was going to the DCP camp so we were fighting through Sunday to Monday. (After Monday his partner sought a VRO).

A participant currently attending his third FDV men's behaviour change program described his second program, a six month program as follows, *'that worked, that was nice, every week for a couple of hours'*. The reason for his third program attendance was because subsequent to the second program he had assaulted his next partner who was pregnant.

Participants' breaching of VROs could be described in 3 main ways:

1. Acknowledging the breach of VROs.
2. Describing the woman partner/former partner breaching the order through contact with him.
3. The 'accidental' breacher.

The first group of breaching descriptions in the interviews highlighted men who were willing to acknowledge that they had breached the orders through contact with their partners either physical face to face contact or via communications primarily SMS and mobile phone calls. For some participants this was a clear account where they had knowingly breached the VRO conditions. Some participants accepted responsibility for their behaviour and the consequences of the breach. In the following quote the participant who is attending a men's domestic violence perpetrator program for a second time, acknowledges breaching VRO conditions twice but shows no regard for the VRO conditions which he considered unfair particularly in relation to his house and minimises the effect of his behaviour on others.

I breached it because I saw a car in the driveway and was thinking who it could be and smashed into the back of it and so she rang the police and then went to Court and that was about it on that one. They put a Protective Bail Order out and a couple of weeks later I breached that as well.

What led up to that?

Well when I went the first time the Court said I couldn't have any contact with her at all, can't go to my house and it was frustrating because it's my house, or our house, and I can't even go there. I am paying the mortgage and that. I was just frustrated and she wasn't talking to me and I wanted to try and sell it. So I went around there and she didn't answer the door and so I just jumped the back fence. She was playing around with her iPod and so I grabbed it out of her hand and stomped on it, I didn't hit her or anything. I wasn't physical. I snapped a pair of sunglasses.

So went around to the house, broke into the house?

Kind of; I jumped the back fence.

That was the second one. First there was the car and then the second one when she was in the house?

Yes. She was out the back so I didn't actually go into the house. Then the cops came around to my parents' house about 10.30 at night.

So you moved to your parents' house following the Restraining Order?

Yes.

What happened with the first one with the car at the house?

The Corrections place was going to put me on a course which I have already done in Fremantle.

What was that about?

The men's domestic violence group.

In this second example, the participant reports being uncertain as to why a VRO was in place and therefore as a consequence he made phone contact with his former partner. What is notable about this example is that he refers to 'we' lost it implying somehow that his former partner may also have been confused although this does not seem to be the case.

You hadn't ever had the experience of a Violence Restraining Order before this - July 2011 was the first time it ever happened to you?

Yes. I was lost and confused. I made numerous phone calls that day, that night and over the weekend and then after the weekend on the Monday I went straight to Mirrabooka Police Station and asked them what I should do. This is the last thing I wanted, dragging kids through Courts. I had been ringing her and they said, "Just stop ringing her."

You were not allowed to have contact

They said "We can charge you with breach, so we are telling you now to just stop it."

So they explained to you that you couldn't have any contact while the Order is in place?

The communication just broke and we lost it, I was like in a void.

You don't have any past experience of this? This was the first time they had charged you with a breach?

Yes. They said I had breached it 15 times; there were 15 different days and 166 phone calls.

The second category included participants who explained that their partner had initiated contact and thus their engagement with her had breached the VRO conditions or it was what could be described as 'mutually' agreeing to breach the Order. One participant who had been subject to more than one VRO was dismissive of their impact and used the example of how he had breached the order within two days of it being in place and subsequently with no consequences.

I breached that one [VRO] within two days and we continued to breach it every day. There was basically no point of it being there because I breached it within two days and I think a week after that I actually went around there and stayed the night.

What was the breach within the two days?

That was a text message which she replied to and it turned out that we were both doing the same thing, saving each other's text messages to use as evidence in case we got caught to explain the other person.

Nothing came of it in terms of the police or the Courts or anything like that?

No-one busted us. The neighbours came out and said "what are you doing here; we are going to ring the police." Threatened me a few time but the police never got called to it.

So no police involvement in the breaching at all?

No.

No charges of any breaches with this one?

No. I didn't get charged with any of them. I breached it probably 50 times.

He reported that his partner then went to court to have the VRO revoked and reported that the magistrate was 'pissed off with her as it was obviously a waste'. He used the breaching and lifting of the order to highlight his view that they were not effective and that this had also made his partner look foolish, as if this was evidence she had overreacted by obtaining a VRO.

The third category is referred to as the 'accidental breacher', whilst this in reality can occur, in these instances men were referring to their breaches as further examples of the VRO conditions are 'unfair' and finding particular examples to highlight this. This approach of finding hypothetical exceptions has often been heard by practitioners when people are resistant or evasive in taking responsibility.

How did you feel about it [VRO] being taken out against you?

I felt that I was being attacked almost and that my rights were being taken away from me.

Tell me a bit more about that?

Because I still lived in the same area, XYZ, and there is only one shopping centre, I felt why should my rights be taken away from me to go shopping? For instance you could be walking through Coles with half a trolley full of shopping, see the person who served the VRO on you and you would just have to leave it there and walk out. I just felt there should be certain instances where if you are both shopping and you are accidentally in the same place at the same time then that should sort of be waived as long as there was no intent behind it. People can be breached that way and they are innocent. If you hang around there twice or three times then you can get done.

In effect, the men implied that the conditions of orders were unfair and discriminatory as they compromised their liberties or rights when they had not been found guilty of an offence. This was another example of how the related law and court processes were not clear to participants.

*Then my first breach is in the first week, I'm walking about town in this one roundabout town (small rural town) and here she comes in her car, I come within 50 metres and she reports it as a breach. I was walking across the street she was driving so the police came and told me that night I had breached. Well of course the judge dropped that - but that was my introduction to Australian law and the VROs.....I was obeying the VRO but then came Christmas and I wanted to see my kids so I politely texted 'Is it ok if I see the kids?'. BREACH you know. F***** breach for this, for that but nothing threatening you know. I just wanted to see my kids I felt like my whole family had died.*

There were variations in how breaches of VROs were addressed by police and magistrates, this obviously varied according to the circumstances of individuals as well as the availability of evidence and response by police and magistrates. This to some extent makes variation inevitable. However, where things do become a real problem is where police and magistrates are not seen to act in response to breaches it vindicates perpetrators' perceptions that the breach was not serious and that their behaviour more generally is not that serious or threatening. This reinforces the minimisation of their behaviour. Similarly women having contact with the perpetrator, are presented by the men as evidence of his behaviour not being serious. In circumstances where there has been a time lag between the breach and their court dates this was also presented as evidence of it not being that serious or threatening as otherwise court dates would be sooner. In all of these cases the majority of participants presented these circumstances as it also being unfair these events were dragging on for them and they could not be resolved for them. Eight of the ten participants reported that whilst they understood the conditions of the VRO when they were served by police officers

to them, there was not a lot of clarity about the court processes following or how to find out about what would happen in the future. For some participants this manifested in a sense of isolation and for others this prompted their decision to contact their partners or former partners for various reasons despite knowing they were not meant to be doing so.

In response to participants discussing their experiences of being subject to a VRO they were asked what could improve the situation and make them possibly less likely to breach a VRO. Some participants identified that a key gap was that whilst they understood the conditions of the VRO they did not understand the processes leading up to it and following it being served. This is indicated by the following participant's description.

You hadn't ever had the experience of a Violence Restraining Order before this; it was the first time it ever happened to you?

Yes. I was lost and confused. I made numerous phone calls that day, that night and over the weekend and then after the weekend on the Monday I went straight to Mirrabooka Police Station and asked them what I should do. This is the last thing I wanted, dragging kids through Courts. I had been ringing her and they said "just stop ringing her."

You were not allowed to have contact

They said "we can charge you with breach, so we are telling you now to just stop it."

So they explained to you that you couldn't have any contact while the Order is in place?

The communication just broke and we lost it, I was like in a void.

You don't have any past experience of this? This was the first time they had charged you with a breach?

Yes. They said I had breached it 15 times; there were 15 different days and 166 phone calls.

It is all related to phone calls?

Yes

Nothing else on there, all phone calls?

Sometimes I got phone calls from her as well.

In the later part of the interview the participant advises that he would have found it useful to have a contact he could ring and find out what were the next steps in the VRO process as well as what help and support he could get. Other men described the need for 'another party' to be available to them to offer advice and answer any questions they had. A number of men commented that they felt they only had lawyers to ask and they could not afford to use them for this purpose.

It is important to have someone explain that clearly. Have a chance to come back and ask questions. It might take you half a day or a day to think about it.

Additionally maybe some kind of counselling support on top of it. Just being wacked with this piece of paper; you can't go home; you can't communicate with your family. That's a crisis point for a lot of men. I know it was for me. I went into self-destruct. Having a counsellor there with the police to issue it to you could be an option.

Given that research indicates that post separation is a time of heightened risk for women and children and the men in this study were describing being isolated, how to better promote women's and children's safety through improving VRO processes was a key issue discussed in the focus group.

A number of men reported contact with their partners or former partners while being the subject of a VRO. For women who may also be involved with the Department for Child Protection and Family Support (CPFS) there is likely to be a reluctance to discuss this and for women in FDV emergency accommodation there is also a similar reluctance for fear of the consequences. In reality, this compromises women's and children's safety where people may not be aware of such contact. In discussions about this difficult and perennial safety issue focus group participants spoke of how this is particularly hard to address in rural and remote settings and how the Magistrates' Courts can be reluctant to cover aspects about the children's carers as this is seen as the domain of the Family Court. It was suggested that New Zealand Legislation and practice be examined as it was thought to include supervised contact for VRO respondents and whether this could be valuably adapted in Western Australia.

Men reported understanding VRO conditions but not the subsequent legal processes, the importance of changing this situation to enhance safety was discussed. The focus group participants discussed how men who have been served with a police order or VRO could be better informed about court processes so that they could be accountable and not use the serving of a VRO to further blame the woman for his predicament. The need for information services was identified, however, this was not considered to be comprehensive. It was reported that Joondalup and Rockingham Courts are currently piloting 'respondents information sessions' and that this could be further enhanced to have closer to universal coverage and be more proactive. There was a view that there also needed to be a proactive contact person for men who had been served with a VRO. This contact person could provide information as well as referrals to relevant agencies and would contact the respondent 24 hours after the police order or VRO was served. Importantly, it was argued that the contact would also enable some assessment of a man's risk to be observed and acted on where necessary. This was seen as a mechanism for strengthening the current system as well as ensuring men were better informed about processes and what would be forthcoming. This service could be promptly provided and was not a counselling option but rather information giving, however the staff would need training in risk assessment. This was particularly critical given that focus group participants reinforced the findings from the men's interviews that generally men had very little knowledge of the forthcoming legal processes pertaining to VROs. The suggestions pertaining to implementing such a service were consistent with extending current interagency partnership models of working in FDV. It was also thought that women knowing that men are receiving information about the process would make them feel more assured that there is someone working with them and they are not under pressure to advise or assist them to understand the VRO.

Another issue discussed in the focus group was that participants had not perceived themselves as a risk to the victim and did not understand that VROs were not 'unfair' in as much as they were not the same as being charged with assault without any evidence of violence and abuse as some men thought. The need to increase clarity about the purpose of the orders so that they are not confused with a violence related charge was identified. It was proposed that rather than the commonly used term VRO, the term Family Violence Protection Order is used, so that there is a clear emphasis that the woman is seeking protection from violence for herself and her children or other family members as appropriate.

6 Conclusions and Recommendations

This exploratory study has provided some detailed insights into how men understand VROs and the associated processes and more importantly why they have breached them and consequences of this. Whilst it cannot be concluded that men perpetrating FDV are a homogenous group, there are some common themes in which their accounts of their actions minimise their use of violence and abuse and its seriousness to the victims. Prior to any intervention, the participants largely consider their use of violence against their partners or former partners as not their responsibility but rather 'the relationship' has 'problems' is 'dysfunctional' or 'breaking down'. This conflation of relationship conflict with FDV obscures the dynamics of FDV and the reasons why women and their children seek protection via a Violence Restraining Order. In terms of recommendations these relate both to future research and changes and enhancements to existing policies and practice.

This study of only men's perspectives contrasts with other research about women's experiences in seeking a VRO and whether it helped increase her safety. To address these divergences it is important to undertake research with the applicant and respondent at the time of VRO application and subsequently. Previous research has been undertaken with perpetrators and victims in Australia but this has primarily been when men are attending programs which is generally after quite a period of time. It would be valuable to conduct a future 'pair' study based on applicants and respondents at the time of VRO application and subsequently to gain a longitudinal and a wider perspective on the extent to which women's and children safety is enhanced or compromised by VROs and associated processes.

Consistent with international trends, Western Australia has been progressing partnership models of responding to FDV with the requisite joint assessment, information sharing and case management. The research findings indicate that there is the potential to expand this model of working further to enhance the safety of women and children, through the provision of an early, proactive point of contact service for men who are the subject of VROs. Currently some men may access information but this does not happen systematically and being served with a VRO can be isolating and frustrating for men at the time of post separation that is the most dangerous for women. Therefore the implementation of a contact and information service would strengthen the existing system and offer greater safety.

Findings from the individual interviews and focus group indicate the need for a greater emphasis on the fact that VROs are for the protection of victims. At present the protection aspect is not evident in community discourse even if it is well understood within law enforcement and courts. A key mechanism for bringing about changes in understanding is through changes in language. It is suggested that the word protection is included in the 'everyday' naming of the orders. This also makes the important point that it is not about how violent and abusive a respondent is considered to have been but rather the applicant (victim) believes that they require protection from the person. This is not to minimise the violence but rather to highlight the order is about protection.

In looking to the implications of the study for future improvements in knowledge, policy and practice, it is recommended that:

1. A future study be undertaken at the time of application for a Violence Restraining Order which includes the applicant and respondent being separately interviewed and followed up subsequently to gain a greater understanding of factors which can enhance and compromise women's and children safety when there is a VRO in place.
2. Identify strategies which could enhance women's and children's safety in situations where women may have contact with partners or former partners when there is a VRO in place but there are ongoing obligations such as child care and contact or employment where both parties may rely on a joint business for their sole income.

3. Current models of practice are enhanced with the addition of a proactive contact and information service for men who are VRO respondents. This would include a coordinating worker at local sites being responsible for contacting all respondents 24 hours after being served with a VRO to provide information, answer questions and assess risk. They would be the ongoing contact person for the respondent throughout the process. The contact and information service would include:
 - Provision of telephone and face-to-face contact on a regular basis
 - Provision of user-friendly information about the processes and consequences of what is occurring
 - Printed and web based information
 - Referrals to relevant services
 - Contact with relevant agencies where men are deemed to be at high risk so that safety plans can be implemented and risk management strategies increased
4. Consideration is given to changing the name from a Violence Restraining Order to more accurately reflect its purpose with the term Family Violence Protection Order

7 References

- Alexander, R. (2002). *Domestic Violence in Australia: The Legal Response* (3rd edition). Annandale, NSW, Federation Press.
- Australian Bureau of Statistics (2006). *Personal Safety Survey: Australia 2005* - re-issued version, ABS Cat. no. 4906.0, Australian Bureau of Statistics, Canberra.
- Australian Bureau of Statistics (2013). *Personal Safety Survey: Australia 2012*, ABS Cat. no. 4906.0, Australian Bureau of Statistics, Canberra.
- Australian Institute of Health and Welfare (2006). *Family Violence among Aboriginal and Torres Strait Islander Peoples*, Catalogue no. 17, Australian Institute of Health and Welfare, Canberra.
- Campbell, J. et al. (2003). Risk factors for femicide in abusive relationships: Results from a multi-site case control study, *American Journal of Public Health*, 93(7), 1089-1097.
- Carlson, M., Harris, S. & Holden, G. (1999). Protective orders and domestic violence: Risk factors for re-abuse. *Journal of Family Violence*, 14(2), 205-226.
- Day A, Chung D, O'Leary P & Carson E (2009) 'Programmes for men who perpetrate domestic violence: An examination of the issues underlying the effectiveness of intervention programmes'. *Journal of Family Violence*. 24 pp.203-12
- Department for Child Protection (2012). *Family and Domestic Violence Policy*, Department for Child Protection, Government of Western Australia, Perth.
- Department for Child Protection (2012). *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*. Department for Child Protection.
- Department for Child Protection and Family Support (2014). *Western Australia's Family and Domestic Violence Prevention Strategy to 2022: Achievements Report to 2013*. Department for Child Protection and Family Support.
- Department of Families, Housing, Community Services and Indigenous Affairs (2009). *The Cost of Violence Against Women and their Children*. Commonwealth of Australia.
- Golding, J. (1999). Intimate Partner Violence as a Risk Factor for Mental Disorder: A Meta-Analysis. *Journal of Family Violence*, 14(2), 99-132.
- Government of Western Australia. *Restraining Orders Act 1997*. Government of Western Australia.
- Goulding, D. (2007). *The Role of Socio-Economic and Familial Factors in the Pursuit of Final Violence Restraining Orders for Women Subjected to Family and Domestic Violence*, Centre for Social and Community Research, Murdoch University.
- Holt, V., Kernie, M., Lumley, T., Wolf, M. & Rivara, F. (2002). Civil protection orders and risk of subsequent police reported violence, *Journal of the American Medical Association*, 288(5), 589-594.
- Hotaling, G. & Buzawa, E. (2003). Forgoing Criminal Justice Assistance: *The Non-Reporting of New Incidents of Abuse in a Court Sample of Domestic Violence Victims*. Department of Justice, Washington DC, United States of America.
- Humphrey's. C (2007). Family and domestic violence and Child Protection: Challenging Directions for Practice, *Australian Domestic Violence Clearinghouse, Issues Paper 13*.
- Humphreys, C. & Thiara, R. (2003). Neither justice nor protection: Women's experiences of post-separation violence, *Journal of Social Welfare and Family Law*, 25(3), 195-214.
- Indermaur, D. (2001). Young Australians and domestic violence, *Trends and issues in Crime and Criminal Justice, Paper no. 195*, Australian Institute of Criminology, Canberra.

- Keys Young (1998). *Against the Odds: How Women Survive Domestic Violence – The Needs of Women Experiencing Domestic Violence who do not use Domestic Violence and Related Crisis Services*. Office of the Status of Women, Department of the Prime Minister and Cabinet, Canberra.
- Laing, L. (2013). *'It's like this maze that you have to make your way through'*. *Women's Experiences of Seeking a Domestic Violence Protection Order in New South Wales*, University of Sydney, Faculty of Education and Social Work.
- Legal Aid Western Australia (2013). *Violence Restraining Orders – Information*. Legal Aid WA, Government of Western Australia, Perth.
- Legal Aid Western Australia (2013). *Violence Restraining Orders (Family and Domestic Violence) and Police Orders*. Legal Aid WA, Government of Western Australia, Perth.
- Logan, T. & Walker, R. (2010). Civil protection order effectiveness: Justice or just a piece of paper? *Violence and Victims*, 25(3), 332-348.
- McFarlane, J., Malecha, A., Gist, J., Watson, K., Batten, E., Hall, I. & Smith, S. (2004). Protection orders and intimate partner violence: An 18 month study of 150 black, hispanic and white women, *American Journal of Public Health*, 94(4), 613-618.
- Moulton, E. (2012). Domestic violence victims let down, *Perth Now*, 28 October.
- Mouzos, J. & Makkai, T. (2004). *Women's experiences of male violence: findings from the Australian component of the International Violence Against Women Survey (IVAWS)*, Research and Public Policy Series No. 56, Australian Institute of Criminology, Canberra.
- Mouzos, J. & Rushforth, C. (2002). Homicides resulting from domestic altercation, Australian Institute of Criminology, *Crime Facts Information no. 22*.
- Spitzberg, B. (2002). The tactical topography of stalking victimisation and management, *Trauma, Violence and Abuse*, 3(4), 261-288.
- Taft A, Watson L, Lee C. (2004). *Violence against young Australian women and associated reproductive events: a cross sectional analysis*. *Aust NZ J Public Health* 28(4):324-329.
- Tually, S., Faulkner, D., Cutler, C. & Slatter, M. (2008). *Women and Domestic and Family Violence and Homelessness: A Synthesis Report*, Flinders University for Housing, Urban and Regional Research, Adelaide.
- VicHealth. (2004). *The Health Costs of Violence: Measuring the Burden of Disease caused by Intimate Partner Violence*, Victorian Health Promotion Foundation and the Department of Human Services, State Government of Victoria, Melbourne.
- Young, M., Byles, J. & Dobson, A. (2000). The effectiveness of legal protection in the prevention of domestic violence in the lives of young Australian women, *Australian Institute of Criminology Trends and Issues*, number 148.

8

Appendix One: Restraining Orders Act 1997 Definitions

An act of family and domestic violence means one of the following acts that a person commits against another person with whom he or she is in a family and domestic relationship:

- a) assaulting or causing personal injury to the person;
- b) kidnapping or depriving the person of his or her liberty;
- c) damaging the person's property, including the injury or death of an animal that is the person's property;
- d) behaving in an ongoing manner that is intimidating, offensive or emotionally abusive towards the person;
- e) pursuing the person or a third person, or causing the person or a third person to be pursued —
 - i. with intent to intimidate the person; or
 - ii. in a manner that could reasonably be expected to intimidate, and that does in fact intimidate, the person;
- f) threatening to commit any act described in paragraphs (a) to (c) against the person.

Family and domestic relationship means a relationship between 2 persons —

- a) who are, or were, married to each other;
- b) who are, or were, in a de facto relationship with each other;
- c) who are, or were, related to each other;
- d) one of whom is a child who —
 - i. ordinarily resides, or resided, with the other person; or
 - ii. regularly resides or stays, or resided or stayed, with the other person;
- e) one of whom is, or was, a child of whom the other person is a guardian; or
- f) who have, or had, an intimate personal relationship, or other personal relationship, with each other.

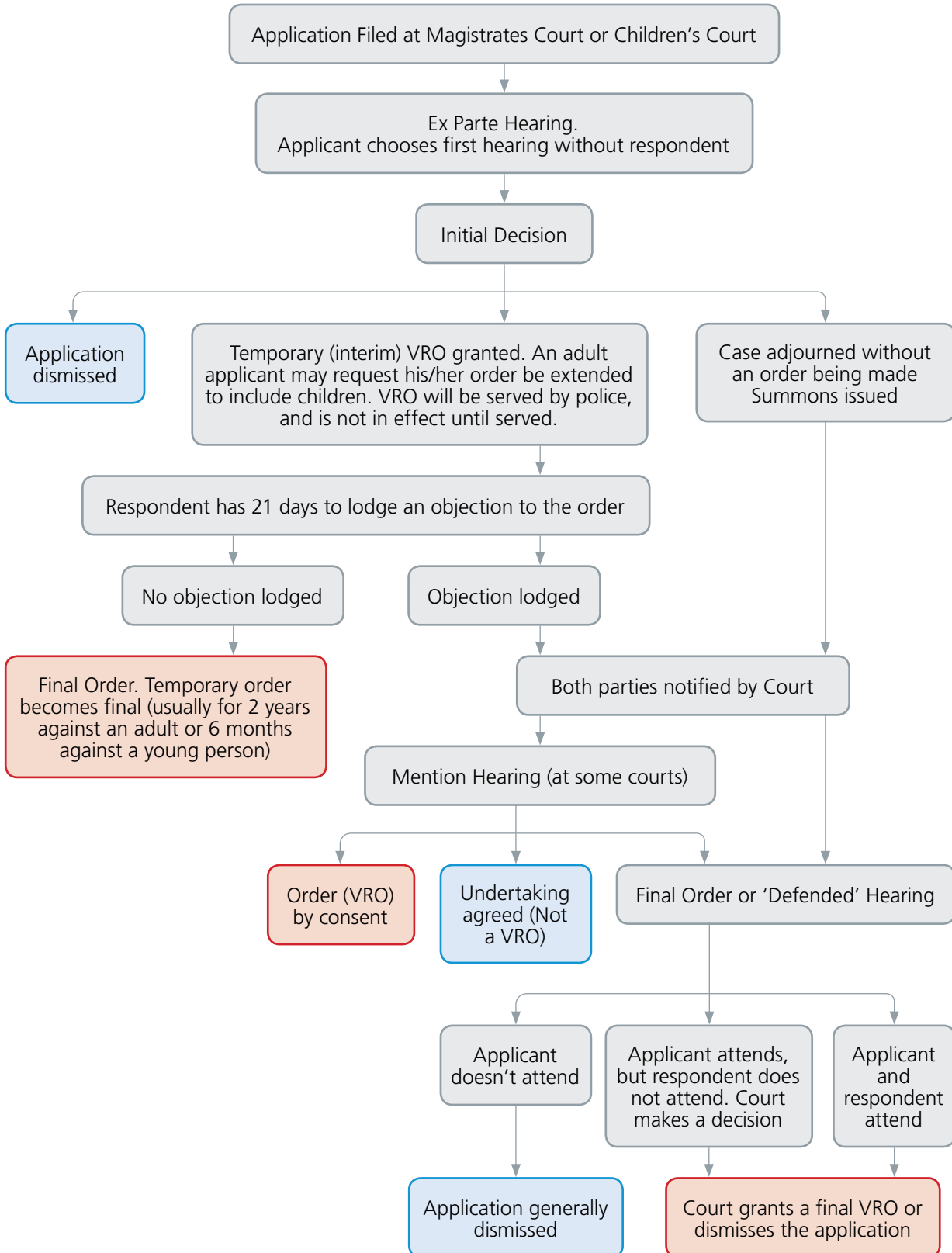
Other personal relationship means a personal relationship of a domestic nature in which the lives of the persons are, or were, interrelated and the actions of one person affects, or affected, the other person.

Related, in relation to a person, means a person who —

- a) is related to that person taking into consideration the cultural, social or religious backgrounds of the 2 persons; or
- b) is related to the person's —
 - i. spouse or former spouse; or
 - ii. de facto partner or former de facto partner.

9

Appendix Two:
Flow Chart Violence Restraining Order Court Process



10 Appendix Three: Participant Information Form



**THE UNIVERSITY OF
WESTERN AUSTRALIA**
Achieve International Excellence

School of Population Health
M431
35 Stirling Highway
Crawley WA 6009
T 6488 7375
F 6488 1070
E donna.chung@uwa.edu.au
www. <http://www.sph.uwa.edu.au/>

CRICOS Provider Code: 00126G

Participant Information Form

PROJECT TITLE: *Being charged with breaching a Protection Order (Violence Restraining Order or Police Order): The perspectives of those being charged*

Thank you for your interest in this research project about being charged with breaching a protection order. This information sheet tells you about what we are trying to find out through this project, what your involvement would include, and what your rights are and invites you to proceed with your involvement as a participant.

This research project aims to gain an understanding of men's perspectives to identify the circumstances leading to the breach, and to identify how authorities could better respond to breaches as well as prevent breaches from occurring so that victim safety is not compromised. Therefore we are wanting to find out your perspective and experiences about being charged with a breach, what circumstances led to the situation of being charged and what has been your experience following this.

This research has been commissioned by The WA Women's Council for Domestic and Family Violence Services with funding from Lottery West.

What does your participation involve?

An interview of up to an hour with an interviewer who has a background in social work or psychology and is an experienced counsellor to find out about your experience and hear from you about how you think things could be improved in the future.

- The interview will take place at Lottery West House, 2 Delhi St, West Perth at a time which is convenient for you.
- The interviewer will be either a researcher from the University of Western Australia or a staff member from Communicare who has training in social work or psychology. The staff member from Communicare will not be someone who you have had contact with and he will not be familiar with your situation. The staff member will not report any information you provide to Communicare. What you say during the interview will be sent to the researcher for the purposes of research analysis. The interview information will have all identifying information removed. If you prefer to only be interviewed by a UWA researcher please advise when making a time for your interview so this can be arranged.
- You will be reimbursed \$50 for your interview to cover your costs and time

If at any time during the interview you disclose information that indicates the present or future safety and security of another person could be at risk or the intention to do harm to another person it will be reported to the relevant authorities at that time.

We do not anticipate that there is any risk associated with your involvement in this interview, however, should the interview process raise any personal concerns for you it will cease and we will provide you with information for follow up support.

In addition, if you become upset at the time of interview, the interviewer is an experienced counsellor with a background in social work or psychology who is able to provide you with counselling support at the time and refer you to services for further counselling and support. The benefits of your participation are that it gives you the opportunity to provide feedback on how to improve things for the future. Also if you think there are important things for services to be aware of this will be included.

Your participation in this study is voluntary and you are free to withdraw up until the completion of your interview without any prejudice or impact on the services and programs you may be attending.

If you decide to withdraw you do not have to give any reason or justification for withdrawing. In the event of your withdrawal from participation your records will be destroyed unless you agree that the researcher can retain and use the information you have thus far provided. The researcher is Winthrop Professor Donna Chung.

With your consent the interview will be audio-taped and later transcribed. The audio tapes will be destroyed once there is a typed transcription of the tape, transcriptions will be stored in a secure cabinet in the Chief Investigator's office for a period of five years. All information provided will be treated as confidential, meaning that your name and other information that might identify you will not be used in any research publication or report. *Your participation in this study does not prejudice any right to compensation, which you may have under statute or common law.*

Approval to conduct this research has been provided by The University of Western Australia, in accordance with its ethics review and approval procedures. Any person considering participation in this research project, or agreeing to participate, may raise any questions or issues with the researchers at any time.

In addition, any person not satisfied with the response of researchers may raise ethics issues or concerns, and may make any complaints about this research project by contacting the Human Research Ethics Office at The University of Western Australia on (08) 6488 3703 or by emailing to hreo-research@uwa.edu.au

All research participants are entitled to retain a copy of any Participant Information Form and/or Participant Consent Form relating to this research project.

If you are willing to go ahead with your participation please contact ... XXXXXXX.

XXXXXXXXX will organise a time to conduct the interview with you. In the mean time if you have any questions or concerns please contact Winthrop Professor Donna Chung on 6488 7375, any questions are also treated with the strictest confidence.

Yours sincerely

Winthrop Professor Donna Chung
Chief Investigator

11 Appendix Four: Participant Consent Form



**THE UNIVERSITY OF
WESTERN AUSTRALIA**
Achieve International Excellence

School of Population Health
M431
35 Stirling Highway
Crawley WA 6009
T 6488 7375
F 6488 1070
E donna.chung@uwa.edu.au
www. <http://www.sph.uwa.edu.au/>

CRICOS Provider Code: 00126G

Participant Consent Form

PROJECT TITLE: *Being charged with breaching a Protection Order (Violence Restraining Order or Police Order): The perspectives of those being charged*

I have read the information provided and any questions I have asked have been answered to my satisfaction. I agree to participate in this activity, realising that I may withdraw at any time until the completion of the interview without reason and without prejudice.

I understand that all identifiable (attributable) information that I provide is treated as strictly confidential and will not be released by the investigator in any form that may identify me. The only exception to this principle of confidentiality is if documents are required by law.

I have been advised as to what data is being collected, the purpose for collecting the data, and what will be done with the data upon completion of the research.

I understand that if during the interview I disclose any information that concerns the safety and security or intention to do harm to another person it will be reported to the relevant authorities.

I agree that research data gathered for the study may be published provided my name or other identifying information is not used.

I agree/ I do not agree to the interview being audio-taped and later transcribed.

Participant

Date

Approval to conduct this research has been provided by The University of Western Australia, in accordance with its ethics review and approval procedures. Any person considering participation in this research project, or agreeing to participate, may raise any questions or issues with the researchers at any time.

In addition, any person not satisfied with the response of researchers may raise ethics issues or concerns, and may make any complaints about this research project by contacting the Human Research Ethics Office at The University of Western Australia on (08) 6488 3703 or by emailing to hreo-research@uwa.edu.au

INTERVIEW SCHEDULE FOR PARTICIPANTS

Background to the study

This research is about understanding the events and circumstances under which people are charged with breaches of Violence Restraining Orders and what are people's experiences following the charge.

Could we start with some basic information to begin with:

Your Age: _____

What is your relationship with the protected person (PP) from the VRO – person who took out the VRO?

- Partner
- Ex-partner
- A family member of yours
- A family member of your partner/ex-partner
- Your child(ren)
- Other Please describe _____

1. Can you tell us a little bit about how you came to be subject to a Violence Restraining Order?

Prompts:

- Why was the order taken out (explore the relationship history)? Specifically establish the nature of the relationship with the protected person (PP)
- Did you object to (i.e contest) the application?
- How was the order served on you?
- What were the conditions on the order?
- If living together with pp 'Where did you go after being served with the order?' (NB: This depends on the nature of the order – not all exclude respondents from the property)

2. Have you been the subject to a Violence Restraining Order before?

2.1. No – go to Q.4

2.2. Yes

2.2.1. Did this involve the same person or different persons? (Same applicant or different applicants?). Roughly how long ago was this?

3. Do you have any past experiences of being charged and/or convicted with breaches of a Violence Restraining Order?

3.1. Can you tell me about the most recent or significant breach you were charged with? (If there was a very significant breach and the most recent one was relatively minor – go to the most significant one)?

Prompts:

- How long had the VRO been active?
- What happened – can you tell me more about the situation that led to you being charged with a breach?
 - Time of day
 - Place

- How did the pp [applicant's name] react in this situation– what did she do?
- Were there children present?
- Did the Police become involved? If yes, how did they become involved? What did they do?

Now I'd like to ask you in a little more detail about how you were feeling through all of this:

4. When the VRO was first taken out, how did you feel about the VRO being taken out against you?

Prompts:

- What did you understand as the reason(s) for the VRO being taken out?
- How did you feel when it was served on you?
- Did it influence how you were acting and behaving at that time? If yes, how? If no, why?
- Were there changes you had to make about where you lived, where you went etc?

5. What do you think that you did which led to you being charged with the VRO breach?

Prompts:

- What was your intention?
- What thoughts do you remember having at the time?
- What were you feeling at the time?
- When you look back on it, how do you feel about the charges now?
- How do you think that the PP was feeling at the time?

Now on reflection I'd like to ask you some questions about how you think the system operated in relation to VROs and when charges are laid for breaching them – both in your case and also in general.

6. Is there anything that could have done differently that you think may have prevented you being charged with breaching the VRO?

Prompts:

- What could the courts have done differently?
- What could the Police have done differently?
- How could you have handled the situation differently?
- Are there any changes in the law in this area that you would like to see?
- Are there any services that may have helped you before or after being charged with the breach?
- Did you know about the Men's helpline? (If yes, did you think it might help? If no, explain what it is and what it does)

7. With the benefit of hindsight, what do you think are the most important things for a person to know when they are subject to a VRO? If charged with a breach – what is most important to know to prevent any future danger to any party?

8. To conclude is there anything you want to add or say related to protection orders which will improve the safety of women, children and men in Western Australia?

Thank you for your time today

12 Appendix Five: Practitioner Participant Information Sheet

Practitioner Participant Information Sheet

PROJECT TITLE: *Being charged with breaching a Protection Order (Violence Restraining Order or Police Order): The perspectives of those being charged*

Thank you for your interest in this research project about men who have been charged with breaching a protection order. This information sheet tells you about what we are trying to find out through this project, what your involvement would include, and what your rights are and invites you to proceed with your involvement as a participant.

This research project aims to gain an understanding of men's perspectives to identify the circumstances leading to the breach, and to identify how authorities could better respond to breaches as well as prevent breaches from occurring so that victim safety is not compromised.

The aims of the project are:

- To gain an understanding of men's perspectives and experiences about being charged with breaching a Protection Order (Violence Restraining Orders or Police Orders)
- To document their understanding of why the Protection order was put in place and what events led to them being charged with a breach, the consequences of them being charged with a breach and what assistance would be of most use to them.
- To identify implications for improving policy and service delivery which could promote safety of victims in the future

This research has been commissioned by The WA Women's Council for Domestic and Family Violence Services with funding from Lottery West.

What does your participation involve?

- An interview of up to an hour with Donna Chung, the Chief Investigator to find out about your experience of working with men who have been charged and convicted of breaching a VRO. We are very interested in knowing from your experience how you think any elements of the law enforcement, judicial and human service agency responses could be improved as well as what you think is working well at present.
- The interview will take place at a time and location which is convenient for you.

The benefits of your participation are that it gives the researcher the benefit of your knowledge about the breaching of Violence Restraining Orders and you the opportunity to provide feedback on how to improve things for the future.

Your participation in this study is voluntary and you are free to withdraw at any time up until the completion of the interview without any prejudice.

If you decide to withdraw you do not have to give any reason or justification for withdrawing. In the event of your withdrawal from participation your records will be destroyed unless you agree that the researcher can retain and use the information you have thus far provided. The researcher is Winthrop Professor Donna Chung.

With your consent the interview will be audio-taped and later transcribed. The audio tapes will be destroyed once there is a typed transcription of the tape, transcriptions will be stored in a secure cabinet in the Chief Investigator's office for a period of five years. All information provided will be treated as confidential, meaning that your name and other information that might identify you will not be used in any research publication or report.

Approval to conduct this research has been provided by The University of Western Australia, in accordance with its ethics review and approval procedures. Any person considering participation in this research project, or agreeing to participate, may raise any questions or issues with the researchers at any time.

In addition, any person not satisfied with the response of researchers may raise ethics issues or concerns, and may make any complaints about this research project by contacting the Human Research Ethics Office at The University of Western Australia on (08) 6488 3703 or by emailing to hreo-research@uwa.edu.au

All research participants are entitled to retain a copy of any Participant Information Form and/or Participant Consent Form relating to this research project.

If you are willing to go ahead with your participation please contact Donna Chung on 6488 7375 with any questions and to make a time for the interview. Attached is the consent form which if you are happy to go ahead you could sign and bring to the interview.

Yours sincerely

Winthrop Professor Donna Chung
Chief Investigator