ANROWS

AUSTRALIA'S NATIONAL RESEARCH ORGANISATION FOR WOMEN'S SAFETY

to Reduce Violence against Women & their Children

Landscapes

State of knowledge | December 2015

Domestic and family violence protection orders in Australia: An investigation of information sharing and enforcement: *State of knowledge paper*

Issue 16 | 2015

ANROWS acknowledgement

This material was produced with funding from the Australian Government and the Australian state and territory governments. Australia's National Research Organisation for Women's Safety (ANROWS) gratefully acknowledges the financial and other support it has received from these governments, without which this work would not have been possible. The findings and views reported in this paper are those of the authors and cannot be attributed to the Australian Government, or any Australian state or territory government.

Acknowledgement of Country

ANROWS acknowledges the traditional owners of the land across Australia on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander elders past, present and future; and we value Aboriginal and Torres Strait Islander history, culture and knowledge.

Published by

Australia's National Research Organisation for Women's Safety Limited (ANROWS)
PO Box 6322, Alexandria NSW 2015 | www.anrows.org.au | Phone +61 2 8374 4000
ABN 67 162 349 171

Domestic and family violence protection orders in Australia: An investigation of information sharing and enforcement: State of knowledge paper / Annabel Taylor, Nada Ibrahim, Shellee Wakefield, Katrina Finn.

Sydney : ANROWS, c2015.
Pages ; 30 cm. (Landscapes : State of knowledge: 16/2015)
I. Violence against women. II. Victims of family violence – Legal status, laws etc – Australia. III. Victims of family violence – Services for.
I. Taylor, Annabel. II. Ibrahim, Nada. III. Wakefield, Shellee. IV. Finn, Katrina.

ISSN: 2204-9657 9 (print) 2204-9665 (online)
ISBN: 978-1-925372-31-1 (print) 978-1-925372-30-4 (online)

Queensland Centre for Domestic and Family Violence Research
CQUniversity Mackay, PO Box 135, Mackay MC, Queensland 4741
www.noviolence.com.au Phone +61 7 4940 3320

Domestic and family violence protection orders in Australia: An investigation of information sharing and enforcement: State of knowledge paper

Prepared by

Associate Professor Annabel Taylor, Director, Centre for Domestic and Family Violence Research (CDFVR), CQUniversity

Dr Nada Ibrahim, Senior Research Officer, CDFVR, CQUniversity

Ms Shellee Wakefield, Senior Research Officer, CDFVR, CQUniversity

Ms Katrina Finn, Senior Research Officer, CDFVR, CQUniversity

Author acknowledgement

The authors thank ANROWS, the anonymous reviewers and the research team's advisory group for their helpful comments and advice, along with Colleen Gunning (CDFVR) for her valuable feedback and assistance in editing. The research was undertaken as part of the Queensland Government's in-kind contribution to Australia's National Research Organisation for Women's Safety (ANROWS).

This work is part of the ANROWS Landscapes series. ANROWS Landscapes (State of knowledge papers) are medium length papers that scope current knowledge on an issue related to violence against women and their children. Papers will draw on empirical research, including research produced under ANROWS's research program, and /or practice knowledge.

This paper addresses work covered in the ANROWS research project 4.1 "*Domestic and family violence protection orders in Australia: An investigation of information sharing and enforcement*. Please consult the ANROWS website for more information on this project. In addition to this paper, an ANROWS Horizons and Compass will be available at a later stage as part of this project.

This page has intentionally been left blank.

Contents

Introduction

Context and scope

Under Australia's National Research Organisation for Women's Safety's (ANROWS) Research Program 2014-2016, the Queensland Centre for Domestic and Family Violence Research (CDFVR) was commissioned to investigate the enforcement of protection orders in Australia including information sharing and cross-border enforcement issues. The National Research Agenda recognised that a multi-jurisdictional comparison of legal and justice system responses across Australia is required to identify how the law can work to promote the safety of women and their children. "Improving legal and justice responses to violence against women" was therefore identified as a research priority (4.1) in the ANROWS Research Priorities released in May 2014.

Following wide consultation with national stakeholders and the relevant ANROWS advisory group, three areas of interest were identified and these underpin the purpose of this research:

- enforcement of protection orders;
- information sharing specific to protection orders; and
- cross-border issues of enforcement of protection orders.

Current state of knowledge paper

This state of knowledge paper informs the empirical research to be undertaken to investigate the perspectives of key stakeholders of domestic violence protection order enforcement in Australia. The aims of this report are described and definitional issues are addressed at the outset in the Australian policy context. The priority of this issue to the Australian Government is also explored in this paper. A description of the methodology applied to this paper is followed by a comparative analysis of the legislation for enforcement of protection orders across Australia's states and territories. This section examines the implications of the varied responses to protection order enforcement. In order to recognise the pivotal role that the experience of victims plays in enforcement of Domestic Violence Protection Orders (DVPOs), the following section details victims' and victim advocates' perspectives of enforcement. These insights then inform the scope of literature reviewed on the role of police and magistrates and lawyers in enforcement. The review ends with a summary of the findings and their implications for an empirical study of protection order enforcement in Australia.

This state of knowledge paper has five purposes which are to:

1. investigate the current knowledge about enforcement of DVPOs in Australia;
2. understand the legislation that underpins enforcement of DVPOs in Australia across jurisdictions;
3. scope the Australian research that has been undertaken on enforcement of protection orders;
4. explore the perspectives of victims and their advocates, police and magistrates and lawyers on enforcement of protection orders; and
5. understand the existing knowledge on information sharing related to protection orders, within and across agencies and across state borders.

Definitions

Depending on the state or territory in Australia, domestic violence protection orders under family violence legislation are described as: domestic violence orders, apprehended violence orders, family violence intervention orders, violence restraining orders, family violence orders, and domestic violence restraining orders (Queensland Indigenous Family Violence Legal Service (QIFVLS), 2014). For the purposes of consistency, throughout the report the terms Domestic Violence Protection Order (DVPO) and protection order are used to refer to domestic violence civil protection orders.

Although it is recognised that the terms domestic and family violence relate to a range of relationships, in this report the emphasis is on intimate partner violence as a reflection of the prevalence of this phenomenon (Premier's Special Taskforce on Domestic and Family Violence (PSTDFV), 2015). The terms "family violence (FV)" , "domestic violence (DV)" and "domestic and family violence (DFV)" are used interchangeably throughout this report to refer to intimate partner violence, unless otherwise stated (PSTDFV, 2015). Policy documents on domestic violence often use the terms "victim" and "survivor" interchangeably with some disciplines preferring one over the other. This paper uses the term "victim" to refer to those who have experienced violence from a partner; however, this does not imply that these women are not survivors. The term is used here for consistency throughout the paper and should be understood as synonymous with survivor. The terms "offender" and "perpetrator" are used interchangeably and are meant to refer to the DVPO respondent or the violent partner with the current DVPO against them.

For the purposes of this research, "enforcement" refers to the relevant post-application processes including breaches and actions taken to enforce the protection order by the victims, police, courts and victim advocates involved.

Background to protection orders

Protection orders are the most broadly used justice response mechanisms for ensuring the safety of women and children exposed to domestic violence. For the successful use of protection orders, effective enforcement by police officers and courts is as crucial as the petitioners and respondents taking these orders seriously (DeJong & Burgess-Proctor, 2006). When women seek protection orders it is primarily due to the need for immediate protection (Bagshaw, Chung, Couch, Lilburn, & Wadham, 2000). Though protection orders are associated with a reduction of abuse for many women, a significant number of women are subjected to further abuse after obtaining a protection order (Carlson, Harris, & Holden, 1999).

The safety of women and children who experience domestic violence is an Australian Government priority in line with United Nations' (UN) expectations that member nations focus on and reduce the incidence and prevalence of violence perpetrated against women. The UN Committee on the Elimination of Discrimination Against Women (CEDAW) in its 1992 recommendations Nos. 19 and 20 urged member states to "act with due diligence to prevent violations of rights" and referred to the possibility of states being held responsible for private acts should they fail in their duty to protect women's rights and safety (UN Committee on the Elimination of Discrimination Against Women (CEDAW), 1992). In Australia and elsewhere the main statutory and legal mechanism aimed at ensuring women's immediate and ongoing safety is the protection order, a pivotal provision under various domestic and family violence legislation across Australian states and territories. The administration of protection orders relies on key statutory response agencies, particularly the police, judicial agencies, and child safety personnel. In addition, domestic violence support services in the non-government or not-for-profit sector have, since the feminist movement in the 1960s and 1970s, played a crucial role in advocating for women and supporting them through redress and recovery. Domestic violence legislation and protection orders have been in place over the last 20 to 30 years and during this time significant concerns have been raised about the degree to which protection orders and their administration adequately meet the safety needs of women and children.

Although cross-border issues in the enforcement of protection orders have, in recent years, become a major concern for the domestic violence sector and the Australian Government (Department of Social Services (DSS), 2014), there has

been little attention paid to these issues in research. On the international scene the Hague Conference on Private International Law has signalled a desire to consider enforcement of civil protection orders across international boundaries (Permanent Bureau of the Hague (PBH), 2012). In a report produced in April 2014, the Hague Council on General Affairs, of which Australia is a standing member, recommended that recognition and enforcement of foreign civil protection orders is considered as a new instrument to sit alongside other family law measures aimed at protecting women and children (Permanent Bureau of the Hague (PBH), 2014). The Permanent Bureau of the Hague's 2012 report (p. 13) refers to legislative initiatives under consideration by the European Union to establish recognition of civil protection orders between member states and Canada. Canada is cited as an example of a country which, in 2012, instituted cross-provincial recognition of protection orders under the *Uniform Enforcement of Canadian Judgements and Decrees Amendment Act*, 2011. The 2012 report noted that New Zealand and Australia have established legislation that allows for the recognition and enforcement of protection orders generated in their respective jurisdictions (Permanent Bureau of the Hague, 2012). In April 2014, the Hague Council on General Affairs signalled its desire for the Permanent Conference to "continue exploratory work" (Hague Conference on Private International Law (HCPIL), 2014) and invited member states to provide their country profile regarding recognition of protection orders (Draft Country Profile on National and Foreign Protection Orders: Legislation, Recognition and Enforcement and Other Resources). In the preliminary country profile reporting of June 2014 it appeared that Australia was among countries that had yet to provide information on this issue, thus reinforcing the value of this national research to inform its international contribution (Hague Conference on Private International Law, 2014).

In line with the prioritising of domestic violence in recent years, the Australian federal and state governments, following a lengthy process of consultation and submissions, adopted a 12-year National Plan to Reduce Violence against Women and their Children 2010-2022 (the National Plan) (Council of Australian Governments (COAG), 2011).

As part of the national discussion and debate on how to more effectively address family violence, the Australian Law Reform Commission (ALRC) and the New South Wales Law Reform Commission (NSWLRC) produced an extensive report that noted that there is overall fragmentation in family violence law in Australia with inconsistencies in statutes and practice among the states and territories (Australian Law Reform Commission (ALRC) & New South Wales Law Reform Commission (NSWLRC), 2010). Family violence can "fall between the cracks" of family law and protection order law and the legal framework is characterised by operational silos which mean that victims of family violence have to engage with several different elements of the legal system (ALRC & NSWLRC, 2010).

The Second Action Plan (of the National Plan), for the period 2013-2016, has identified as a key priority the implementation of a "national scheme for family and domestic violence protection orders" (Australia. Department of Social Services, 2014). In June 2014, the Senate Standing Committee on Finance and Public Administration invited submissions to an inquiry into the prevalence and impact of domestic violence in Australia and a women's legal service's submission, among others, added its voice for a "national domestic violence protection orders scheme" (Central Australian Women's Legal Service (CAWLS), 2014, p. 13). To progress this priority it is essential to first understand the existing experiences and views of victims and professionals in the enforcement of protection orders, particularly cross-border situations.

Methodology

Search strategies

This review builds on other reviews of protection orders in Australia and specifically on those sections in existing reports that relate to enforcement of orders (Australian Law Reform Commission (ALRC) & New South Wales Law Reform Commission (NSWLRC), 2010; Jeffries, Bond, & Field, 2013; Sentencing Advisory Council, 2008; Wilcox, 2010). The search of the existing knowledge base has focused primarily on the period 2000 to 2015 with a preference for the most recent material. Computer searches were undertaken of key electronic databases including

- ScienceDirect;
- Google;
- Google Scholar; and
- PsycINFO.

Keywords employed in the searches were: protection orders, restraining orders, enforcement, breaches, domestic violence, family violence, intimate partner violence, police, officers, correctional services, magistrate, judiciary, prosecutor, attorney, lawyer, victims, perpetrators, courts, Australia, and cross-border orders. Boolean logic was applied in connecting terms (Fink, 2014) in order to capture different aspects of enforcement of protection orders. Reference lists of key research and reports were inspected and those relevant to enforcement were accessed.

Government justice and social policy websites have also been searched for relevant reports and policy documents. Informed experts were consulted throughout the scoping of the literature and these included legal practitioners, police, domestic violence coordinators, women's legal service practitioners, cross-border scheme researchers and personnel, and domestic violence services networks. As a result, literature or reports recommended by the informed experts were sourced and added to the scope of the review.

Limitations of the literature review

Preference was given to peer-reviewed literature but the public interest nature of the topic required sourcing a range of government and agency reports relevant to enforcement of Domestic Violence Protection Orders (DVPOs). There is a recognised dearth of research specifically on enforcement of protection orders (Jeffries et al., 2013; Wilcox, 2010), more so cross-border enforcement, and this necessitated accessing broader Australian-sourced domestic violence reports and including a limited range of international literature. The absence of enforcement-specific research meant the heavy reliance on some seminal works; however these provided rich information, particularly in the victims' and victim advocates' domains. Due to time constraints it was not possible to source literature earlier than 2000 and it is possible that some reports may have been overlooked despite the extensive search strategy, particularly where they are no longer publicly available online.

Range of disciplines scoped

An emphasis on research from a legal perspective reflected the nature of the topic but also reflected a lack of attention to this field of research from other disciplines. Legal research and writing tended to focus on legislative analysis and on legal procedures and technicalities with less of a focus on implementation and practice issues. Although both quantitative and qualitative studies were incorporated in this review there is a strong bias towards qualitative research based on the lack of availability of rigorous quantitative research.

Analysis and synthesis of the literature

Variables relevant to enforcement of protection orders were identified throughout the search of the literature, accompanied by a strong focus on the relationship between policy and practice (Aveyard, 2014). Gaps in existing research and policy were noted, as were the strengths and weaknesses of particular methodological approaches. Connections between categories already developed in studies and reports of DVPO enforcement were made and these were developed further as relationships between categories were analysed.

An iterative process of constant comparative analysis was employed which involved examining research and reports to identify categories and themes (Onwuegbuzie, Leech, & Collins, 2012). The themes then formed the headings of this state of knowledge report. Further thematic analysis led to the development of meta-themes which cross the boundaries of each discrete knowledge area and which are summarised in the conclusion. The evidence from each research or report was compared with other findings, and analysed for complementarity and how the evidence contributed new knowledge about enforcement of protection orders.

Australian legislative context

Legal responses to domestic and family violence in Australia largely favour a civil rather than a criminal response and over the last 30 years all states and territories in Australia have introduced protection order legislation in an effort to ensure the safety of victims of domestic violence. Criminal responses are provided through the enforcement of protection orders and charging for underlying criminal offences, such as assaults or stalking. In practice, the balance between civil and criminal responses varies between jurisdictions, depending on local policy and policing investigation and charging practices, which are not the subject of this section of the paper.

Legislation generally represents a commonly-held view that has been subject to democratic process and which has the power to send a message to the community about the seriousness with which domestic violence and enforcement of orders are viewed. However, as was made clear in the ALRC and NSWLRC report (2010), the legal framework has its place but it cannot determine effective implementation and interpretation. Legislation sets the scope for legal intervention, but is just one factor affecting the experiences of victims. Additionally, outcomes for victims are dependent on practice and implementation: differences between the legislation in the states and territories may be compounded or, in some cases, even reduced by variations in practice across the jurisdictions. It follows that practice and implementation of the legislation, including the balance between the civil and criminal responses in each jurisdiction, can influence the effectiveness of enforcement of protection orders. Practice, in turn, is influenced by a multitude of factors – ranging from jurisdictional policy frameworks, required policing procedures or policy, and the existence of court room resources (such as bench books) to training and professional development opportunities and requirements, levels of understanding of domestic and family violence and, of course, individual perceptions and values.

Jeffries et al. (2013) noted that there is diversity of protection order legislation across jurisdictions. Assessing the different legislation, they found that the Northern Territory had the strongest focus on victim safety compared with other states and territories. The authors suggested that the lived experiences of victims of violence are not necessarily reflected in Australian protection order legislation and neither is there a consistency across Australian states and territories in the treatment of victims of domestic violence (Jeffries et al., 2013).

Given that there is relatively scant research that has focused on the perceptions of victims on enforcement of protection orders, evidence-based approaches are needed that take into account the experience of victims; particularly what has been helpful or harmful. Research is important to explore how the safety of victims of domestic violence and their children is protected and how victims' recovery may be supported by sources of help that validate their experiences (Ailwood, Esteal, & Kennedy, 2012; Bell, Perez, Goodman, & Dutton, 2011; Laing & Andrews, 2010; Murray, 2008). In addition to informing policy for the overall safety of women and children, research is necessary to examine professional practices and the interactions of victims with professionals who enforce protection orders.

Legislative context of protection order enforcement and of interstate enforcement approaches

All legislation referred to in this section is referenced in Appendix A.

This review updates previous work which has analysed and compared legislation across Australia (ALRC & NSWLRC, 2010; Jeffries et al., 2013). Previous studies, with the exception of Jeffries et al. (2013), Wilcox (2010), and the Sentencing Advisory Council (2009), offer a broad sweep of domestic violence laws in Australia with sections on protection orders forming a minor part of their scope. The latter studies have discrete sections on enforcement of protection orders which constitute a relatively small focus of the comparisons. Commonly recurring themes are: lack of consistency in the definitions and scope of domestic and family violence; differing approaches to the nature of conditions attached to an order; and variations in the procedural approaches and protective scope of the various laws. The present review provides a stronger focus on enforcement provisions in protection order legislation and selectively deals with those aspects of the wider legislation that may have a direct bearing on enforcement. Appendix A presents a more detailed analysis of the elements broadly discussed in this section.

The focus of this review is intimate partner violence and aspects of the legislation relating to this. It is noted that, in addition to providing direct protection from family violence for family members, a number of states also provide for more than one victim to be protected on the same order, or for other affected persons, such as new partners or relatives, to be named on and protected by the order.

The protection of children is also considered in all of the legislation. Most jurisdictions make some provision for separate orders for children: *Domestic Violence and Protection Orders Act 2008* (ACT), ss18, 19; *Crimes (Domestic and Personal Violence) Act 2007* (NSW), ss5, 15-16; *Domestic and Family Violence Act 2007* (NT), ss4, 28-29; *Domestic and Family Violence Protection Act 2012* (Qld), s22; *Intervention Orders (Prevention of Abuse) Act 2009* (SA), ss7, 20; *Family Violence Act 2004* (Tas), s15; *Family Violence Protection Act 2008* (Vic), ss45-47; *Restraining Orders Act 1997* (WA), ss11B, 25. Protection may also be provided either as a "named person" who is protected on the adult victim's order, such as *Domestic and Family Violence Protection Act 2012* (Qld), s53, and/or measures that provide for a child's safety can be included in the conditions of an order. Protection for children generally extends to preventing exposure to domestic or family violence and in all states and territories children's welfare and safety is a specific consideration in the making of an order and/or an underlying goal of the legislation.

Protection of children is relevant in an enforcement context as many conditions may relate to the protection of children and/or contact between the parties, which might also involve children. However, the protection of children is complicated by the interaction of protection orders with family law orders made under Commonwealth jurisdiction and which override state and territory-based protection orders to the extent of any inconsistency. Under s68R of the *Family Law Act* 1975 (Cth) and s176 of the *Family Court Act 1977* (WA), state and territory courts are empowered, *inter alia*, when making protection orders to vary family law orders to address any inconsistencies. In practice, the use or otherwise of this power must impact on enforcement, meaning if some conditions of an order are unenforceable due to an inconsistency, this may result in a failure, in practice, to enforce any of the order.

Although not directly the subject of this review, and dealt with comprehensively in other research (Wilcox, 2010, p. 24), there continues to be some variation in the approach of legislation in defining the types of prohibited behaviour, injuries or damage that will provide grounds for seeking a protection order and in the legal test used by the courts to determine whether protection is warranted. These differences aside, in general terms the legislative frameworks provide protection against physical violence, intimidation and stalking although the detail and scope of behaviours within these categories can vary substantially. A number of jurisdictions also provide for protection against other behaviours, such as property damage, threats, and exposing children to domestic and family violence and emotional abuse. Specific references to other forms of abuse are made in some legislation, such as economic abuse, animal abuse or other conduct causing fear for safety.

The Australian Capital Territory, South Australia and Tasmania specifically note that the abuse may be indirect, in that it may be perpetrated against a third person such as a child or a new partner and still be considered as domestic and family violence against a different (primary) victim. Procuring or allowing/causing another person to commit domestic violence is not generally permitted and is named in the legislation, with the exception of New South Wales and Tasmania, either within the definition of what constitutes abuse or may be directly

prohibited as a condition on the protection order: *Domestic Violence and Protection Orders Act 2008* (ACT), s48; *Crimes (Domestic and Personal Violence) Act 2007* (NSW), ss35-36; *Domestic and Family Violence Act 2007* (NT), s17; *Domestic and Family Violence Protection Act 2012* (Qld), s58; *Intervention Orders (Prevention of Abuse) Act 2009* (SA), ss8(7), 12; *Family Violence Protection Act 2008* (Vic), s86; *Restraining Orders Act 1997* (WA), ss6(3), 13.

In order to set the context for protection order enforcement in Australia the domestic violence legislation of the eight states and territories was examined to determine how each state or territory approached enforcement. Key aspects of enforcement as expressed in legislation were identified, described and compared. The tables and appendices in this report illustrate key aspects of enforcement, which are:

- under what conditions orders are enforced;
- investigation and assessment of breaches;
- enforcement of interstate orders;
- relevant information sharing provisions; and
- penalty and penalty units.

The data extrapolated from each state and territory were compared in order to analyse similarities and differences. The following analysis of the descriptive data provided in Appendix A follows the subheadings described above.

Conditions under which orders are enforced

The sections in the respective legislation on enforcement share many common features. In all states and territories enforcement of protection orders is based on a breach (or contravention) of a valid order, which is a criminal offence, with penalties being applied upon a guilty finding (or plea) in court. In general, a valid order requires that the offender must have been present in court when the order is made, served with or otherwise notified appropriately (under the legislation) of the order. A breach is identified by reference to the conditions provided on the order, which may prescribe both required and prohibited behaviour and therefore the types of behaviour or injuries that could lead to a criminal charge in the case of a breach of the order.

In each jurisdiction, protection order conditions are intended to meet the needs of the aggrieved/victim(s) or, in some cases, other named or protected persons (including children) as identified through the court process. Orders may include such terms as "not commit domestic violence" towards the aggrieved and any named children and prohibit behaviours such as contacting the aggrieved in any way, accessing the place of residence of the aggrieved and provision for exclusion from certain premises. In addition to identifying required conditions, all jurisdictions except Tasmania also include standard provisions, although in the Northern Territory, South Australia, Victoria and Western Australia this is limited to conditions relating to firearms and/or weapons, licences or permits, which are discussed further below.

Appendix A shows the range of behaviours that can be prohibited by a protection order and highlights the differences between the jurisdictions.

The legislation is drafted in different ways, with jurisdictions providing a non-exhaustive list of possible conditions and types of conditions. In a number of cases, the type of protection available is linked to the definition of what constitutes domestic or family violence. For example, in all jurisdictions except New South Wales, the Northern Territory and South Australia, even conditions providing protection against physical violence may be worded generally, such as "not commit domestic violence", relying on the legislative definition for interpretation.

Similarly, protection against non-physical forms of abuse, such as emotional abuse, stalking, and misuse of or damage to property, is heavily reliant on the legislative definitions for domestic and family violence. Conditions may be tailored to prohibit specific abusive behaviours, to meet the needs of the victim, following a consideration of the definition, in combination with the condition-making power in the legislation.

Although there are significant similarities in the protection provided by each jurisdiction, the scope of behaviours and level of detail articulated in the legislation can vary significantly. Combined, in those jurisdictions that do not have standard conditions addressing physical and non-physical forms of domestic and family violence, with the discretion around which conditions are included in an order, orders issuing from different jurisdictions can vary substantially in the scope of protection provided.

All jurisdictions make provision for ouster or exclusion orders although, again, the detail on the ability to return to collect belongings and requirements to leave certain items for the benefit of the protected person differ and thus impact on the scope of protection that may be provided. Jurisdictions that require consideration of accommodation needs for victims and children or the making of an exclusion condition may have a higher prevalence of these conditions, which again highlights the differences in the protection that may be provided across jurisdictions.

All jurisdictions refer specifically to the prohibition and control of firearms and weapons and, in all jurisdictions except

New South Wales and Tasmania, prohibition or conditional access to firearms is a mandatory component of the order, as shown in Table 1.

Inevitably, the use of enforcement is a critical element in the effectiveness of civil protection orders as a response to domestic and family violence. Enforceability of the orders is heavily dependent on the appropriateness of the conditions included when the order was made, together with other practice issues including the policing (investigation) of breaches.

Table 1 Provisions in domestic violence legislation: weapons

Jurisdiction	Provision under domestic violence legislation: weapons
Australian Capital Territory	s40/57 Order removes firearms licence, court may also order firearms or ammunition to be seized
New South Wales	s35 Conditions may include prohibiting access to firearms or prohibited weapons
Northern Territory	Under ss39 - 40 of the *Firearms Act* (NT), a licence/ permit is automatically suspended or revoked on the making of a protection order
Queensland	Under s10B of the *Weapons Act 1990*, a respondent to a protection order cannot be granted a weapons license, or be in the possession of weapons, for a period of five years for a final order, or for the duration of the order if the respondent is generally exempt under s2 *Weapons Act 1990* (s83)[1]
South Australia	s12 Conditions may include surrender of relevant weapons/articles (under (3) should include if relevant or minimise risk of their use) s14 Order provides a condition prohibiting possession of firearm in employment, disqualifying/ suspending respondent from licence/permit and requires surrender of firearm and licence/ permit (UNLESS final order, never guilty of violent or intimidatory conduct and needs for work)
Tasmania	s16(3) Conditions may include prohibiting possession of firearms
Victoria	s81 Conditions may include "removing"[2] firearms/weapons approvals s95 Condition removing firearms/weapons approval must be included in a final order
Western Australia	s14 Order prohibits possession of firearm or licence (or provides conditions for possession)

1 Possession, registration and use of weapons is regulated under Part 4 of the *Weapons Act 1990*. Under s50, unlawful possession of a weapon is an offence against the Act.

2 In general terms – usually licences/authorisations may be suspended or cancelled depending on whether the order is interim or final.

Investigation and assessment of breaches

This category relates directly to the powers of police to investigate and assess a contravention of an order. Although not examined in detail in this review, states and territories have general policing and other criminal law legislation which makes provision for police to investigate where a complaint about criminal activity has been made or where there is suspicion of certain criminal offences taking place.

In addition, in a number of the protection order statutes examined in this paper specific provision is made for the policing of domestic violence in seeking protection orders and/or in relation to the investigation of suspected domestic violence offences, including breaches (see Appendix B).

Domestic and family violence legislation in South Australia, Tasmania, Victoria and Western Australia includes powers, when a breach is suspected, to search, arrest and, in some cases, seize without a warrant: *Intervention Orders (Prevention of Abuse) Act 2009* (SA), ss36-37; *Family Violence Act 2004* (Tas), ss10-11; *Family Violence Protection Act 2008* (Vic), ss124, 157, 160; *Restraining Orders Act 1997* (WA), s62A.

Some jurisdictions make clear the specific expectations they have as to how and when police should intervene and specify broad powers of search and arrest. Additionally, a high level of police accountability is specifically required by the New South Wales legislation, *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s14(8), with its requirement for police to explain the reasons why they may not intervene in a contravention of an order.

An important question to consider is whether provisions sufficiently support police where they suspect domestic violence, or a breach of a protection order is taking place. Additionally, notwithstanding legislative provision, other questions arise in assessment of breaches, specifically related to the investigating and charging practices in the different jurisdictions. In addition to the legislation, a number of jurisdictions have procedure manuals or best practice manuals to provide further guidance on the policing of domestic violence, breaches and other criminal offences. However, as noted earlier, practice is dependent on a wide range of factors and further research is required on the experiences in each jurisdiction, with consideration of the impact of the interaction of legislation, policing manuals and cultural factors on the overall response.

Enforcement of interstate orders

All jurisdictions have provision for protection orders made interstate to be made enforceable in a new state or territory, as shown in Table 2. In general terms, orders may be presented to the courthouse and registered through a formal application or court process, which in some jurisdictions could involve a magistrate varying the order to ensure effective operation in that state or territory. The court must notify the police of the registration. This could be in writing or via electronic communication, and may involve providing police with a copy of the registered order. Notification to police is a mechanism to support the enforcement process in the event of a breach.

The registered orders take effect as orders of the state or territory in which they have been registered. Specific provision is made in all jurisdictions except South Australia for the registered order to be changed (varied) or cancelled (revoked) in the jurisdiction that has registered the order. A variation or cancellation could be made on the basis of an application to court by the victim or on behalf of the victim, for example, to increase the number of conditions on the order where the existing order is inadequate.

Table 2 Provisions in domestic violence legislation: enforcing interstate orders

Jurisdiction	Registration of order and copy to police	Modification possible in the new state where order registered	Notification to respondent	Variation in the state or territory where order registered and notification of the respondent	Variations to the registered order made in state of origin	Other
Australian Capital Territory	s103 – 104 Provides for registration; copy to police; notify court of origin	s105 Registered order takes effect as final ACT order		s105 Registered order may be amended in ACT	s106 Notify court of origin about amendment; s107-108 If notified of an amendment/revocation by court of origin, registered order must be adapted accordingly	s106 Notify court of origin about amendment in ACT; s109 Notification of amendment of order in ACT to other court if the order is registered interstate
New South Wales	s95 Provides for application for registration. Registration requires evidence of service; (4) Copy provided to police	s96 Register or refer for modification (e.g. duration) for effective operation; s97 Registered order takes effect as a NSW order	s96(5) Not served on respondent without applicant consent	s98 Order can be varied or registration revoked in NSW but respondent must be notified of application (3)	s97 (2) Registered order unaffected by variations in state of origin	
Northern Territory	s93 -94 Provides for registration by police/on behalf of victim: requires evidence of service; s95 Copy to police and original court.	s94 May be modified as required for effective operation; s97 Registered order takes effect as NT order	s95 No notice or copy to respondent without applicant consent	s98 Registered order can be varied or registration revoked in NT		s101-103 If officer reasonably believes a person is respondent to an enforceable interstate order, declaration of this is provided to the Commissioner and the order is taken to be a NT order for up to 72 hrs
Queensland	s170-171 Provides for registration of an interstate order; requires certified copy and must be satisfied it was (taken to be) served; s173 Must notify and provide copy to police.	s172 May be modified to ensure effective operation in Qld; s174 Registered order takes effect as a Qld order	s173 No notice to respondent without victim consent in writing	s175-176 May be varied, or registration revoked in Qld – without notice to the respondent		

Jurisdiction	Registration of order and copy to police	Modification possible in the new state where order registered	Notification to respondent	Variation in the state or territory where order registered and notification of the respondent	Variations to the registered order made in state of origin	Other
South Australia	s30 Provides that the court may register an interstate order; (6) Notice of registration provided to police	s30(3) The registered order takes effect as a SA order (when served – if required)	s30(2) Court may require the order to be served on the respondent			
Tasmania	s26 -27 Provides for registration: requires evidence of service; Copy to police	s27 May be modified as required for effective operation; s28 Registered order takes effect as a Tas order		s29 Registered order can be varied or registration revoked in Tas		
Victoria	s177 Provides for registration of interstate orders; s178(1) Copy to police	s179 Registered order may be enforced as a final Vic order	s178(2) May list for decision on serving respondent – but under (4) Must be satisfied this would not jeopardise safety of victim /children	s181 Order can be varied or registration revoked in Vic - with notice to the victim/respondent (s182)	s180 Registered order unaffected by variations in state of origin	s183 Police and original court to be notified of changes made in Victoria
Western Australia	s75 Provides for registration: Application to register by police, protected person, guardian /parent, Children's Services s76 Police and original court notified of registration.	s77 Registered order takes effect as WA order	s76 Unless applicant requests, no notice to respondent	s77 Registered order can be varied/cancelled by a WA court	s78 Registered order varied/cancelled by notification of an interstate variation/ cancellation	Breach committed in WA does not require proof of the making of the interstate order/variation or service (s77)

A number of states require that in the process of registering an order evidence of service of the original order must be provided. The Australian Capital Territory requires that any amendments must be notified to the original state of application and that where there has been amendment or revocation in the state of origin the registered order must be adapted accordingly. In practice this could mean that the victim is left without protection, or with a poorer form of protection, if the offender has applied for a variation or revocation in the state of origin.

The provisions introduced for the registration and enforcement of interstate orders are streamlined processes, which take account of the potential safety needs of a victim who may have moved interstate to escape violence, providing cross-border protection while not unnecessarily alerting a respondent to the victim's location in a new jurisdiction. For this reason, offenders are generally not notified of registration in a new jurisdiction, or only notified in very limited circumstances, and Victoria specifically refers to the safety of victims and children as paramount, before serving respondents. Notably, in New South Wales and Victoria, variation in the jurisdiction where the order is registered is a trigger for the respondent to be notified. In practice this may deter a victim from seeking greater protection through a variation.

Western Australia provides that where a breach is committed in that state, the streamlined enforcement process does not require proof of the original interstate order or variation or service having been made.

There are some clear consistencies in the enforcement approaches to interstate orders, including the registration process established in each jurisdiction, enforceability of registered orders and ability to apply for an order to be varied. However, there are also some important differences in conditions and processes attached to their implementation and monitoring.

The level of detail in the legislation varies across each jurisdiction. In the absence of professional development opportunities, and clearly articulated legislative principles, in those areas where less detail is provided it may be that there is insufficient guidance and clarity for the judiciary and others involved in implementing the legislation, including lawyers, police and community workers. It is also a consideration that the prospective clients are not strong enough to ensure that the implementation of the mechanisms provided for in the legislation are used to their greatest potential. For example, Victoria provides clear and specific guidance to consider whether a respondent should be notified, while South Australia does not. Further investigation may be needed into whether it is possible that a lack of clarity could deter a victim fleeing to South Australia from registering the protection order, and a lawyer advising such a victim may exercise caution in providing advice about whether to register the order.

For example, the potential for a respondent to be notified of a registered order (South Australia or Victoria) may create fear for some victims, through initiating communication of any nature with a dangerous respondent, and could deter a victim from registering the order. Similarly, the criminal process for enforcement, where there is a breach, in each jurisdiction necessarily requires that a respondent is notified of the proceedings and provided with an opportunity to respond (procedural fairness in criminal proceedings). This may also deter a victim from reporting a breach of a registered order to police for fear of the consequences of alerting the perpetrator to their new location.

Information sharing legislation relevant to enforcement

In recent years, the potential for sharing information has become an important issue in responses to domestic and family violence. Generally, what is contemplated is the sharing or disclosure of personal details between agencies that respond to domestic and family violence, such as police, child welfare authorities and support services as a referral tool, to minimise the risk of victims falling through the cracks and to support victims to more easily and quickly engage with the agency to which they have been referred. Additionally, information sharing can be an important risk management tool, where the circumstances of abuse or risk indicators are shared to ensure that swift action can be taken to address risks, including police investigation, removing a victim to safety and development of a safety plan.

As discussed in more detail later, information sharing may occur against the backdrop of state and territory and Commonwealth privacy legislation; specific legislation relating to government agencies such as police, corrections and child welfare authorities; professional obligations and ethics; requirements for mandatory reporting (or disclosure), particularly in relation to child protection issues; and the possible risk of civil or criminal liability for disclosure of information outside the scope of what is permissible.

The discussion here is limited to the provision for information sharing in the domestic and family violence legislation in each jurisdiction.

As shown in Table 3, only three states provide for the sharing of information with/by agencies other than the police or in the conduct of protection order proceedings: New South Wales, Tasmania and Western Australia.

The clauses vary in scope and detail with New South Wales having the most comprehensive and detailed set of provisions. These include providing for disclosure of personal and health information about the victim and the perpetrator by specific agencies to referral or coordination points for the purposes of providing support to the victim and where there is threat of domestic violence. The referral or coordination point can be a support agency or non-government organisation nominated by the Minister to fulfil this role. Disclosure usually requires consent of the threatened person or victim but there is provision for disclosure without approval under high-risk circumstances. Despite the principles of various Privacy Acts, the provisions in New South Wales state that the respondent does not have access to information collected by an agency.

Notably in Victoria, the sharing of information relating to the respondent's participation in a counselling program with the court (in limited locations) specifically relates to enforcement and/or related criminal offence proceedings.

In Tasmania, the information sharing provision under s. 37 of the *Family Violence Act 2004* (Tas) allows for the collection and use of information "for the purpose of furthering the objects of [the *Family Violence*] *Act*". Added to this is the acknowledgement in s. 39 that information may be provided to police both voluntarily or "as required" (such as when there is a requirement for mandatory reporting), where there is reasonable suspicion of family violence taking place. The Northern Territory goes so far as to state that it is an offence not to report to the police harm (or likely harm) or serious imminent threat caused or likely to be caused by domestic violence. It also removes (as does Tasmania) civil and criminal liability and provides protection from various professional codes of conduct where report of a breach is undertaken in good faith.

In Western Australia, the information sharing provision provides that limited government agencies, including police and children's services, *may* disclose information to each other for the wellbeing of the protected person or their child.

The issue of information sharing goes to the heart of enforcement of protection orders in so far as it relates to the sharing of information relating to a breach and can contribute to the enforcement process. Sharing of information can be problematic for professionals whose ethical conduct is driven by their professional bodies' high expectations of maintaining client confidentiality. The risk of civil or criminal liability for the discloser will also constrain the ability of some professionals to disclose information. Generally the principles of respective Privacy Acts are to protect personal information of all individuals in the absence of an imminent or serious risk of harm or death and these Acts are often referred to as reasons why information has not been disclosed to authorities. Those states, particularly New South Wales, Tasmania and Western Australia, that have specifically covered information sharing in their domestic violence laws seek to provide guidance to professionals as to expectations of their professional conduct in working with victims and respondents. Such provisions have the potential to offer both expectations about, and the means by which, the information can be shared. Whether this leads to changes in practice cannot be surmised from the law itself, but clarification of expectations of the limits of privacy and practical guides, memoranda of understanding and protocols on how to share information have potential to ensure that critical information is shared at key times on domestic violence breaches.

Table 3 Provisions in domestic violence legislation: information sharing

Jurisdiction	Provision under domestic violence legislation: information sharing
Australian Capital Territory	s18 *Domestic Violence Agencies Act 1986* (ACT) – if ACT / Federal police reasonably suspect domestic violence is being/has been committed/is likely, they may disclose to an approved crisis support agency (s17) any information that will help the agency to assist the victim/children.
New South Wales	s98D – s98H Provides for disclosure by limited agencies (government and health), court, police, designated referral/coordination points to referral/coordination points and support agencies in relation to personal and health information about the victim and (alleged) perpetrator for the purposes of arranging/providing support to the victim, and where there is a domestic violence threat. Disclosure by government/health agencies and support agencies requires the consent of (and by a court - no express objection by) the threatened person/victim (s98D, E, H). S98J Protocols may be required for this collection, use and disclosure of information. s98M A government /health agency may collect/use /disclose information if it reasonably believes the threat is serious, disclosure is necessary to prevent/lessen the threat and consent of the victim has been refused or is unreasonable/impractical to obtain.
Northern Territory	s124A Failure of an adult to report to the police harm (or likely harm) or serious/imminent threat because of domestic violence is an offence. (4) Police must investigate such a report. s125 Such a report made in good faith is not a breach of a professional code of conduct and cannot attract civil or criminal liability – the report/reporter may only be used in proceedings with leave of the court.
Queensland	s55 If the respondent is contesting the naming of a child on the protection order or conditions relating to the child, the court may request relevant information from the child protection authority. The parties must be given a copy and the opportunity to make submissions on the information received unless it would expose the victim or a child at increased risk of domestic and family violence.
Tasmania	s37 It is not a breach of the *Personal Information Act 2004* (Tas) (which regulates the collection and use of information) for an agency under that Act, acting in good faith, to collect, use, disclose personal information for the purpose of furthering the objects of the *Family Violence Act*. s39 Providing information (voluntarily or as required) to police based on a belief/reasonable suspicion of family violence (or likely family violence) with weapon, physical, sexual violence or where child affected, is not a breach of professional ethics/requirements and cannot, if done in good faith, incur civil or criminal liability.
Victoria	s140[1] Information from an interview or report relating to (respondent) court ordered counselling may be used in proceedings for a contravention relating to counselling orders or the underlying offence.
Western Australia	s70A Limited government agencies, including police and children's services, may disclose to each other information about person protected by an order or affected child if the disclosure is necessary to ensure the safety of the person protected or the wellbeing of a child.
South Australia	s38 A public sector agency or contractor that is bound by the State's Information Privacy Principles, must, on request, make available to a police officer information to assist in locating a person for service of a protection order.

1 The power relating to court ordered counselling is limited to the Family Violence Court Division or other court specified by the Minister s126.

Penalties and penalty units

The penalties for breaches of protection orders vary across states and territories which can be expected given that each respective domestic violence law has had its own history of development and amendments. The maximum penalties for a breach of an order vary between 1 year and 5 years' imprisonment with some variation for first or subsequent breach-related offences or other circumstances of aggravation. In almost all states (except South Australia) varying amounts of penalty units (or fines) may be applied instead of or in addition to the term of imprisonment. Penalty units are used to standardise the imposition of fines across a state. As shown in Table 4, penalty units currently vary in value from $110 to $150. The number of units imposed ranges between 20 in Tasmania and 500 units in the Australian Capital Territory for the first breach without aggravating circumstances and up to 600 units in Victoria in particular, in the case of aggravating circumstances.

A few jurisdictions provide for increased penalties (Queensland, Victoria) or a required term of imprisonment (Northern Territory, Western Australia) where there has been a previous offence, finding of guilt or use of violence (which should generally result in imprisonment in New South Wales). Tasmania is the only state to have a direct tiered arrangement of penalties relating to number of breaches incurred. Repeat breaches, or those that involve violence or other aggravating factors, generally attract higher tariffs and are more likely to lead to imprisonment. Tasmania and Western Australia specifically mention the presence of children as an aggravating factor to be taken into account for penalties, with Tasmania also referring to pregnancy as a factor to be considered.

Penalties are generally applied in the criminal justice system for the purposes of punishment, deterrence and reparation depending on the particular sanction applied. There has been a paucity of research into the relative effectiveness of different sanctions in criminological research and this is acknowledged as a complex area of research. It is questionable whether the breaches of protection order sanctions impact perpetrator behaviour, given the number of repeat breaches for particular offenders, and this bears further investigation. The additional major consideration is judges' sentencing behaviour on the extent to which maximum penalties are used and whether sanctions are applied consistently and within the intention of the legislation.

Vociferous calls by victims and victims' services for tougher penalties persist, yet practice is an important consideration in determining what changes, if any, should be made to the maximum available penalties. Also relevant are police investigation and charging powers and practices (see Appendix B), which may influence perceptions about penalties, when, in fact, respondents are not charged at all. This perception may be particularly prevalent where there is a long pattern of seemingly "low-level" breaches such as phone calls, drive-bys, emails and text messages that are not pursued as a breach charge. Similarly, where prison terms are not served in full, this must also affect perceptions about the appropriateness of criminal penalties. Interestingly, the Northern Territory legislation expressly limits the option for sentences to be suspended or served concurrently with other prison time.

It is difficult to surmise from the particular legislative provisions on penalties what may be considered serious breaches apart from obvious physical violence. How courts come to conclude that a particular breach warrants a more severe approach is difficult to determine, although consideration of court case precedents may explain how sentencing patterns have evolved. Bench books, as recommended in the ALRC and NSWLRC (2010) report, or other mechanisms, such as sentencing advisory councils that offer sentencing guidelines, may provide some indication of the views of a particular jurisdiction but it is unlikely that there will be a transparent system of risk assessment informing court decisions. It could be conjectured that lethality risk assessment in the domestic violence field ought to be routinely administered in order to inform effective court decision-making as this field of research has progressed in recent years with a number of empirically tested risk assessment tools available (Messing & Thaller, 2013). Research on criminal justice risk assessment technologies has highlighted discrepancies in sentencing and unreliability with dependence on subjective assessment of risk alone (Andrews & Bonta, 2010). It is common practice in the criminal justice field, particularly with violent offenders, to combine empirically tested risk assessment tools with the subjective skills of sentencing judges. This may be a possible area of future development (Monahan & Skeem, 2014).

Few of the jurisdictions have nuanced approaches to sentencing, with only Tasmania directly acknowledging in its Act the need to take into account respondent rehabilitation assessments in decision-making, where breaches are concerned. Tasmania also recognises the seriousness of repeat breaches in levels of sanctions. However, it is not possible to determine how and whether courts apply such considerations. Having them in the legislation is but one indicator of intent while courts maintain the independence to sentence within broad parameters and may choose not to apply maximum tariffs, for example. An added consideration, as referred to above, is the role of bench books and sentencing advisory councils in offering guidance to magistrates and judges on sentencing practices.

Table 4 Provisions in domestic violence legislation: penalties

Jurisdiction	Provision under domestic violence legislation: penalties for breach
Australian Capital Territory	Max 5 years or 500 PUs or both (s90) PU=$150.00
New South Wales	Max 2 years or 50 PUs or both (s4) (4) Offence that is an act of violence generally requires imprisonment (exceptions apply) Breach of s37, max penalty 50 PUs PU=$110.00
Northern Territory	If adult or a child 2 yrs or 400 PUs for 1st offence. If previously guilty of contravention, must serve a min 7 days (exceptions apply – e.g. if no harm is caused to anyone). (s121-122) s121(5) An Adult's sentence cannot be suspended and (7) cannot be served concurrently PU=$149.00 s120 The offence is one of strict liability
Queensland	Max 3 yrs imprisonment or 120 PUs[1] (if within 5 yrs of previous conviction under s177-182); otherwise up to 2 yrs or 60 PUs (s177) PU=$113.85
South Australia	Max 2 years - but if breach under s13 (order to undertake intervention program) - max penalty is $1,250 (s31)
Tasmania	Tiered penalties: 1st contravention offence max 1 year or 20 PUs; 2nd offence max 18 mths or 30 PUs; 3rd offence max 2 yrs or 40 PUs; 4th or subsequent offence max 5 years. (s35) PU=$140.00 (2) Previous offence may relate to order for a different person s13 In sentencing – known presence of a child or pregnancy (or recklessness as to this) may be aggravating factor; must consider any rehabilitation program assessment provided
Victoria	Max 2 yrs or 240 PUs or both (s123) Aggravation under s123A - max 5 yrs or 600 PUs or both Aggravation under s125A - max 5 yrs or 600 PUs or both PU=$147.61
Western Australia	2 years or $6,000 or both (s 61) Aggravating factor if child exposed to act of abuse (s61(4)) s61A If guilty of 2 previous contraventions within 2 years, penalty must include imprisonment – exceptions apply

1 PUs = penalty units. All penalty unit information is drawn from Appendix 6, Not Now Not Ever: Putting an End to Domestic and Family Violence in Queensland 2015 – the report of the Special Taskforce on Domestic and Family Violence in Queensland

Aiding and abetting

The discussion here is limited to the provisions of domestic and family violence legislation, although it is worth noting that in some jurisdictions general criminal law and policing legislation may provide broad powers for victims to be charged with aiding and abetting the commission of a breach in those jurisdictions, such as the Australian Capital Territory, the Northern Territory and Tasmania, where it is not specifically excluded (Wilcox, 2010). (Note ss57 and 58 of the Northern Territory Police Violent Crime General Order precludes laying a charge against a person under protection (Wilcox, 2010, p. 30)).

As shown in Table 5, New South Wales, Queensland, Victoria and Western Australia have removed their aiding and abetting clauses. Additionally, these clauses have been partially removed in South Australia and cannot be applied to a victim's actions or inactions in relation to *their own* protection. These contentious clauses allow for the criminal charging of a protected person where they are deemed to have contributed to a breach of an order. Research points to the complexity of such decisions given the overall fear and intimidation which a victim may experience and their priority for their safety and that of their children. In such circumstances victims may agree to actions but their level of consent may be questionable within the context of the violence. Victims may be faced with either a lack of trust in the ability of authorities and services to protect them, or knowledge that services have failed to protect them, and they may have little real choice as to whether to agree with a respondent 's demands. At a policy level, the South Australian approach may provide a mixed message about expectations and protection of victims, whose actions in relation to additional or associated victims may still be influenced by the abuse and intimidation of the perpetrator.

Removing these clauses acknowledges the complexity of leaving violent relationships and/or post-separation parenting, which under existing legal system responses can still impose a level of cooperation that may find the victim consenting to contact that they would otherwise refuse. These circumstances in the context of domestic and family violence may deter victims from seeking protection and compromise their safety if aiding and abetting clauses may apply.

The application, or not, of aiding and abetting provisions can reflect a particular jurisdiction's views on the competing priorities of victim safety and risks to children from the actions of a victim, albeit a coerced victim, which may expose them to risk and exploitation by perpetrators who cross apply for protection orders and then invite contraventions by the victims of their abuse. Literature on the inextricable link between a primary carer victim and child safety cannot be ignored in reconciling these priorities (Humphreys, 2007, 2010; Humphreys & Absler, 2011). Those states that have removed aiding and abetting clauses recognise this complexity and have held that the risk of injustice to the protected person is of greater concern than the possibility of their compliance with a perpetrator.

Table 5 Provisions in domestic violence legislation: aiding and abetting

Jurisdiction	Provision under domestic violence legislation: aiding and abetting
New South Wales	s14 (7) victim is not guilty of aiding, abetting, counselling or procuring the offence
Queensland	s180 the victim or other named person cannot be guilty of breaching, aiding, abetting, counselling or procuring the breach
South Australia	s31(2) person protected is not guilty of aiding, abetting, counselling or procuring contravention unless contravention relates to the protection of another person under the same or different order (UNLESS final order, never guilty of violent or intimidatory conduct and needs for work)
Victoria	s125 victim is not involved in contravention and not punishable as principal offender (not guilty as abettor)
Western Australia	s61B[1] (3) victim does not commit offence by aiding the breach

1 s61B inserted in 2011. s61B(2) aiding by the victim is not a mitigating factor.

Concluding comments

There is a degree of consistency in protection order legislation in the relevant sections of domestic violence laws across states and territories. Arguably this relates to the spirit and intention, and the overall framework of protection – based on civil law, with criminal consequences for a breach and provision for interstate enforcement. There is, however, wide variance in the details relating to specific measures that may be provided, including the scope of behaviours covered, range of potential conditions, approach to aiding and abetting, penalties, information sharing, and differences in practice which still need to be explored. Currently, an individual jurisdiction's legislative responses are dictated by local policy imperatives and their particular understanding and perspective of the dynamics of domestic violence, which send the community clear messages on the seriousness with which governments view domestic and family violence and breaches of orders. Some states and territories appear to take breaches of orders more seriously than others, however, matters of practice add to the potential range of responses, with various policing options and penalties available to courts in sentencing. However whether these are applied consistently, or indeed at all, is a matter for further legal research.

While comparisons of legislative provisions for cross-border applications of protection orders have been described in the above section, the following chapter examines examples of legislative changes that have been made by some states to facilitate cross-border enforcement.

Cross-border domestic violence protection orders

Cross-border enforcement

In the previous chapter, legislative issues related to cross-border orders were discussed. This section focuses on the practice-related issues for enforcement of domestic violence protection orders. The protection of domestic violence victims in Australia is primarily covered under state and territory laws (QIFVLS, 2014). The variation of laws, programs and policies across jurisdictions translates into different levels of protection for victims depending on their place of residence (QIFVLS, 2014). These differences become issues of concern for cross-border enforcement, particularly where there are significant differences across jurisdictions in the approach taken to police investigatory obligations and maximum penalties imposed for a breach of a domestic violence protection order (QIFVLS, 2014).

When implementing and enforcing cross-border domestic violence protection orders, police not only face geographical challenges but also encounter the difficulties associated with the differing legislation, policies, authorities and protocols of each jurisdiction (Fleming & Sarre, 2011). These challenges are further exacerbated when offenders cross borders to escape apprehension, when victims cross borders in pursuit of safety from offenders (Eigenberg, McGuffee, Berry, & Hall, 2003; Fleming & Sarre, 2011), if offenders live in one state and work in another (Eigenberg et al., 2003), or if the protection order is not enforceable in another jurisdiction (Eigenberg et al., 2003). These limits delay police action which invariably places victims at increased risk despite holding a protection order (Fleming & Sarre, 2011).

The United States' federal law specifically designed the "full faith and credit provision" to address similar challenges in their jurisdictions of cross-border enforcement of protection orders or "foreign orders" as they call them (Eigenberg et al., 2003). Cross-border enforcement of protection orders under United States' federal law requires that the foreign protection order be deemed valid in all states as defined in the federal Act. This allows each jurisdiction the freedom to establish their own procedures for enforcement with the condition that it does not conflict with the intent of the federal law (Carbon, MacDonald, & Zeya, 1999). The full faith and credit provision requires each jurisdiction to honour the foreign protection order as their own, enforce all terms of the foreign order, and treat the foreign order as if it were issued in the non-issuing jurisdiction and thus apply remedies available under the law of the enforcing state, tribe or territory for any breaches of foreign protection orders (Carbon et al., 1999; Eigenberg et al., 2003).

In Australia, facilitation of cross-border protection order enforcement demands an integrated response that involves cross-sector and interagency collaboration reflected in policy design and implementation via partnerships between state, territory and federal governments and the service sector (CAWLS, 2014; QIFVLS, 2014). Cross-sector and interagency engagement and collaboration would alleviate challenges of cross-border enforcement of protection orders mentioned previously and improve the effectiveness of policy and community responses to domestic violence (CAWLS, 2014). Issues to be considered in such collaborations, however, include understanding the frustrations, the barriers and strengths of services; and having open communication between agencies and individuals, appropriate judicial responses, cross-agencies case management, access to data and records of other agencies, commitment of agencies, even distribution of tasks and responsibilities, and coordination between agencies and support from higher levels of management (Mulroney, 2003).

Cross-Border Justice Project

Overview

The only initiative currently in place that illustrates cross-border collaboration in Australia is the Cross-Border Justice Project (CBJP). Though the challenges faced under the CBJP are more complex than those of enforcing orders registered in another state or territory, the CBJP does explore domestic violence situations that have the same geographical and administrative challenges of cross-border enforcement of any protection order breach. This makes this project relevant to the current research and it also illustrates the cultural complexities that may exist in cross-border enforcement.

The CBJP was established to alleviate some of the cross-border difficulties for criminal justice service delivery and to improve safety and security issues for Aboriginal people living on the Ngaanyatjarra Pitjantjatjara Yankunytjatjara lands in the Central Desert areas of Australia. In order to resolve issues related to cross-border apprehension of offenders, the Ngaanyatjarra Pitjantjatjara Yankunytjatjara lands established the Cross-Border Justice Project that partners, the Northern Territory, South Australia and Western Australia to increase effectiveness of law enforcement and delivery of justice services (Fleming, 2011; Government of Western Australia, 2013). This cross-border scheme gave rise to the *Cross-border Justice Act* (NT), *Cross-border Justice Act 2009* (SA) and *Cross-border Justice Act 2008* (WA) legislation which increased cross-border powers of police, sheriffs and correctional officers, making them more effective in dealing with offences that involve cross-border jurisdictions (Fleming & Sarre, 2011). The legislation allows for police officers to be appointed as "special constables" who can operate in the two states and the one territory with no jurisdictional boundaries (Fleming & Sarre, 2011; *South Australia Cross-border Justice Act 2009*). It also details the power of police, sheriffs and correctional services personnel to collect evidence (*South Australia Cross-border Justice Act* 2009). Consequently, there was an increase in services, police personnel, and information sharing between relevant agencies; and better service coordination and policy changes that facilitated these reforms (Government of Western Australia, 2011; 2013). Given the removal of cross-border boundaries between the three jurisdictions, for enforcement purposes the laws of any of the three jurisdictions would apply in apprehending an offender for a breach of a domestic violence protection order regardless of where the offence was committed or where the offender was apprehended (Fleming & Sarre, 2011).

Evaluation of the Cross-Border Justice Project

Sarre and Putt (in press) evaluated the CBJP and identified a number of strengths and barriers to its implementation. In undertaking the evaluation, police as well as stakeholders were approached about their views on the CBJP. The police described a number of strengths of the scheme including collaborative working relationships across borders, having a single point of contact in each jurisdiction, strong communication channels between jurisdictions, a high degree of sharing of information and intelligence, increased use of video-links, increased awareness among local residents of the criminal consequences of domestic violence, and the increased visibility of police presence working collaboratively across jurisdictions (Fleming & Sarre, 2011; Sarre & Putt, in press). Some of the anecdotal outcomes of this scheme also include reduced response time by police, less likelihood of offenders using borders as protection to evade the criminal justice system, and increased confidence in reporting of crime (Fleming & Sarre, 2011).

The barriers disclosed by the police include the lack of access to police computer systems of neighbouring jurisdictions, the incompatibility of data systems of collaborating jurisdictions, high staff turnover or difficulty in getting officers to locate to remote communities that makes it difficult to work closely with police and services across jurisdictions, slow bureaucratic processes which limit multi-jurisdictional policing capacity such as being sworn in as staff in another jurisdiction under the cross-border scheme, absence of formalised processes and procedures across jurisdictions, delays in signing memoranda of understanding, reluctance of police to change familiar practices, poor relations between some magistrates and some police, and the lack of support from senior police for the scheme (Fleming & Sarre, 2011; Sarre & Putt, in press).

In cross-border enforcement, cooperation is required between jurisdictions from start through to completion (Sarre & Putt, in press). Unfamiliarity with cross-border schemes deters police officers from using them given the consequences to their careers if they are used wrongly (Sarre & Putt, in press). To empower police to use these schemes effectively, appropriate training is essential (Sarre & Putt, in press). Further training is also required for courts and legal services to better understand the procedures of cross-border legislation and its implementation (CAWLS, 2014).

Non-police stakeholders who were interviewed strongly supported the overall aims of the CBJP stating that the

scheme contributed to a flexible and effective justice environment; improved formal and informal networks; advanced communication strategies across borders; enabled easier transmission of information in a timely manner; provided efficiency in dealing with offenders due to reduced long-distance travel; and reduced delays in finalising matters (Sarre & Putt, in press). Police, prosecutions, courts and corrections stakeholders have commented that the cross-border initiative has eliminated jurisdictional boundaries thereby delivering better justice and policing services (Sarre & Putt, in press). One of the concerns, however, that has been raised by stakeholders is the need to streamline and clarify processes and administrative arrangements across agencies and jurisdictions (Sarre & Putt, in press) These include the challenges of satisfactory multilateral agreements, the requirement for considerable resources, and the negotiating of financial arrangements between jurisdictions (Fleming, 2011).

Concluding comments

Though the CBJP is not specifically designed for domestic and family violence, it nevertheless provides a model for other states of effective cross-jurisdiction collaboration in the implementation and enforcement of cross-border domestic violence protection orders. By examining the CBJP's strengths and weaknesses, other jurisdictions can implement strategies that facilitate enforcement of domestic violence protection orders that ultimately diminish the ability of offenders to evade apprehension, while increasing access to support and services for victims. Like the cross-border recommendations in the CBJP, there will need to be collaborations with other service providers to establish strong, localised collaborative frameworks for significant service delivery improvement across borders in the enforcement of protection orders. These networks will be dependent on staff mobility, information exchange, adequate resources, trust and reciprocity, and organisational imperatives to sustain them. The proposal by the Australian Government in its Second Action Plan of a national domestic violence order scheme where state and territory governments will work together to strengthen implementation and enforcement across jurisdictions (Australia. Department of Social Services, 2014) is a positive step in that direction. This initiative, however, requires improving information sharing initiatives across jurisdictions (Australia. Department of Social Services, 2014) and robust evaluations and legal and policy adjustments if and when necessary. A later section discusses various initiatives on information sharing protocols related to multi-agency case management, however these cases are restricted to integrated responses within jurisdictions rather than across jurisdictions.

As a national response to domestic violence, the Australian Government through the Law, Crime and Community Safety Council (LCCSC) has undertaken the responsibility to progress a National Domestic Violence Order Scheme that allows for the registration and recognition of domestic violence protection orders across state and territory borders (ALRC & NSWLRC, 2010; Law, Crime and Community Safety Council (LCCSC), 2014). Establishing a national domestic violence order scheme requires scoping, developing and testing a prototype information sharing system for domestic violence orders that CrimTrac has been entrusted to undertake (LCCSC, 2014). It is anticipated that the national information sharing system will provide technical solutions that improve the current lack of national coordination and information sharing of domestic violence orders across systems and jurisdictions (LCCSC, 2015), and will streamline and simplify cross-border registration for victim safety

(National Council to Reduce Violence against Women and their Children (NCRVAWC), 2009b). CrimTrac is accessible by police authorities in the states and territories and could provide a single, comprehensive source of information for police on the terms and status of domestic violence protection orders though the amount of detail that is provided currently varies between jurisdictions (NCRVAWC, 2009b). Currently CrimTrac is trialling this prototype with New South Wales, Queensland and Tasmania (LCCSC, 2014a).

This is particularly pertinent given that there is currently no single judicial forum that provides a comprehensive response to domestic violence in Australia (QIFVLS, 2014). To enforce this national scheme states and territories need to give effect to and enforce domestic violence protection orders in their jurisdictions. The Central Australian Women's Legal Service (2014) suggested the development of additional cross-jurisdictional procedures for domestic violence through national domestic violence legislation which will contribute to a consistent and streamlined national response. The National Council to Reduce Violence against Women and their Children (2009a) highlighted the importance of first knowing the current practices in place for cross-border enforcement of domestic violence protection orders across jurisdictions in Australia before a national scheme for the registration and enforcement of domestic violence protection orders across states and territory borders can take place.

Research into victims' perspectives on cross-border enforcement of domestic violence protection orders is currently absent (personal email correspondence 12-25 June 2015 with Professor Rick Sarre and Dr Judy Putt – evaluators of the CBJP, and Australia New Zealand Policing Advisory Agency Secretariat, Graeme Pearce – Director Cross Borders Programs). Given this deficiency, no definite conclusions can be drawn on whether or not the strengths and barriers identified by victims coincide with those identified by the justice system including police, prosecution, magistrates and court staff. Thus research that explores victims' perspectives on cross-border enforcement of protection orders is vital to compare the judicial systems' perspectives on cross-border enforcement of protection orders.

Even though there is a lack of research that has specifically looked at enforcement of cross-border protection orders, the general process of enforcement of protection orders has much to contribute to victims' perspectives on enforcement. As a number of legal reports and studies cited above state either in their preamble (ALRC & NSWLRC, 2010) or postscript (Jeffries et al., 2013), legislation is but one part of enforcement of domestic violence protection orders. How the law is administered, and its impact on victims it is designed to protect are the critical elements of appreciating its effectiveness in protecting victims. The next section prioritises research which has involved victims and victim advocates and summarises the themes of the findings to illustrate the concerns which they raise based on their experiences. The experience of victims involved in cross-border enforcement concludes the next section.

Perspectives of victims and victim advocates

Australian research on enforcement

Despite the introduction of domestic violence legislation and the decades of reform since, Ailwood et al. (2012) argued that "women's voices continued to be muted and domestic violence continues to be invisible, to some extent, in the eyes of the law" (p. 86). In this study of protection order enforcement in Australia, it was determined to exclude the experiences of victims with the exception of those with experience of cross-border enforcement on the basis that adequate research has been undertaken to highlight victims' concerns. The broader investigation which this report informs will have a qualitative component with interviews with victims who have experienced cross-border situations. However, it is important to recognise that the primary motivation for undertaking the research and indeed the primary focus of the governments in Australian states and territories is the need for greater safety and protection of victims and their children. This section of the literature review begins by positioning victims' perceptions and concerns in relation to enforcement of protection orders before surveying the knowledge and experience of criminal justice professionals and victim advocates. Literature on victims' perspectives of the experience of cross-border enforcement is reviewed later in this section.

In a comprehensive study of separation in Australia conducted in 2006 (Bagshaw et al., 2010), which involved interviews with victims of family violence, it was found that family violence occurred throughout the process of separation and continued post-separation. As many other studies (Brownridge, 2006; Hoyle, 2008) have shown, women were much more likely to be victims of serious violence subsequent to separation. A concerning aspect of this paper (see (Bagshaw et al., 2010) referred to in the rest of this paragraph) is the dissatisfaction expressed by respondents (men and women) with response services, particularly the actions of child protection agencies (p. 181). While few male victims reported the persistence of violence post-separation, it persisted for the majority of women (p. 182). The violence described by female victims was usually "unprovoked, more often physical (including destruction of property) and sexual, and was described as extreme forms of social, emotional, psychological and financial control" (p. 183). A much greater number of women than men had applied for protection orders called Domestic Violence Orders and police prosecuted a quarter of the breaches overall. A significant finding for the purposes of this study was that breach prosecutions were far more likely to be successful against women than men and the authors pointed out the irony of this given the reported incidence rates in the report.

Major themes extracted from the findings included that some female victims, as opposed to the male victims, were so fearful for their and their children's safety they could not use any services for separating (Bagshaw et al., 2010). The highest levels of satisfaction were reported for informal kinds of support such as friends and family, and with general practitioners and other health services. The most dissatisfaction was expressed for formal services such as police, the Child Support Agency, Centrelink and Family Relationship Centres.

With the exception of domestic violence services, victims reported experiencing disbelief and disregard when they reported family violence to other services. They felt "belittled… labelled as alienating or unfriendly parents… (and were) offered patently unsuitable proposals (with a sense of coercion about them), to actual further harm" (Bagshaw et al., 2010, p. 184). Respondents felt greater challenges in fighting services as well as the violent parent. Bagshaw et al. (2010) concluded that the research revealed a concerning lack of knowledge in the civil court system about the dynamics of domestic violence and its effects, particularly where psychological and emotional violence were involved, and also a lack of ability to keep victims safe.

Many mothers reported feeling coerced into agreeing to care arrangements for their children due to the expressed view of their lawyers that there were risks in reporting family violence with the possibility of fines or loss of care of their children as a consequence. Mothers reported being advised by their lawyers that the violence would not prevent the other party from having equal parental responsibility and access to their children. They reported that parenting arrangements left them exposed to family violence in handovers and during contact. They did not feel believed and had difficulty presenting evidence of the ongoing violence and consequently found it difficult to relocate.

Children reported witnessing violence prior to and post-separation. Some children (16.3%) reported wanting the abusive parent to be removed from their lives. Both mothers and fathers reported that they thought their children were being physically or sexually abused by the other parent in their absence. Overall, the results from the survey of children's views showed that they felt removed from decision-making

about them, and that they wanted more professional support. Bagshaw et al. (2010) concluded that there was a high level of dissatisfaction of respondents with socio-legal service systems where family violence is present in separation situations.

The recommendations of the report included prioritising the safety of victims and children in all decision-making involving family separation, particularly in family law decision-making (Bagshaw et al., 2010). In the case of family violence, the safety of children and victims should take precedence over children's contact with the perpetrator in relation to shared care and shared parental responsibility. Much greater knowledge of the dynamics of domestic violence, the tactics used by perpetrators and their effect on victims was recommended for the legal profession. The neglect of recognition in the socio-legal services system of psychological and emotional harm was identified, along with the need for appropriate support services. Much greater links between the federal family law system and the range of state and territory government agencies that offer support to victims were recommended with reference to timeliness, professionalism and the need for diligent record keeping. Parental education about family violence was proposed, particularly about its effects on children. Court support for both women and men (separately) was recommended in family violence cases in the Family Court and Magistrates Court settings. A greater range of family services for men was recommended beyond standard anger management programs.

Of particular relevance to this study was the call for breaches of anti-violence orders to be followed up more diligently and to be enforced more often, especially where safety of victims is compromised. The situation of women in relation to poor service system responses to allegations of family violence is also important to note. Professionals and victim advocates should be asked about how many women they feel are deterred from reporting a breach of a protection order because women may not feel believed or may feel less safe in doing so.

The Queensland data which formed part of the study revealed the challenges that victims in rural and remote communities, particularly Aboriginal and Torres Strait Islander people, face in accessing support services. The issue of cultural appropriateness of services was not explored as part of the study but this has been widely acknowledged as necessary for effective service provision (Cripps & Davis, 2012; Day, Jones, Nakata, & McDermott, 2012; Wendt & Baker, 2013).

For risk management, information sharing between relevant agencies was recommended to assess safety needs. Universal screening for family violence with adequate attention to psychological harm was supported, as was ongoing review of assessment tools to ensure that coercive power and control is recognised. Family violence is defined as a gendered issue, based on the findings of the report, and the role of mental illness and substance abuse were reported as requiring much greater attention in family violence cases. Overall, Bagshaw et al. (2010) urged greater attention to the formal flagging of situations of suspected family violence in dispute resolution protocols.

Another key Australian study of domestic violence by Douglas and Stark (2010) that involved interviews with 20 victims reported concerns about enforcement of breaches of orders, and the attitudes of some police in the enforcement process. It is not possible from this study to distinguish between issues related to applying for a protection order versus enforcement of an already existing order. Both categories were represented in the research and it may be assumed that the reported experiences apply to both situations. Lack of consistency in policing was raised with some police described as "fantastic" (Douglas & Stark, 2010, p. 47) while others were reported as slow to act. Attitudes of police were reported as variable also, with some victims describing lack of empathy toward their situations but empathy extended toward perpetrators. Related to this was the reported lack of information provided to victims about the potential for criminal charges to be laid where orders had been breached through assaults and damage to property. As Bagshaw et al. (2010) noted, concern was expressed by victims about the lack of knowledge and understanding of domestic violence displayed by some police. A tendency to negotiate with the victim over prosecution of breaches was reported, with the collapsing of multiple offences into one charge which meant that the criminal history of some perpetrators was misleading in relation to recidivism. Many of the women in this study did feel supported by police, however, and were of the view that police actions were empowering to them particularly when they held the perpetrators accountable and made it clear that they viewed breaches as serious events. At the time of the study, none of the women could recall receiving referral information from the police about available support services (Douglas & Stark, 2010).

The experience of court systems raised similar issues in terms of the need for judicial education in the dynamics of domestic violence and the need for consistency in approaches of magistrates towards women applicants and towards perpetrators. The need for referrals to support services was identified, as was more information being made available to victims about the penalties for breaches of protection orders. The possibility that fines would likely be paid by the victims or out of child support led to the recommendation that fines as penalties should be a

last resort in domestic violence cases. Other recommendations were made concerning how the courts can protect the safety of victims during the court process with screening for the victim, for example, and the need to ensure that the parties to a hearing are unable to directly cross examine one another (Douglas & Stark, 2010).

Wangmann (2012) undertook research in New South Wales on protection orders concerning the issue of cross-applications, particularly the implementation of orders. While cross-applications are not the primary focus of this state of knowledge paper, there are findings from this study that are relevant for enforcement of protection orders. Among the main findings were that protection orders have the capacity in the New South Wales legislation to be implemented to take account of the complexities of the dynamics of domestic violence. However, Wangmann (2012) referred to the fact that the implementation standards of the legislation – and this is where there are implications for enforcement – are impacted by the constraints on the judiciary in relation to time and heavy workloads and also by judicial officers' knowledge and appreciation of the dynamics of domestic violence. This raises the possibility of similar constraints affecting the quality of judicial decision-making in enforcement of protection orders. Douglas and Fitzgerald (2013) noted that legislative reform may be promoted as a means to improve the implementation and enforcement of domestic violence legislation but that reform does not necessarily bring about changed attitudes and increased knowledge and skills of police and the judiciary.

The specific issue of the experience of victims of domestic violence with child protection systems and workers has been highlighted in Australian-based research (Humphreys & Stanley, 2006; Laing & Humphreys, 2013). In a study by Douglas and Walsh (2010) which used focus groups with child protection workers engaged with mothers who were victims of domestic violence, workers reported lack of knowledge and understanding of the dynamics of domestic violence. The lack of understanding led in some cases to workers holding "nonviolent mothers responsible for ending the violence" (Douglas & Walsh, 2010, p. 490). The importance of trust between mothers who are victims of domestic violence and child protection workers was emphasised, as this to a large extent determined whether mothers felt able to disclose the violence and to engage with the social workers.

New Zealand research on enforcement

A comprehensive study of the experiences of domestic violence victims in protection orders was published in 2007 which involved researchers from the University of Waikato and victim advocates and was commissioned by the New Zealand Ministry of Women's Affairs (Robertson et al., 2007). Due to the socio-legal similarities between Australia and New Zealand this paper has been selected for close scrutiny as it helps define what is meant by the enforcement of protection orders and connects well with the earlier reported Australian research. The remainder of this section relies on this report unless otherwise noted.

The Robertson et al. (2007) report of women's experiences of breaches reiterates the intention in the New Zealand Police family violence policy of supporting arrest of offenders who breach an order unless there are exceptional circumstances. Despite this policy provision victims described inconsistency in enforcement of breaches where offenders were sometimes arrested and at other times they were not. Robertson et al. (2007) suggested that leaving the decision to charge an offender to the officer's discretion is insufficient to ensure safety of women and they recommended consideration of mandated responses in these circumstances. The majority of the women interviewed for this study experienced breaches of orders and in most cases orders were breached repeatedly. The women reported that the respondents who had breached protection orders took a dismissive view of the orders and where police were slow to act – or failed to act – this view was reinforced.

In their defence, a number of police who contributed to the research identified that a particular case of a breach that went before the District Court failed because it was deemed that the arresting officer had failed to apply the criteria specified in s. 50[2] of the *Domestic Violence Act* (1995), for determining "good cause" to arrest for a breach. The determination in this case discouraged police from making arrests for breaches of orders. Robertson et al. (2007) recommended amending the *Domestic Violence Act* (1995) in New Zealand in line with the police pro-arrest policy to ensure that judicial decisions did not undermine police practices.

Similar to the Australian studies, lack of knowledge and understanding of the dynamics of domestic violence was reported by Robertson et al. (2007), particularly in relation to the minimisation of psychological violence and its effects. The women described ongoing texts and telephone calls from respondents being treated as minor acts even though these exacerbated women's fear and stress. Unwanted visits were also reported but where these did not involve physical violence police would not necessarily attend the scene. Police appeared to make an extra-legal distinction between breaches

regarded as "real" versus those regarded as "technical" breaches. Technical breaches were those where it was considered there was no risk of physical violence. Robertson et al. (2007) noted that there was no such distinction in the *Domestic Violence Act* (1995) and that instead the Act recognised patterns of coercive, controlling behaviour and the effects of psychological violence.

The women in this study reported feeling that they were regarded by the police as part of the problem and as contributing to repeated breach behaviour. Indeed, the study also reported that women felt pressured to agree to the respondent having contact with children or they were required to agree based on Family Court decisions.

Another issue raised by participants in the study was delays in the prosecution of breaches, with one participant waiting 12 months for a charge to be heard in court, and another waiting 8 months. The women felt further exposed to violence and intimidation due to the delays. There were, however, examples of police effectiveness and efficiency in pursuing breaches, with successful prosecutions.

The successful prosecutions described in the study involved articulate middle class Pakeha (European) women, whereas indigenous Maori women described consistent failure to respond to breaches in their cases until physical violence had occurred. The Pasifika women described lack of effort by police to locate respondents even though the women knew the whereabouts of respondents and reported these to the police. Robertson et al. (2007) stated the pivotal importance of following up and charging offenders where they breach orders and ensuring that each of the breach actions is charged separately. This resonates with Douglas and Stark's (2010) work, which noted that charging each breach action separately will more likely demonstrate patterns of offending and recognise the seriousness of each breach.

The routine use of risk assessment in relation to breaches of protection orders is recommended by Robertson et al. (2007). Particular participant cases were used to illustrate that sometimes seemingly minor breaches of orders did not reflect in any way the potential serious risk to victims. Associated with minimising the risk represented by particular respondents, examples were cited of interagency cooperation in responding to risk needs. In some cases there was insufficient evidence to pursue a particular breach, but nevertheless a lethality risk assessment indicated a high level of risk existed. In such cases referral to a police family violence coordinator resulted in the case being referred to an interagency meeting. The interagency cooperation that followed led to increased safety measures being put in place to protect the victim. The result was that the respondent ceased their attempts to contact the victim. In other cases the role of the police family violence coordinator, coupled with the use of risk assessment, appeared to be critical in ensuring that patterns of continuing violence and escalating violence were detected. If each of the breach actions had been viewed in isolation, it was unlikely that patterns and escalation would have been discerned.

Complexities in the application of risk assessments were also noted, with the need for adequate training in their administration, consistency in their application and ensuring that risk scores accurately reflected the level of risk. A practice of routinely interviewing victims about the risk indicators was recommended rather than completing the risk assessments at the end of the day, in the office, and without checking the victim's experience. It was noted that best practice should require that risk assessments are made available to victims. Robertson et al. (2007) noted that actuarial tools for risk assessment cannot be relied on solely to evaluate risk in all situations due to the complexity of factors in some individual cases. Heckert and Gondolf (2004) found that women's perceptions of risk in the United States were more reliable or at least matched three widely accepted risk assessment models.

The role of family violence coordinators was reported as important in the enforcement process. Their role is detailed in the New Zealand Police family violence policy and involves interagency liaison, problem resolution, monitoring of staff compliance with local protocols and family violence-related training (Robertson et al., 2007, p. 174). Some of the case examples in Robertson et al. (2007) illustrated the value of these positions to the domestic violence sector in increasing the responsiveness of police to enforcement. Robertson et al. (2007) called for these positions to be adequately recognised and resourced, and noted that specialised training and knowledge are necessary to equip coordinators for these positions.

The role of the criminal justice system in enforcement of protection orders is questioned in relation to the experience of the women victims in this study. Almost without exception women reported feeling that they were further re-traumatised by their experience of the criminal courts. They felt that the emotional and psychological costs to them of participating in criminal prosecutions could be contrasted with minimal sanctions being imposed on offenders. Delays in criminal prosecutions led to victims' exposure to further coercion, intimidation and control and to the perpetrators' ability to escape accountability for their actions. Withdrawals of prosecutions by victims were not uncommon given the length of the delays and the psychological toll on victims in waiting for court hearings and bearing the brunt of the perpetrator's

attempts to manipulate them. There was concern for victims' confidence in the criminal justice system, its ability to hold perpetrators accountable and victims' willingness to report breaches of protection orders.

In a number of cases where perpetrators were ordered to attend anger management courses which they then did not complete, perpetrators were not held accountable. To reduce the risk of re-traumatisation of women involved with criminal court hearings for breaches of orders, recommendation was made for legislative reform to allow victims to provide evidence while screened from the accused, or via video. A number of jurisdictions in Australia recommend such protective measures in relevant domestic violence legislation, for example, in s. 150 of the *Domestic and Family Violence Act 2012* (Qld) and s. 69 of the *Family Violence Protection Act 2008* (Vic).

Inconsistent sentencing in breach of protection order cases appeared in some cases to reinforce the police's construction of breaches as either "technical" which did not involve physical violence or "serious", where violence was used. Court sentencing decisions appeared in some instances to follow this approach. Breaches involving accessing emails, peering into homes, making calls and sending texts tended to be collapsed into one representative charge, which from the victims' perspective failed to reflect the significant psychological effects of each attempt to make contact.

There was a persistent theme of lack of information sharing in the reports by the victims in this study. One example was that when breaches were heard without the benefit of family court history related to the particular case, there was failure to recognise the pattern of violence. For the victim, the meaning of the breach lay in how it fitted within the overall pattern of intimidation and coercion. Best practice recommendations were that court information systems were reviewed so that sentencing judges in the relevant jurisdictions in a domestic violence case, whether child safety, criminal or family matters court proceedings, should have access to all the records relevant to the specific case.

For more serious assault charges in criminal courts, Robertson et al. (2007) noted that there was wide police discretion that could be exercised for "male assaults female". The victim participants reported wide variance in the charges that were laid and therefore in the sanctions that applied to violent offences. In other instances, the charges were reduced as a result of plea bargaining between the defendant's lawyer and the police. Decisions to grant bail were inconsistent also, and where there were lengthy court delays in sentencing the perpetrator would be at large. There were reports of repeat breaches of orders during the lengthy wait for court hearings.

The experience of women in criminal court settings was described as lonely and isolated with very little support. This is an ongoing theme in women's court experiences overall in relation to breach charges. Whereas women in this study felt that the defendant had access to considerable support, the women felt, despite the physical injuries they had sustained and the psychological impact of the violence, they had to keep themselves "together" for cross-examination and ongoing contact with the offender. It is recommended that community-based victim advocates be made available to women appearing before the courts in domestic violence-related matters.

A number of specialist domestic violence courts now exist in New Zealand as they do in Australia (Stewart, 2005), but Robertson et al. (2007) raised concerns about the need to ensure that best practice guidelines are followed in their implementation. Stewart's 2005 Australian report (Stewart, 2005) and Sack's Californian report (Sack, 2004) on best practices are both cited to illustrate that unless court officials are well-informed about domestic violence, and victim advocates are a central part of the response, these courts may not meet desired outcomes. The reforms are designed to deal with the issue of the multiplicity of courts as referred to earlier but nevertheless need to ensure that victims are well-supported and represented.

Concluding comments

Robertson et al.'s report (2007) on New Zealand experiences was consistent with findings from Australian studies that have involved interviews with victims. There are implications for professionals who routinely deal with victims and perpetrators of domestic violence in the enforcement process. The actions of professionals can profoundly affect victims' experience of civil and criminal court systems, and as illustrated above, directly impact on their safety. There are recurring themes of the role of information sharing and interagency cooperation which are re-visited later in this report. The next section reviews the particular role of policing in enforcement, from the perspective of police professionals.

Police response to domestic violence

Police often provide the first response to families experiencing domestic violence and police reports of domestic violence continue to rise. In Australia, tens of thousands of domestic violence protection orders are applied for every year (Wilcox, 2010). For example in Queensland, there were 64,000 domestic violence occurrences recorded by police in 2012/2013, a 10.8 percent increase from the previous year (Queensland Police Service, 2013). In New South Wales, around 29,000 domestic violence-related assaults and around 13,000 breaches of domestic violence orders were recorded by NSW police in 2013/2014 (Goodman-Delahunty & Corbo Crehan, forthcoming). In Victoria, there has been evidence presented of a 72.8 percent increase in reports of family violence incidents to police between 2004/2005 and 2011/2012 (Sentencing Advisory Council, 2013). The violation of domestic violence protection orders is quite common and in some instances triggers an escalation of violence (New South Wales Ombudsman, 2006; Slater, 2012).

Most violations of domestic violence protection orders however, do not result in an arrest (Frantzen, Miguel, & Kwak, 2011). This was indicated in the NSW Bureau of Crime Statistics and Research study (Trimboli, Bonney, & Wales, 1997) where only one-third of breaches were reported to police and of these the police took no action in 73 percent of the cases. A number of reasons were given in the study for police not taking any action including: insufficient evidence, the matter was considered too trivial for action or not considered a breach by police, the victim requested no action be taken, the absence of claim order in the police data system, leniency because of first breach, fear of antagonism by the perpetrator, and delay in police responding or not responding at all. The study indicated that when breaches are reported but not recorded in police systems or no enforcement carried out, it does convey to both victims and perpetrators the attitude of authorities towards the violation of a domestic violence protection order and the power of domestic violence order legislation in protecting victims and their families. Inaction by police may encourage perpetrators to ignore protection order conditions and undermine the security and protection that a protection order is designed to offer the victim (Trimboli et al., 1997).

A protection order can only be considered effective if it deters further violence or reduces the severity of violence, which is often associated with the ability and willingness of police to take action to enforce a breach (Crime and Misconduct Commission, 2005; Young, Byles, & Dobson, 2000). In their Australian study that compared women who had contacted the police only and women who had contacted the police and sought legal protection via a domestic violence protection order, Young et al. (2000) found that the severity of violence for abused women was reduced following legal protection, indicating the effectiveness of having a protection order. When a protection order is in place, police response is more effective as a breach of a protection order can more likely lead to arrest (Young et al., 2000). When there is a protection order in place, it also makes it easier for the police to intervene early when a threat has been made consequently preventing the continuation and escalation of violence, as found by the Police Executive Research Forum (2015). A study by Hirschel and Buzawa (2013) in the United States posited that police failure to follow up offenders who flee an intimate partner violence scene is a primary factor in failing to prosecute intimate partner violence offences. Hirschel

and Buzawa (2013) commented that whereas other types of offender may be difficult to locate, this is frequently not the case with domestic violence offenders whose workplaces and family networks are usually well known. It is imperative that accurate data are available on breaches of protection orders, the circumstances surrounding the breach are recorded and police take positive and decisive action when breaches are reported to ensure effective enforcement of protection order breaches.

Researchers in Australia (Douglas & Godden, 2003) have argued that protection orders have replaced appropriate criminal justice responses to domestic violence and proposed strengthening them through criminal justice reforms, specialist policing initiatives (Hunter, 2008) and other social control mechanisms (Crime and Misconduct Commission, 2005).

Nevertheless, protection orders are an important feature of the justice system's response to domestic violence as they can or may increase victims' sense of control and empowerment (Connelly & Cavanagh, 2008; Goodman-Delahunty & Corbo Crehan, forthcoming) as well as afford some level of protection to the victim and their families (Sentencing Advisory Council, 2009). The criminal justice response to breaches of protection orders is two-pronged and includes the police response and the court response. The police response specifically includes the investigation of a breach and the decision to charge and/or to proceed with the prosecution (Sentencing Advisory Council, 2009). Primarily the material presented by police to the court is what assists in the court response to the breach (Sentencing Advisory Council, 2009).

The purpose of protection orders is to prevent further violence, for example, by protecting victims from future assaults, threats, property damage, harassment, offensive behaviours and stalking; and by ordering the offender not to engage in certain behaviours (Rollings & Taylor, 2008). Therefore when an offender engages in these behaviours and a breach of an order occurs it should be viewed as an offence (Rollings & Taylor, 2008). Effectiveness of a protection order is linked to the effectiveness of policing and prosecution of breaches (Sentencing Advisory Council, 2009). In the absence of enforcement the protection order is merely a piece of paper (Sentencing Advisory Council, 2013).

Police are often the first point of contact with the criminal justice system for victims of domestic abuse and are considered as the main enforcers of protection orders; playing an important symbolic function (Gillis et al., 2006; Rollings & Taylor, 2008). Accordingly, the victim's confidence in the criminal justice system and the level of social tolerance towards protection orders conveyed can be strongly influenced by the attitudes and responses of police officers when they are called to a domestic violence incident (Gillis et al., 2006; Goodman-Delahunty & Corbo Crehan, forthcoming; Mitchell, 2011). By acting on an incident of a breach of a protection order, police are not only ensuring the safety of victims, but they are encouraging the reporting of breaches (Rollings & Taylor, 2008; Stephens & Sinden, 2000), and sending a message to offenders that a breach of an order is an offence that is subject to an arrest (Rollings & Taylor, 2008; Smeenk & Malsch, 2005). In cases of breaches, it is the initial responsibility of the police to decide on the types of charges to be laid and engage in effective evidence collection to support the charges and charge for a breach (Rollings & Taylor, 2008). If a domestic violence incident warrants an arrest and police fail to do so, the likelihood of victims commencing the prosecution process is significantly reduced (Hartman & Belknap, 2003) and in practice may reduce the likelihood of further breaches being reported to police (Goodman-Delahunty & Corbo Crehan, forthcoming). Thus, it is crucial that police officers approach domestic violence cases with sensitivity and care (Gillis et al., 2006).

Though there is evidence that police are now more sensitive to the needs of domestic violence victims (Meyer, 2014), the enforcement of protection orders remains incomplete and problematic (Blackwell & Vaughn, 2003). In Queensland Meyer (2014) indicated that the long-term needs of women at risk involved ongoing support through a stronger focus on perpetrator accountability.

Factors that influence police enforcement of protection orders

Police make important decisions at the scene, including taking action against perpetrators of domestic violence and providing information and protection for victims, their children and the community. Consequently, police perceptions and understanding of domestic violence are inherently linked with the decisions they make. The enforcement of protection orders is related to situational factors and personal characteristics of police officers which are discussed further below.

Pro-arrest policies

In the United States, government policies encourage or mandate arrest of domestic violence offenders in an attempt to criminalise domestic violence and enforce anti-violence statutes (Iyengar, 2009; Slater, 2012). Many states have thus adopted mandatory arrest laws that require police to arrest a suspect without a warrant when confronted with probable cause of assault in domestic violence cases such as when an injury occurred (Iyengar, 2009; Phillips & Gillham, 2010); though police officers have expressed concerns that these laws undermined their professionalism (Rowe, 2007). These mandates emerged as a tool to regulate police enforcement of protection orders to establish police liability in domestic violence cases (Iyengar, 2009; Slater, 2012) by reducing police discretion in the arrest decision, thereby protecting victims (Phillips & Gillham, 2010). Research has indicated arrest was more likely when the offender was found to be disrespectful towards the responding officer (Crime and Misconduct Commission, 2005; Phillips & Varano, 2008).

Iyengar (2009) however found in her analysis of FBI Supplementary Homicide Reports from 1976-2003 that partner homicide had increased in states where there were mandatory arrest laws, which suggests that mandatory arrests are not by themselves sufficient to deter offenders in domestic violence-related incidents. Other researchers (Slater, 2012) have found that mandatory arrest policies can disempower women, especially if they do not want their partners arrested.

In Australia, pro-arrest policies such as those in New South Wales, while intended to prevent a repetition of offence and may be the appropriate action in some circumstances, do not take into account individual circumstances (Sentas & McMahon, 2013). Sentas and McMahon (2013) argued that pro-arrest policy may not necessarily rectify the challenges of police under-enforcement of domestic violence breaches. In fact, it may have unintentional consequences of dual arrest of domestic violence victims, and exacerbate over-policing of Indigenous and marginalised groups (Sentas & McMahon, 2013).

The negative consequences of pro-arrest policies on domestic violence victims have criminalised some abused women who have acted in self-defence, particularly when there is a lack of evidence for police to clearly determine who the offender was (Muftić, Bouffard, & Bouffard, 2007; Slater, 2012). Research of court files indicates some common issues that may help distinguish the primary victim from the primary aggressor (Mansour, 2014; Wangmann, 2009). Primary victims of domestic violence may be incorrectly identified as such when: (a) there is a lack of evidence; (b) when the credibility of their account of the incident is difficult to ascertain because of their heightened state of stress and anxiety; (c) the perpetrator accuses them of being mentally unstable; and (d) the perpetrator initiates a private application of a protection order against them to further intimidate and threaten them (when most applications of domestic violence orders for victims are by police officers) (Mansour, 2014; Wangmann, 2009). In addition, victims may incorrectly be identified when there is evidence that the perpetrator has sustained physical injuries that could have resulted from a single act of self-defence by the victim (usually a bite or scratch on the hand or arm), unlike abusive behaviours the victim would report as a result of multiple incidents (Mansour, 2014; Wangmann, 2009).

For responding police, identifying the primary victim and primary aggressor poses a challenge and Wangmann (2009) suggested considering the context of the acts which requires looking beyond the incident and considering history of violence, nature of injuries sustained, likelihood of future violence, and the possibility of one party acting in self-defence.

Concern for the victims

Police are often challenged by how to increase the willingness of victims to report breaches of protection orders and proceed with prosecution related to breaches (Rollings & Taylor, 2008). The decision to enforce protection orders varies between police officers. Research reveals that some police officers enforce breaches regardless of victims' willingness to cooperate while others are hesitant when victims are uncooperative and reluctant to proceed with prosecution (Crime and Misconduct Commission, 2005; DeJong, Burgess-Proctor, & Elis, 2008). According to police data analysis, the factors that led to a charge against an offender in domestic violence situations included presence of injury (Buzawa & Hotaling, 2006) and victim's arrest preferences. In cases where there was an injury present the officers were more likely to make the decision to charge and prosecute the breach as there was a greater likelihood of tangible evidence available to present to court (Crime and Misconduct Commission, 2005). A victim's arrest preference, though the least important factor, would often influence the responding police officer's decision to arrest particularly in cases where there was a lack

of sufficient evidence for prosecution (Crime and Misconduct Commission, 2005). The willingness of the victim to press charges was particularly relevant for police officers that tended to prefer conditional law enforcement approaches (Gracia, García, & Lila, 2010).

Police, however, expressed frustration that victims often assist offenders in breaching an order or withdraw their case which often hinders enforcement of breaches (NSW Ombudsman, 2006). Police also expressed the belief that victims do not want perpetrators to be charged or that victims will become uncooperative or drop charges once the situation de-escalates (Crime and Misconduct Commission, 2005). The Crime and Misconduct Commission (2005) research also indicated that if the victim had previously dropped charges related to a breach, there would be an increased likelihood that the responding officer would make the decision not to charge an offender for a breach even if the victim requested that an arrest be made. However, victims did view the follow-up visits to ensure victim safety, shortly after initial contact, as a positive step in enforcement (Gillis et al., 2006).

Risk assessment protocols in decision-making

To aid in decision-making processes, police officers engage in a variety of risk assessment protocols which predict recidivism and identify the severity and dangerousness of the associated violence (Slater, 2012). These protocols are most effective through interagency collaborations (O'Malley, 2001) though implementation of risk assessment varies across agencies and between Australian states and territories (ALRC & NSWLRC, 2010). Risk assessment tools assist agencies in prioritising cases particularly where time and resources are limited (Slater, 2012). In New South Wales for instance, as of 1 July 2015 the Domestic Violence Safety Assessment Tool is required to be used by all police officers at all domestic violence incidents. The assessment tool was developed for police to identify the level of threat of future harm to a victim of domestic violence and is central to the Safer Pathway in the *It Stops Here* NSW domestic violence reforms (NSW Police Force, 2015). The results of the assessment tool are referred to specialist domestic violence support services (NSW Police Force, 2015). The ALRC and NSWLRC (2010) report gives a more detailed account about risk assessment policies across various jurisdictions in Australia.

The proposed national domestic violence order proposes to establish a national information system that will enable police and courts across jurisdictions to share information about all active protection orders (Angus, 2015). From a national response perspective, interagency cooperation through a shared risk assessment tool is crucial for consistency across agencies and jurisdictions and for the continuity of responsiveness across services and systems (Angus, 2015; Slater, 2012). Shared risk assessment tools, such as the Domestic Violence Safety Assessment Tool, allowed for consistency in identifying the level of threat of future harm to domestic violence victims; increased information exchange between government agencies; improved agency accountability; reduced re-victimisation; and improved victim safety (NSW Police Force, 2015). However, a shared risk assessment tool is challenging given that dynamic risks, as opposed to static risks such as history of convictions, are often influenced by context and situational factors that shift over time (Slater, 2012). For instance, in cases where women have been identified as low risk this can often be disempowering as any incidents of violence are then not taken seriously by police and hence forfeit police protection or support (Radford & Gill, 2006). Risk assessment tools, although necessary, may only provide a limited perspective about domestic violence-related incidents and so should be complemented with discretionary assessment of the personal and social issues that need to be addressed for long-term solutions to protection order enforcement (Slater, 2012).

Severity of breach

Enforcement of protection orders is often dependent on the perceived severity of the domestic violence incident (Crime and Misconduct Commission, 2005; Gracia et al., 2010). Police officers both in Australia and in the United States who preferred a conditional enforcement of domestic violence laws (that is, where enforcement relied upon the victim's willingness to press charges against the offender) viewed the incident as less serious than other crime cases and consequently felt less responsible to enforce domestic violence laws (Crime and Misconduct Commission, 2005; Gillis et al., 2006; Goodman-Delahunty & Corbo Crehan, forthcoming; Gracia et al., 2010; Stephens & Sinden, 2000).

Logan, Shannon, and Walker (2006) found in their research that police attitudes towards domestic violence were different from their views about other crimes, which would most likely impact upon their enforcement of protection orders. The perception of domestic violence offences as an interpersonal issue rather than a crime often influences how police officers respond to breaches of domestic violence orders (Logan et al., 2006). In the Gillis et al. study (2006) for example, the women described police as being insensitive and dismissive and they felt that their domestic violence incident did not warrant the police's attention. Gracia and Herrero (2006) found that unless a domestic violence offence was extreme, severe or involved repeated violence, police were less likely to respond. Goodman-

Delahunty and Corbo Crehan (forthcoming) similarly found in their New South Wales research with victim advocates of domestic violence that police would not take any action if there were no obvious physical injuries. In Australia, Victoria police and New South Wales police in their code of practice consider both technical and minor breaches to be unacceptable, thereby requiring officers to charge based on evidence and not a subjective assessment of severity by the responding officer (NSW Ombudsman, 2006; Sentencing Advisory Council, 2013; 2004) The research by Goodman-Delahunty and Corbo Crehan (forthcoming) indicated that some police officers in New South Wales still use a technical breach for not taking action against a breach of a protection order.

Collecting evidence

Though a breach of a protection order is a criminal act, police officers raise concerns that the occurrence of a breach is difficult to confirm due to the lack of reliable evidence to support a charge (Crime and Misconduct Commission, 2005; NSW Ombudsman, 2006). This is further compounded when a victim refuses to proceed with a prosecution, thus making it difficult to provide evidence in court (Crime and Misconduct Commission, 2005; NSW Ombudsman, 2006). For example, if a breach has occurred with the use of a text message to facilitate child contact, it is often difficult for police to prove that the order has been breached if there is no recording of the messages or to prove that it is the offender or defendant who actually sent the messages (NSW Ombudsman, 2006). Police officers find it difficult to determine if an order has been breached particularly where there are no obvious abusive actions such as visible injuries or property damage (NSW Ombudsman, 2006).

Some researchers (Erez & Belknap, 1998; Goodman-Delahunty & Corbo Crehan, forthcoming), however, raised concerns that police officers sometimes fail to collect any evidence with which an abuser can be prosecuted. For effective enforcement of protection orders, evidence should include a holistic picture of the family violence dynamics rather than presenting evidence of a breach in isolation. Tangible evidence for a breach can include social media use, SMS messages and CCTV footage, which are increasingly available to police (Sentencing Advisory Council, 2013). Decisions to proceed with a prosecution according to the Sentencing Advisory Council (2009) should be made with reference to the evidence collected and not the subjective assessment of the responding police.

During enforcement of a protection order, police are able to gauge if the current order is effective or not. Steps can then be taken to determine if the existing protection order requires further extension or variation of the conditions to ensure the safety of the victim (Sentencing Advisory Council, 2013).

History of previous domestic violence incidents

Appropriate responses by police require knowledge of past history of offences and risks associated with offenders (Rollings & Taylor, 2008). What is unclear, however, is the amount of information that is provided to the attending officer by dispatch or whether this information has been received and understood before the responding officer arrives at the domestic violence incident (Rollings & Taylor, 2008). This requires improved dispatch protocol that ensures that the responding officer is aware of any previous police attendance, if the offender is violent, access to relevant information available in a timely fashion, and an acknowledgement that they have taken these into consideration prior to arrival at a domestic violence scene.

Police experience

The level of police experience seems to have an impact on the enforcement of protection orders. More experienced officers were more likely to take a "realistic" approach to arresting offenders for breaches of orders – unlike less experienced officers, who would weigh the level of dangerousness, the evidence available to support charges, and the probability of victims pursuing prosecution (DeJong et al., 2008). The more experienced the officer, the fewer criminal charges were filed (Phillips & Varano, 2008) in contrast to less experienced officers, who had received training and were more likely to arrest a domestic violence offender.

Response time

Delayed police response time was a significant indicator of whether or not victims would pursue prosecution for breach of protection orders in Gillis et al. (2006). Delayed response times could be partly attributed to an increase in police workloads. The increased volume of recorded incidents of violence and the complexity of domestic violence matters may prevent officers from responding in a timely fashion (Rollings & Taylor, 2008). In the Crime and Misconduct Commission study of 450 police officers, a consistent concern was the time-consuming nature of domestic violence jobs that would take on average 3 to 4 hours to process (Crime and Misconduct Commission, 2005; NSW Ombudsman, 2006).

Police interaction with Indigenous and migrant communities

Fear and distrust of police, the justice system and government agencies may become obstacles that police have to encounter, more so for people from Indigenous (QIFVLS, 2014) and migrant communities (Goodman-Delahunty & Corbo Crehan, forthcoming). Police have to consider the anxiety that these groups experience when they are obliged to engage with police and/or welfare services (Mitchell, 2011). Research indicates that even though Indigenous women are more likely to be victims of domestic violence, police are the applicants in more than 95 percent of domestic violence orders in remote communities (QIFVLS, 2014).

Closely related to interaction with these groups is the use of interpreters. Sometimes police use unsuitable interpreters, such as members of the perpetrator's family, that may hinder decisions to prosecute for a breach of a protection order. In other circumstances, absence of search warrants when collecting major evidence or loss of paperwork, have obstructed successful prosecution (Gillis et al., 2006). In addition, police need to also consider the adequacy of some services in meeting the needs of victims and their families (QIFVLS, 2014).

Concluding comments

The lack of appropriate training and/or insufficient training on domestic violence has been cited by many service providers as the reason why police fail to act when there is a breach of a protection order resulting in a delay in police response, failure to investigate domestic violence incidents, and inadequate follow-up with victims (Goodman-Delahunty & Corbo Crehan, forthcoming; Sentencing Advisory Council, 2006; 2009) . For the criminal justice system to be effective in its response to protection order enforcement a collaborative, coordinated and interagency approach to addressing domestic violence is currently best practice (Rollings & Taylor, 2008).

The national policing strategy to address domestic violence recognises the challenges faced by police, such as workload, and quality and accuracy of data extracted from police systems in enforcement of protection orders, and proposes information and intelligence sharing between police and other partner agencies to assist police in their effectiveness in responding to and reducing domestic violence (Rollings & Taylor, 2008). To facilitate better response to domestic violence by police, police commissioners across Australia launched the *Australasian Policing Strategy for Preventing and Reducing Family Violence* in 2008 (Mitchell, 2011). The main goal is to ensure consistency in policies and practices across Australia and it outlines priorities for action to facilitate information and intelligence sharing between police and other agencies (Mitchell, 2011). The ACT Family Violence Intervention Program has been cited as a good practice model. It is perceived as proactive and multi-agency in approach to domestic violence in that it relies on pro-arrest, pro-charge policies with cases fast-tracked through the courts, and information shared between agencies about domestic violence (Holder & Caruana, 2006; Rollings & Taylor, 2008). Victoria has also been cited as having a good practice policing model (Sentencing Advisory Council, 2013).

Research is required to evaluate current enforcement of protection orders by police and courts to address the gaps between domestic violence policy and guidelines and the lived experiences of victims of domestic violence in the criminal justice system. The next section addresses magistrates' and lawyers' perspectives on enforcement of protection orders.

Perspectives of magistrates and lawyers

Judicial officers including magistrates, lawyers and other legal professionals are also critical responders to cases of domestic and family violence. Such professionals play an important role in assessing risk for victims, connecting families with support services and making decisions to protect people experiencing violence. Domestic and family violence may encompass a significant part of magistrates' total court time. For example, Field & Carpenter (2003) conducted a survey in Queensland in 2000 in which magistrates estimated they spent 5-40 percent of court time on domestic violence protection orders with the majority indicating between 5-10 percent of court time. Magistrates in NSW estimated they spent 5-75 percent of their court time with over two-thirds spending 10-20 percent of their time on protection orders (Field & Carpenter, 2003). In 2007, a national survey of magistrates in Australia asked participants how often they had sat on different types of cases in the previous year, with 34 percent (243) indicating they "always" and 43 percent indicating they "often" sat on domestic violence and restraining order cases and 52 percent "always" sat on criminal cases (Mack, Roach Anleu, & Wallace, 2011).

When making decisions on cases of domestic violence in court, magistrates may be affected by many different factors, including their understanding of domestic violence (Laing, 2000); beliefs about domestic violence, including their views of appropriate action for families involving children (Meier, 2003); and opinions about mutual responsibility for domestic violence (Epstein, 1999; Meier, 2003). A survey of Queensland magistrates in 2000 (Field & Carpenter, 2003) found 15 percent or seven out of 38 magistrates believed procedures associated with protection orders were not fair to men, compared to 35 percent or 24 out of 68 magistrates in a similar survey in New South Wales . In Queensland, 71 percent of magistrates agreed that in most cases the main priority in assessing domestic violence orders and applications is concern for the safety of women and children (75% of magistrates in New South Wales agreed). In addition, 74 percent of magistrates in Queensland agreed that protection orders are often used by applicants in family court proceedings as a tactic to aid their case and deprive their partner of contact with the children (90% agreed in New South Wales), and 74 percent of magistrates in Queensland believed women use domestic violence proceedings as a tactic in family law matters.

These views may be in stark contradiction to reality for many victims of domestic violence. For example, the court has a responsibility to recognise reasons why women may be reluctant to raise issues in a courtroom environment, such as fear of retaliation, and there may also be valid reasons why women appear difficult or uncooperative including emotional trauma (Field & Carpenter, 2003). Support within the court environment is also necessary so that victims can participate safely during proceedings (Field & Carpenter, 2003). Lengthy court processes and complex systems within the criminal justice process can also act as deterrents for victims (Epstein, Bell, & Goodman, 2002). Understanding and navigating through the criminal justice process can be even more difficult for people from culturally and linguistically diverse backgrounds, who may also be affected by poor experiences in their countries of origin (Erez & Hartly, 2002).

It is important that magistrates are provided with education about domestic and family violence so that they can respond appropriately to the needs of victims and families experiencing violence. The Australian Law Reform Commission (1999) report, *Managing justice: A review of the federal civil justice system,* emphasised the importance of ongoing learning and education for justice system professionals to meet the needs of

their changing environment. Judicial officers are also affected by pressured work environments and high-volume caseloads (Gray, 2008). They also need to respond to diverse caseloads and may need specialised skills and understanding to respond to people from varied backgrounds and with diverse needs (Gray, 2008). Judicial officers also need to keep up-to-date with new legislation, changes in court systems and new technology (Gray, 2008). Mack, Roach Anleu and Wallace (2011) found that three-quarters of the magistrates they had surveyed described the volume of cases as unrelenting; however, the greater majority of magistrates (92%) also reported being satisfied with overall workloads.

Magistrates can choose to apply charges to breaches of protection orders and/or impose a variety of penalties. They can also play an important role in publicly communicating who should be held accountable for the violence (Douglas, 2008). Douglas (2008) examined 645 court files, from 1 July 2005 to 31 December 2005, related to prosecutions for breach of protection orders from three Queensland courts. Douglas (2008) found in one case in the sample, a magistrate noted the defendant's failure to take responsibility for his actions and subsequently the sentence was increased (p. 463). Douglas (2008) also described cases in which both the parties in the situation were held accountable for the violence of the perpetrator, which minimises responsibility for the violence of the perpetrator. In relation to sentencing, Douglas (2008) found that magistrates tended to apply lower-order fines or not record a conviction, with 40 percent of cases reviewed not recording a conviction and 42 percent resulting in fines. Flexibility for magistrates to provide more individualised sentencing is needed and this could be reflected in legislation (Douglas, 2008, p. 465).

The prosecution can play an important role in how and whether people arrested for domestic violence offences proceed through the court system (Hartman & Belknap, 2003). Prosecuting domestic violence is complex – it requires an appreciation of long-term protection from violence, an understanding of the dynamics of domestic violence, coupled with understanding of magistrates' responsibilities. For example, there may be valid reasons for a victim's hesitation to participate in the court process and one of these, for example, is a protective mechanism to ensure their safety (Epstein et al., 2002). The nature of domestic violence cases may mean that sentences for domestic violence-related offences may be shorter on average than other violent crimes and contact between the victim and the perpetrators may continue following court outcomes and the violence itself may continue or worsen (Epstein et al., 2002). Factors that may affect victim cooperation include the potential for retaliation by the abuser, financial or resource dependency and a continuing emotional connection or attachment to the abuser (Epstein et al., 2002).

As a result, guidelines for lawyers have been developed. Legal Aid Queensland, which provides legal assistance to financially disadvantaged people, has set best practice guidelines for lawyers working with respondents in domestic violence proceedings. The first principle of the guidelines (Legal Aid Queensland, 2015) includes developing and maintaining knowledge of the social context of domestic violence including through professional development opportunities and ongoing learning. The guidelines also encourage attending risk assessment training for domestic and family violence and using risk assessment methodologies such as risk assessment models and tools (Legal Aid Queensland, 2015). Similar guidelines can also be found in other states such as New South Wales (Legal Aid NSW, 2014) where it is acknowledged that clients may be reluctant to divulge a history of abuse. The NSW guidelines pose some questions lawyers might like to ask about domestic violence (Legal Aid NSW, 2014).

Hartman and Belknap (2003) suggested prosecutors may have some unproductive views in domestic violence cases, which may include believing there is no true victim in their understanding of the nature of domestic violence. Prosecutors may also believe that both parties are responsible and may be reticent to take on domestic violence cases because victims may be uncooperative (Hartman & Belknap, 2003, p. 351). Their study involved interviews and surveys of 62 municipal court professionals (14 judges, 18 prosecutors and 31 public defenders) located in a region where a "preferred" arrest statute was in place, but not mandated for police. Views of concern from professionals included that women were "viewed as pathetic, stupid, or even deserving of the abuse they experienced if they stayed with the defendant and/or were uncooperative with the court officials" (p. 363). Contrarily, when women proactively pursued cases they "were viewed as vindictive, crazy, or falsely charging domestic violence to meet their own selfish needs" (p. 363). Reference was made to the belief that women call police if they need some free time to themselves, an attitude which arguably minimises the victim's experience of violence. There were some differences observed between professionals' observations including

that prosecutors rated a defendant's prior record as a strong influence on the case outcome compared to public defenders and the lowest weight given was from judges. Prosecutors also rated a couple's history of violence as a stronger influence of case outcome compared to public defenders and again the lowest weight was given by judges (Hartman & Belknap, 2003, p. 368).

Bell et al. (2011), in an examination of women seeking help from a civil court in the United States, found that it was important for victims to feel as though they had been treated fairly by court professionals and felt valued when asked for their input and being included in the decision-making process. For example, victims who had negative experiences felt their voices were lost; professionals were unresponsive to their inquiries and were not open to advocating for what they were asking for (Bell et al., 2011).

Victim experiences in the court room

The Judicial Research Project (Roach Anleu & Mack, 2015), based at Flinders University in South Australia, built on and extended the earlier work of the 2000 Magistrates Research Project to provide new knowledge and insight about the changing nature and organisation of judicial work, judicial impartiality and neutrality, judicial independence and accountability. It highlighted a need for improving interactions between judicial officers and the people appearing in court (Roach Anleu & Mack, 2015). For example, professional development for judicial officers should focus on improved communication skills with people in court, such as listening skills and empathy (Roach Anleu & Mack, 2015). Bell et al. (2011) suggested that while many women experiencing domestic violence may have contact with the court system there is limited knowledge about the experiences that are helpful versus harmful. The court experience has the potential to contribute to preventing the violence and can be important to recovery – connecting with resources, understanding the legal system and validating that the behaviour was wrong and they have support (Bell et al., 2011). A further issue is that court systems may generally focus on intervening with offenders rather than the needs of victims (Bell et al., 2011). It is important to focus on the victim for a number of reasons, including that they are a source of information for the offence as well as reports of future domestic violence incidents, and the outcome can have a profound effect on the victim's safety.

Bell et al. (2011) examined data of 376 women seeking help from civil court, criminal court, and/or shelters following violence from a current or former male partner and their methodology involved an interview and follow-up interview with participants. Women's experiences varied; however, the tone set by judges was said to impact upon the women's evaluation of their court experiences. Some women reported positive experiences including that it was helpful for a judge to denounce abuse, while others reported negative experiences, such as feeling unimportant and the impression that the perpetrator could get away with the abuse. The researchers assessed women's sense of how fair the court had been to them, reporting that 55 percent responded with a rating of 5 (the highest level of fairness), 18 percent found the court very fair with a rating of 4, 12 percent rated 3, nine percent rated 2 and six percent rated the court as very unfair. Bell et al. (2011) also asked about the court's helpfulness in increasing women's overall sense of wellbeing with 36 percent of women giving a rating of very helpful (5), 23 percent a rating of 4, 25 percent a rating of 3, six percent a rating of 2, and ten percent indicating 1 or "not at all helpful".

Bell et al. (2011) also highlighted the importance of enforcement, including that the court taking action was necessary but reinforcing or following up that action was also imperative. Actions of enforcement helped convey to the perpetrator that the situation was serious and behaviour would not be tolerated. The converse was also true when orders were not felt to be enforced and the perpetrator, for example, felt the order was a joke. A lack of enforcement example given was that of a woman who said her partner had not been incarcerated even after violating his parole five times (Bell et al., 2011).

Concluding comments

Magistrates and lawyers play a critical role in responding to cases of domestic and family violence. Research summarised in this section involving both the judiciary and lawyers indicated that there are still elements of gender bias exhibited in attitudes towards protection order applicant women and respondent men and assumptions about their behaviour. Across both professions research has also highlighted a lack of understanding of the dynamics of domestic and family violence and the need for ongoing education and training. Ongoing professional development has the potential to support judicial officers and lawyers in the quality of their listening skills and their ability to empathise in order to enhance interactions in court and legal support settings, particularly where victims are concerned.

Court systems have the power to empower victims to validate their experience and to aid in their recovery. Courts also have the power to send a strong public message about the abuse itself and the fact that perpetrators will be held accountable. In instances where the courts fail to achieve these two aims the confidence of both victims and the community in court processes may be diminished and perpetrators may not only continue to minimise the seriousness of their behaviour, but also disregard the authority of the court. Enforcement of protection orders is an essential part of upholding the integrity of the original protection order and sends a message to the public about the courts' commitment to effectively respond to domestic violence.

The next section in this report considers aspects of information sharing related to the enforcement of protection orders. Interagency responses are directly linked to information sharing and are discussed in association with information sharing approaches.

Information sharing

Building on earlier discussions on information sharing provisions in legislation, this chapter section addresses the practice of information sharing. For the effective enforcement of protection orders, coordinated integrated responses that are adequately resourced are important. Working collaboratively through integrated responses facilitates access to relevant services through interagency referrals that foster victim safety (Finn & Compton-Keen, 2014; Meyer, 2014). A coordinated or integrated response allows awareness of the risk to the victim and the behaviour and dangerousness of the perpetrator (Finn & Compton-Keen, 2014). Integrated responses rely on mechanisms for interagency collaborations and shared policies and objectives (ALRC & NSWLRC, 2010). Interagency collaborations include information sharing protocols, regular interagency meetings and the inclusion of police liaison officers (ALRC & NSWLRC, 2010; Finn & Compton-Keen, 2014). Clear information sharing protocols or models that are based on legal frameworks, policy guidelines and professional judgement based on information available at the time would enhance existing referral processes and facilitate a coordinated domestic violence service delivery; thereby limiting the necessity for women to continuously repeat their stories to the various domestic violence response services (Finn & Compton-Keen, 2014). This is facilitated by a robust information sharing model that ensures action is taken promptly, particularly for high-risk cases of domestic violence (Finn & Compton-Keen, 2014). However, it is not sufficient to have information sharing protocols and memoranda of understanding between agencies. These protocols and memoranda are dependent on the knowledge and participation of officers and staff for successful outcomes (ALRC & NSWLRC, 2010).

There are information sharing protocols in place in various jurisdictions, including New South Wales and Queensland for child protection agencies, but these protocols are lacking for domestic and family violence (ALRC & NSWLRC, 2010). The Northern Territory, South Australia, Victoria and Western Australia have state policy level work that identifies legal rights and obligations that relate to the collection and sharing of confidential information (Finn & Compton-Keen, 2014). All these jurisdictions prioritise the option of obtaining consent from the victim for the disclosure of information (Finn & Compton-Keen, 2014). For example, Western Australia does have a number of protocols established in 2009 between the Family Court of Western Australia, the Magistrates Court, the Department of the Attorney-General, the Department of Corrective Services and Legal Aid Western Australia (ALRC & NSWLRC, 2010). The memorandum of understanding in Western Australia provides recognition of duty of care between state and Commonwealth government agencies and community sector agencies (Government of Western Australia, 2013). It does not require client consent if the case is assessed as high risk (Government of Western Australia, 2013). Changes were made in 2013 to include multi-agency case management procedures (Government of Western Australia, 2013). The ALRC recommends that formal information sharing arrangements between state and territory courts, the federal family courts, police and other agencies be established to deal with family violence issues (ALRC & NSWLRC, 2010), consistent with the National Plan to Reduce Violence against Women in Australia (Council of Australian Governments, 2011).

As in the case of child protection agencies (ALRC & NSWLRC, 2010), protocols for family violence should set out procedures, including for requests for information, safeguards for documents requested and shared databases. This shared database should be able to hold data that are accessible in any jurisdiction with consistency in how data are entered. A shared database can assist responding officers to better support vulnerable victims, to identify risk, to report it, and to record information about services provided to victims and identify service gaps. This allows for integrated responses that are timely and coordinated, thereby decreasing service duplication (ALRC & NSWLRC, 2010).

Information sharing models need to be centred on the women victims of domestic violence while accommodating existing information sharing processes that may already exist in services that respond to the enforcement of protection orders. Though shared databases are currently limited in many jurisdictions in Australia and are in the developmental stages, Tasmania and Western Australia do have a shared database system that is useful for risk assessment and monitoring and tracking of high-risk cases across relevant systems interventions (Finn & Compton-Keen, 2014). These shared databases standardise reporting and record keeping while providing mechanisms that support data analysis and evaluation to provide a coordinated response for high-risk domestic violence cases. Table 6 indicates some of the information sharing systems in place in various jurisdictions in Australia for high-risk domestic violence cases.

Information sharing protocols and memoranda can facilitate communication and coordination between federal, state and territory agencies and relevant service providers (ALRC & NSWLRC, 2010). To support sound practices in information sharing, good privacy practice and complaint procedures should be incorporated (ALRC & NSWLRC, 2010). Mulroney (2003) proposed a number of additional mechanisms to support information sharing collaborations which include clear policies that articulate aims and objectives, practice and competency standards, best practice models, strategic plans, steering committees that monitor implementation of the protocols, policy frameworks and action plans.

To counteract the inherent barriers in information sharing protocols such as cultural and administrative barriers, resources should be dedicated to promote the protocols and training should be provided to staff to use them (ALRC, 1999).

Table 6 Examples of information sharing protocols in Australian jurisdictions

Jurisdiction	Model	Agencies involved	Information sharing protocols guided by	Purpose of sharing information	Type of information shared
Australian Capital Territory	Family Violence Intervention Program (FVIP)		Legislation	Management of high-risk matters	Case tracking/monitoring and information sharing between police and domestic violence service
New South Wales	Safety Action Meetings (SAMs) – informed by the FSF in South Australia		Information sharing protocols and minimum practice standards		
Northern Territory and South Australia	Family Safety Meetings (FSMs)	Utilise fortnightly meetings to coordinate between SA police (chair), child protection, relevant health agencies, mental health, housing, drug and alcohol SA, education, women victims support services, correctional services and women's domestic violence services	Practice manuals and information sharing protocols set legal basis for enabling information sharing in line with information sharing privacy principles. Confidentiality agreement signed at each meeting.	Related to imminent risk of death or serious injury due to domestic violence	Basic demographic information including pseudonyms, children and their ages, information on key risk indicators including relevant professional opinion on the risks, relevant history of domestic violence or related behaviour by perpetrator or victim, voice of the victim through women's domestic violence services
Queensland	Gold Coast Domestic Violence Integrated Response (GCDVIR)	Weekly meetings with Domestic Violence Prevention Centre, Queensland Police Service (QPS), Queensland Corrective Services (QCS), probation and parole, Southport and Coolangatta Magistrates Courts, Department of Communities, Child Safety and Disability Services, Department of Housing and Public Works, two local women's accommodation support services, Southport and Robina Hospitals, Legal Aid Queensland and Centacare	Supported by MOUs, legislation and operational procedures manuals. Information shared on the basis of internal agency guidelines about what information can and cannot be shared	Support the enhancement of women's safety through casework in high-risk matters and improving perpetrator accountability and community safety	Liaising with QPS and QCS to flag addresses that require urgent response on the police system, safety check to be undertaken by police, probation and parole supervision to be reviewed following an incident or update risk assessment or urgent relocation of a woman and her family

Jurisdiction	Model	Agencies involved	Information sharing protocols guided by	Purpose of sharing information	Type of information shared
Tasmania	Safe at Home	Integrated system between government and service agencies for information exchange, case management and ongoing policy management	Legislation and shared database facilities monitoring across systems		
Victoria	Risk Assessment Management Panel (RAMP)	Monthly meetings convened/chaired by coordinating agency and involves relevant men's and women's family violence services, police prosecutions, child protection, corrections, relevant health service, community legal service, Child FIRST, Centrelink and housing. Other services invited as required	Information sharing protocols that outline duty of care obligations of participating agencies	Joint risk assessment that results in actions agreed upon to reduce risks and improve safety	
Western Australia	Multi-Agency Case Management Meetings (MACM)		Case management guidelines and MOU	Related to assessment of risk, reduction of risk and/or increasing perpetrator accountability	Basic demographic information, known details of family circumstances (criminal/civil history of violence), qualitative information provided by victim or other concerned party, and special issues contributing to the risk of harm (e.g. cultural factors, mental health, substance misuse and medical conditions), criminal histories relevant to high-risk assessment and/or indicative of potential risk of harm to worker, information and circumstances that led to high-risk assessment, detail of violence pertaining to other restraining orders in place, and other information that would contribute to reducing the risk of harm to victims

Source: Finn & Compton-Keen, 2014

Conclusion

This state of knowledge paper has examined the enforcement of protection orders from multiple angles. It began with an international contextualisation of protection order provisions in domestic violence legislation and growing international concern about safety of victims in cross-border situations. In recent years the Australian Government and state and territory governments have led a strong policy focus on addressing domestic violence which has also raised the issue of interstate or cross-border protection order enforcement. The Australian Law Reform Commission and NSW Law Reform Commission (2010) extensive report on domestic violence legislation provided a benchmark of analysis of the implications of variations in domestic violence legislative provisions.

This paper has contributed to policy discussion by focusing on enforcement of protection orders and analysing relevant domestic violence law and breach provisions across Australia along with interstate enforcement. In line with the ALRC and NSWLRC report (2010), variations in legislative approaches have been identified along with practice issues in enforcement of protection orders from the perspectives of police responses, magistrates and lawyers, and victim advocates.

Victims and victim advocates were the first stakeholder group considered in this paper on the experience of enforcement of protection orders in Australia. As with all the sections in this paper priority was given to Australian-based research in line with the methodology underpinning the sourcing of data. Coupled with recent Australian research which has incorporated interviews with victims, a New Zealand report was included due to its extensive coverage of victim experience. The experiences of victims and their advocates provided a reference point for the views and perspectives of professionals involved in the enforcement of protection orders. Key issues related to enforcement from victims' perspectives included how their safety is directly impacted by police and judicial decision-making and how their experiences of government systems have a lasting impact on their life trajectories. Where individuals and systems respond effectively to the safety needs of victims, women's lives may change for the better but the consequences of ineffective responses can be frustrating, disempowering and potentially lead to lethal consequences.

The pivotal importance of policing was recognised in the enforcement of protection orders. Examples of innovative police practice demonstrated willingness in some sections of police organisations to improve effectiveness and safety of victims and accountability of perpetrators. Other research highlighted some concerns on knowledge of the dynamics of domestic violence, skills and attitudes. The factors that influence police enforcement of domestic violence protection orders were discussed.

Research on the role of judicial officers and the legal profession indicated that concerning attitudes demonstrating gender bias towards victims and offenders were still evident in both professional groups. Such bias was linked to lack of understanding of the dynamics of domestic and family violence, leading to assumptions about victim presentation and offender behaviour. Victims reported the power of legal support and the courts to empower them to challenge the

violence they experienced but where victims were not believed the legal system had the opposite effect.

Information sharing and interagency cooperation have been shown to deliver more effective responses to the enforcement of protection orders. However, research also indicated that legislative guidance, memoranda of understanding and interagency protocols can only be effective where there is a commitment by professionals to support and actively promote cooperation. An institutional culture of cooperation and engagement with associated services in enforcement is necessary for effective responses.

Four critical themes for enforcement of protection orders that emerged from legislation and practice included:

- interagency coordination and cooperation;
- information sharing between courts, police agencies, and service agencies;
- the knowledge, skills and attitudes of professionals; and
- risk assessment and risk management.

Understanding and improving risk and safety in domestic violence is significant in supporting and improving the enforcement of protection orders. The concept of risk covers many facets of enforcement. A number of jurisdictions require consideration of the potential for future violence or risk of future violence in the legislative grounds for protection orders. Potential significant risk factors for future violence are also included in jurisdictional legislation, such as the use of weapons. The assessment of risk itself is a complex process requiring specialist training and it is acknowledged that there are limitations in the predictive validity of risk models. A lack of understanding of the dynamics of domestic and family violence among professionals in the legal system also risks leaving victims unprotected.

Barriers to understanding of the legal system, such as a lack of or poor assistance, and confusing or poorly connected processes and systems, may also affect a victim's capacity to divulge information and participate in the legal process (Bagshaw et al., 2010).

There are specific information sharing protocols that are associated with the enforcement of cross-border protection orders, including how and when information can be shared between agencies. For example, Privacy Act provisions, such as the *Privacy and Personal Information Protection Act* 1998 (NSW), can constrain the type of information that can be shared between agencies and across jurisdictions which can place some victims at risk of harm or death, particularly where the level of risk may be unclear. The very existence of diverse legislation and policy across jurisdictions may also result in increased risk to victims if there are delays in action taken in relation to enforcement (Fleming & Sarre, 2011). Detailed risk assessment guidelines and protocols are included in bench books as well as police policy in an attempt to predict future harm, especially serious harm. Certain provisions such as aiding and abetting clauses require understanding multiple facets of risk including acknowledging reasons why victims may cooperate with and consent to contact with their abusers.

Risk management also requires sharing of information between agencies. A failure to coordinate systems may lead to confusion and further victimisation (Laing & Andrews, 2010). Information coordination and sharing underpins the capacity to provide good enforcement. For information sharing to be effective, mechanisms that foster interagency collaborations and shared policies and objectives are crucial (ALRC & NSWLRC, 2010). It is also vital that any information sharing mechanisms are accompanied by training, knowledge and participation of officers and staff for successful implementation.

Implications for practice, policy and research

Enforcement is the critical element to the success of protection orders and the safety of women experiencing domestic violence. Systemic research is needed that focuses on identifying and understanding the different barriers women face in obtaining protection orders and in their ongoing enforcement. Such research can potentially provide evidence-based information to guide public policy on ways to better enforce protection orders.

Strong and consistent enforcement of protections orders is intrinsically linked with risk assessment, risk management and safety planning. Research can support communities to explore ways in which they can empower victims of violence with information, support and resources needed when applying for protection orders and reporting breaches. Research should also target areas of weakness in the implementation of protective order processes and identify effective interventions to protect and empower women. When changes are made to improve the enforcement of orders research can play an important role in ensuring the benefits and weaknesses of any changes are evaluated to ensure intended outcomes are being achieved (Barata & Senn, 2003). Given the lack of research in the Australian context that has investigated the strengths and challenges of enforcement of protection orders, there is a strong need for evidence-based research that explores the views of professionals including police, magistrates, lawyers and victim advocates on what facilitates and what hinders enforcement. There is also an urgent need to include victims' perspectives with specific considerations for cross-border enforcement to ensure the safety of victims and their families.

Appendix A

Protection provided by orders and conditions under DFV legislation

Jurisdiction	Queensland	New South Wales	Victoria	Tasmania	Australian Capital Territory	Northern Territory	Western Australia	South Australia
Name of domestic violence act	*Domestic and Family Violence Protection Act 2012 (Qld)*	*Crimes (Domestic and Personal Violence) Act 2007 (NSW)*	*Family Violence Protection Act 2008 (Vic)*	*Family Violence Act 2004 (Tas)* Note: The Justices Act 1959 (Tas) ss106A-106N provide more broadly for restraining orders, particularly relevant for non-intimate partner relationships. This Act includes provision for enforcement of a breach (also a criminal offence) and registration of interstate orders.	*Domestic Violence and Protection Orders Act 2008 (ACT)*	*Domestic and Family Violence Act 2007 (NT)*	*Restraining Orders Act 1997 (WA)*	*Prevention of Abuse Act 2009 (SA)*
Name of protection order	"Domestic Violence Order"	"Apprehended Domestic Violence or Personal Violence Order"	"Family Violence Intervention Order"	"Family Violence Order"	"Domestic Violence Order"	"Domestic Violence Order"	"Violence Restraining Order"	"Intervention Order"

Jurisdiction	Queensland	New South Wales	Victoria	Tasmania	Australian Capital Territory	Northern Territory	Western Australia	South Australia
Date of legislation	As at 28 February 2015	As at 8 January 2015	As at 2 November 2014	Consolidated as at 17 May 2015	Effective as at 13 November 2013, reissued 24 February 2014	Current - As in force at February 2014	As at 13 March 2015. Note legislative changes being considered following June 2014, *Enhancing Family and Domestic Violence Laws*, Law Reform Commission of Western Australia (No.104)	As at 29 March 2015
Standard conditions	s56 standard condition for respondent to be of good behaviour and not commit domestic violence (ss8-12) towards the aggrieved or any named person, or expose a named child to domestic violence Note *Weapons Act 1990*	s36 All orders prohibit: assault, molesting, harassing, threatening or otherwise interfering with; other conduct that intimidates; or stalking (protected person or other person)	Note s95		s10 Order prohibits conduct that is domestic violence s13(1) Note s40/57 (see 'Weapons' below)	Note ss39-40 *Firearms Act* (NT)		

Jurisdiction	Queensland	New South Wales	Victoria	Tasmania	Australian Capital Territory	Northern Territory	Western Australia	South Australia
General/ other[1]	s58 Conditions may include: prohibiting behaviour that is/ would lead to domestic violence s58 Conditions may include prohibiting behaviour relating to/ presence at premises associated with a child; s62 preventing/ limiting contact with a child; s67 condition that takes effect to protect a child when born	s35 Conditions may include: prohibiting other specified behaviour 'that might affect' the protected person	s81 Conditions may include: prohibiting family violence (s5); s81 Conditions may include prohibiting causing another person to engage in conduct prohibited; specifying requirements for making family law children's arrangements (s92); prohibiting contact with a child - must be included if contact would jeopardise the safety of the victim/child (s93)	s16(2) May include: conditions necessary or desirable to prevent family violence (ss7-9)	s48[2] Conditions may include: causing another to engage in certain prohibited conduct	s21[3] Order may provide for restraints or obligations that are necessary or desirable to prevent domestic violence (ss5-8) s21 Order may provide for restraints or obligations to encourage responsibility/ behaviour change; other orders that are just and desirable; orders to ensure compliance e.g. drug testing s24 Order may require respondent to undertake a rehabilitation program (by consent)	s13[4] Order may impose restraints as the court considers appropriate to prevent fear of/ abuse (s6) or protected child exposure to abuse s13(2) Conditions may include: prohibiting causing or allowing another to take such actions	s12[5] Provides for 1 or more conditions, including the s12 categories below and s12 prohibiting causing or allowing another to act in a particular way; any other requirement or restraint s13 Order may require assessment for/ program – respondent must comply with requirement and if not this is a contravention
Physical violence	Under standard condition (s56) and ss8-12 definitions	Under standard condition (s36)	Option under s81 and s5 definition	Option under s16(2) and ss7-9 definitions	Under standard condition (s10) and s13(1) definition	Option under s21 and ss5-8 definitions e.g. prohibiting assault	Option under s13 and s6 definition	Option under s12

Jurisdiction	Queensland	New South Wales	Victoria	Tasmania	Australian Capital Territory	Northern Territory	Western Australia	South Australia
Emotional, psychological abuse or stalking	Under standard condition (s56) and ss8-12 definitions	Under standard condition (s36)	Option under s81 and s5 definition	Option under s16(2) and ss7-9 definitions	s48 Conditions may include: prohibiting from harassing, threatening, intimidating the victim or child Also under standard condition (s10) and s13(1) definition	Option under s21 and ss5-8 definitions e.g. prohibiting harassment	Option under s13 and s6 definition	s12 Conditions may include: prohibiting harassing, threatening, intimidating the victim (colleague or household member)
Contact	s58 Conditions may include: prohibiting approaching/ within a certain distance, contacting or locating/ attempting/asking someone else to contact/ locate	s35 Conditions may include: prohibiting access to certain places or premises, approaching/ within a certain distance	s81 Conditions may include: prohibiting contact, approaching within a certain distance	s16(3) Conditions may include: prohibit entry onto premises	s48 Conditions may include: prohibit access to certain places or premises, approaching within a certain distance, contacting; provide conditions for contact or access to premises/ place	Option under s21 and ss5-8 definitions e.g. prohibiting contact, approach	s13(2) Conditions may include: prohibiting access to certain premises, approaching/ within a certain distance, communicating	s12 Conditions may include: prohibiting access to premises/ locations; prohibit approaching within a certain distance, contacting

Jurisdiction	Queensland	New South Wales	Victoria	Tasmania	Australian Capital Territory	Northern Territory	Western Australia	South Australia
Property	s59 Conditions may include: requiring return/ access to property[6]	s35 Conditions may include: prohibiting interfering with or damaging property s37 Property recovery order can also be made – contravening order or obstructing recovery without reasonable excuse is also an offence	ss81, 86 Conditions may include: required return of property etc.	Option under s16(2) and s8 definition 'economic abuse'	s48 Conditions may include: prohibit damaging/removing property or require return of property	Option under s21 and ss5-8 definitions e.g. return of property	s13(2) Conditions may include: prohibiting from preventing victims access to property and (5) enable recovery of property Also general option under s13 and s6 definition	s12 Conditions may include: prohibiting damaging/ taking property; allow return of/ access to property

Jurisdiction	Queensland	New South Wales	Victoria	Tasmania	Australian Capital Territory	Northern Territory	Western Australia	South Australia
Exclusion/ Ouster	s63- 66 Conditions may include: exclusion from certain premises; enabling the respondent to recover personal property ss139-141 If dealing with a protection order application, the court can deal with a tenancy application (to vary a tenancy agreement)	ss17, 35 Conditions may include: exclusion from the protected person's home[7] s37 also applies	ss81, 82-86 Conditions may include: exclusion from the protected person's home; prohibiting use/ removal of property; return of the respondent to collect property8	s16(3) Conditions may include: exclusion from premises (e.g. the protected person's home) or provide entry on certain conditions s17 Order may vary tenancy agreement	ss47, 48 Conditions may include: prohibit access to certain premises or provide conditions for access	ss20, 22 Order may include exclusion from/ entry on conditions to the protected person's home9 s23 Order may vary tenancy agreement	s13(4)-(5) exclusion from premises; enabling recovery of property	s12 Conditions may include: prohibiting access to premises Where there is an exclusion order for the victim's residence, under s12(6) victim can change locks and there is some protection against respondent terminating a tenancy s25 If Issuing a protection order, may make an order varying tenancy agreement

1 The legislation does not provide an exhaustive list of possible conditions. All jurisdictions except South Australia specifically state that the options provided do not limit the nature of conditions that may be made.

2 s88 condition may be for a shorter time than the order

3 s17 Counselling or procuring another to commit domestic violence amounts to domestic violence

4 s6(3) Procuring another to commit domestic violence (or part of an act) amounts to domestic violence.

5 s8(7) Causing or allowing another to commit /take part in an act of abuse amounts to an act of abuse.

6 Orders made in protection order relating to property are subject to property settlements/adjustments made in family law orders.

7 Tenancy agreement in relation to tenant/co-tenant is terminated under *Residential Tenancies Act 2010* (NSW) if final protection order excludes tenant from relevant premises.

8 If final protection order excludes respondent, protected person may apply to vary tenancy agreement under *Residential Tenancies Act 1997* (Vic).

9 s85(2) Respondent may enter former home to retrieve 'personal property' accompanied by a police officer at a reasonable time. Entry under (2) is not a contravention.

Appendix B

Specific powers of investigation of breach

Jurisdiction	Provision under domestic violence legislation: Specific powers of investigation of breach
Australian Capital Territory	-
New South Wales	[1] s14(8) Police to make a written record of the reasons for: a decision not to initiate/proceed with criminal proceedings against a person for an alleged contravention/attempted contravention
Northern Territory	-
Queensland	s100 Police must investigate where reasonably suspect domestic violence and if it has been committed take action appropriate in the circumstances (5) The section does not limit the responsibility of police to investigate whether a criminal offence has been committed (this would include a breach)
South Australia	s35 If reasonable/necessary, police may arrest and detain (for a limited time) without warrant in conjunction with the service of a protection order - to prevent immediate abuse or make arrangements for protection s36 police power to arrest and detain without warrant if reason to suspect contravention (2) Must be brought to court within 24 hours (excl. weekend) s37 police power to search the respondent, or enter suspected premises and search, for (and take possession of) weapon/article required to be surrendered under a protection order
Tasmania	s10 If requested by resident or if officer reasonably suspects family violence was/is being committed / likely, officer may, without warrant enter to prevent family violence (this would include contravention); search for and seize any object if suspected it was/maybe used. (4)-(5) if officer reasonably suspects family violence has been committed, the officer may also search for and seize a firearm, and (7) search for and arrest the person s11 If officer reasonably suspects family violence, they may arrest the person without a warrant and detain the person to determine charge(s) to be laid s12 There is a presumption against bail for a family violence offence
Victoria	[2] s157 Without warrant – officer can enter and search if reasonably believes the person has assaulted a family member, threatened assault or is on the premises in contravention of a protection order s160 Where an order is in place, an officer may apply for warrant to search and seize if the officer reasonably believes the person is committing (or about to commit) a breach or is in possession of a firearm/ammunition/weapon s124 If an officer reasonably believes a person has breached an order, the officer may, without warrant, arrest and detain the person
Western Australia	s62A Power to investigate if reasonably suspect an act of abuse that is a criminal offence

1 *The Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) contains powers of police in relation to suspected offences, including a power to arrest a person, without warrant, if the police officer suspects on reasonable grounds that a person has committed an offence.

2 Section 459(1) of the *Crimes Act 1958* (Vic) provides for apprehension without warrant of a person reasonably believed to have committed an indictable offence.

Appendix C

List of statutes

Protection Order Statutes

Domestic Violence and Protection Orders Act 2008 (ACT)

Crimes (Domestic and Personal Violence) Act 2007 (NSW)

Cross-border Justice Act (NT)

Domestic and Family Violence Act 2007 (NT)

Domestic and Family Violence Protection Act 2012 (Qld)

Cross-border Justice Act 2009 (SA)

Intervention Orders (Prevention of Abuse) Act 2009 (SA)

Family Violence Act 2004 (Tas)

Family Violence Protection Act 2008 (Vic)

Cross-border Justice Act 2008 (WA)

Restraining Orders Act 1997 (WA)

References

Ailwood, S., Esteal, P., & Kennedy, J. (2012). Law's indifference to women's experience of violence: Colonial and contemporary Australia. *Women's Studies International Forum, 35*(2), 86-96. doi:10.1016/j.wsif.2012.02.010

Andrews, D. A., & Bonta, J. (2010). *The psychology of criminal conduct.* London: Routledge.

Angus, C. (2015). *Domestic and family violence*. Sydney: NSW Parliamentary Research Service.

Australia. Department of Social Services. (2014). *Second action plan 2013-2016 of the national plan to reduce violence against women and their children 2010-2022.* Canberra: DSS.

Australian Law Reform Commission. (1999). *Managing justice: A review of the federal civil justice system*. Canberra: ALRC.

Australian Law Reform Commission, & New South Wales Law Reform Commission. (2010). *Family violence - A national legal response: Final report*. Canberra: Commonwealth Attorney General's Department.

Aveyard, H. (2014). *Doing a literature review in health and social care* (3rd ed.). Berkshire, UK: Open University Press.

Bagshaw, D., Chung, D., Couch, M., Lilburn, S., & Wadham, B. (2000). *Reshaping responses to domestic violence: Final report*. Adelaide: University of South Australia.

Bagshaw, D., Thea, B., Wendt, S., Campbell, A., McInnes, E., Tinning, B., . . . Arias, P. F. (2010). *Family violence and family law in Australia: The experiences and views of children and adults from families who separated post-1995 and post-2006*. Canberra: Commonwealth Attorney General's Department.

Barata, P., & Senn, C. Y. (2003). When two fields collide: An examination of the assumptions of social science research and law within the domain of domestic violence. *Trauma, Violence, & Abuse, 4*(1), 3-21.

Bell, M. E., Perez, S., Goodman, L. A., & Dutton, M. A. (2011). Battered women's perceptions of civil and criminal court helpfulness: The role of court outcome and process. *Violence Against Women, 17*(1), 71-88.

Blackwell, B. S., & Vaughn, M. S. (2003). Police civil liability for inappropriate response to domestic assault victims. *Journal of Criminal Justice, 31*(2), 129-146.

Brownridge, D. A. (2006). Violence against women post-separation. *Aggression and Violent Behavior, 11*(5), 514-530. doi:10.1016/j.avb.2006.01.009

Buzawa, E. S., & Hotaling, G. T. (2006). The impact of relationship status, gender, and minor status in the police response to domestic assaults. *Victims and Offenders, 1*(4), 323-360.

Carbon, J. S. B., MacDonald, J. P., & Zeya, S. (1999). Enforcing domestic violence protection orders throughout the country: New frontiers of protection for victims of domestic violence. *Juvenile and Family Court Journal, 50*(2), 39-54.

Carlson, M. J., Harris, S. D., & Holden, G. W. (1999). Protective orders and domestic violence: Risk factors for re-abuse. *Journal of Family Violence, 14*(2), 205-226.

Central Australian Women's Legal Service. (2014). *Domestic violence in Australia: Submission to the Senate Standing Committees on Finance and Public Administration* (Submission 135), *Domestic Violence in Australia*. Retrieved from http://www.aph.gov.au/DocumentStore.ashx?id=7f343ecf-d11c-42a1-a86a-dea586cc5c24&subId=299395

Connelly, C., & Cavanagh, K. (2008). Domestic abuse, civil protection orders and the 'new criminologies': Is there any value in engaging with the law? *Feminist Legal Studies, 16*(1), 139-139.

Council of Australian Governments. (2011). *The national plan to reduce violence against women and their children: Including the first three-year action plan.* Canberra: FAHCSIA.

Crime and Misconduct Commission. (2005). *Policing domestic violence in Queensland: Meeting the challenges*. Brisbane: Crime and Misconduct Commission.

Cripps, K., & Davis, M. (2012). *Communities working to reduce Indigenous family violence*. Sydney: Indigenous Justice Clearinghouse.

Cross-border Justice Act 2009 (SA). Retrieved from http://www5.austlii.edu.au/au/legis/sa/consol_act/cja2009226/

Day, A., Jones, R., Nakata, M., & McDermott, D. (2012). Indigenous family violence: An attempt to understand the problems and inform appropriate and effective responses to criminal justice system intervention. *Psychiatry, Psychology and Law, 19*(1), 104-117.

DeJong, C., & Burgess-Proctor, A. (2006). A summary of personal protection order statutes in the United States. *Violence Against Women, 12*(1), 68-88.

DeJong, C., Burgess-Proctor, A., & Elis, L. (2008). Police officer perceptions of intimate partner violence: An analysis of observational data. *Violence and Victims, 23*(6), 683-696.

Douglas, H. (2008). The criminal law's response to domestic violence: What's going on? *Sydney Law Review, 30*, 439-469.

Douglas, H., & Fitzgerald, R. (2013). Legal processes and gendered violence: Cross applications for domestic violence protection orders. *UNSW Law Journal, 36*(1), 56-87.

Douglas, H., & Godden, L. C. (2003). The decriminalisation of domestic violence: Examining the interaction between the criminal law and domestic violence. *Criminal Law Journal, 27*(1), 32-43.

Douglas, H., & Stark, T. (2010). *Stories from survivors: Domestic violence and criminal justice interventions*. Brisbane: University of Queensland.

Douglas, H., & Walsh, T. (2010). Mothers, domestic violence, and child protection. *Violence Against Women, 16*(5), 489-508.

Eigenberg, H., McGuffee, K., Berry, P., & Hall, W. H. (2003). Protective order legislation: Trends in state statutes. *Journal of Criminal Justice, 31*(5), 411-422.

Epstein, D. (1999). Effective intervention in domestic violence cases: Rethinking the roles of prosecutors, judges, and the court system. *Yale Journal of Law & Feminism, 11*, 3.

Epstein, D., Bell, M. E., & Goodman, L. A. (2003). Transforming aggressive prosecution policies: Prioritizing victims' long-term safety in the prosecution of domestic violence cases. *American University Journal of Gender, Social Policy and the Law, 11*(2), 465-498.

Erez, E., & Belknap, J. (1998). In their own words: Battered women's assessment of the criminal processing system's responses. *Violence and Victims, 13*(3), 251-268.

Erez, E., & Hartly, C. C. (2002). Battered immigrant women and the legal system: A therapeutic jurisprudence perspective. *Western Criminology Review, 4*, 155-169.

Field, R., & Carpenter, B. J. (2003). *Issues relating to Queensland magistrates understanding of domestic violence*. Paper presented at the Domestic Violence Court Assistance Network (DVCAN) conference 17-19 June 2003, Queensland University of Technology, Brisbane.

Fink, A. (2014). *Conducting research literature review: From internet to paper* (4th ed.). Thousand Oaks, CA: Sage.

Finn, K., & Compton-Keen, A. (2014). *The Gold Coast Domestic Violence Integrated Response: An examination of current practice and opportunities for development*. Gold Coast: Domestic Violence Prevention Centre Gold Coast Inc.

Fleming, J. (2011). Policing indigenous people in the Ngaanyatjarra Pitjantjatjara Yankunytjatjara lands. In S. Hufnagel, C. Harfield, & S. Bronitt (Eds.), *Cross-border law enforcement: Regional law enforcement cooperation–European, Australian and Asia-Pacific perspectives* (pp. 163-176). Oxford: Routledge-Cavendish.

Fleming, J., & Sarre, R. (2011). Policing the NPY lands: The Cross-Border Justice Project. *Australasian Policing, 3*(1), 21.

Frantzen, D., Miguel, C. S., & Kwak, D.-H. (2011). Predicting case conviction and domestic violence recidivism: Measuring the deterrent effects of conviction and protection order violations. *Violence and Victims, 26*(4), 395-409.

Gillis, J. R., Diamond, S. L., Jebely, P., Orekhovsky, V., Ostovich, E. M., MacIsaac, K., . . . Mandell, D. (2006). Systemic obstacles to battered women's participation in the judicial system: When will the status quo change? *Violence Against Women, 12*(12), 1150-1168.

Goodman-Delahunty, J., & Corbo Crehan, A. (forthcoming). Enhancing police responses to domestic violence incidents: Reports from client advocates in New South Wales. *Violence Against Women*.

Government of Western Australia. (2013). *Western Australia's Family and Domestic Violence Prevention Strategy to 2022 - Achievement Report to 2013*. [Perth]: Western Australia. Department of Child Protection.

Gracia, E., García, F., & Lila, M. (2011). Police attitudes toward policing partner violence against women: Do they correspond to different psychosocial profiles? *Journal of Interpersonal Violence, 26*(1), 189-207.

Gracia, E., & Herrero, J. (2006). Acceptability of domestic violence against women in the European Union: A multilevel analysis. *Journal of Epidemiology and Community Health, 60*(2), 123-129.

Gray, I. (2008). *Sentencing in magistrates' and local courts in Australia*. Paper presented at the Sentencing Conference, Canberra.

Hague Conference on Private International Law. (2014). Council on General Affairs and Policy of the Conference (8-10 April 2014): Conclusions and recommendations adopted by the Council. Retrieved from http://www.hcch.net/upload/wop/genaff2014concl_en.pdf.

Hartman, J. L., & Belknap, J. (2003). Beyond the gatekeepers: Court professionals' self-reported attitudes about and experiences with misdemeanor domestic violence cases. *Criminal Justice and Behavior, 30*(3), 349-373.

Heckert, D. A., & Gondolf, E. W. (2004). Battered women's perceptions of risk versus risk factors and instruments in predicting repeat reassault. *Journal of Interpersonal Violence, 19*(7), 778-800.

Hirschel, D., & Buzawa, E. S. (2013). The impact of offenders leaving the scene on the police decision to arrest in cases of intimate partner violence. *Violence Against Women, 19*(9), 1079-1103.

Holder, R., & Caruana, J. (2006). *Criminal justice intervention in family violence in the ACT: The Family Violence Intervention Program 1998-2006.* Canberra: ACT Department of Justice & Community Safety.

Hoyle, C. (2008). Will she be safe? A critical analysis of risk assessment in domestic violence cases. *Children and Youth Services Review, 30*(3), 323-337.

Humphreys, C. (2007). *Domestic violence and child protection: Challenging directions for practice.* Sydney: Australian Domestic and Family Violence Clearinghouse.

Humphreys, C. (2010). Crossing the great divide: Response to Douglas and Walsh. *Violence Against Women, 16*(5), 509-515.

Humphreys, C., & Absler, D. (2011). History repeating: Child protection responses to domestic violence. *Child & Family Social Work, 16*(4), 464-473.

Humphreys, C., & Stanley, N. (2006). *Domestic violence and child protection: Directions for good practice.* London: Jessica Kingsley.

Hunter, R. (2008). *Domestic violence law reform and women's experience in court.* New York: Cambria Press.

Iyengar, R. (2009). Does the certainty of arrest reduce domestic violence? Evidence from mandatory and recommended arrest laws. *Journal of Public Economics, 93*(1), 85-98.

Jeffries, S., Bond, C. E., & Field, R. (2013). Australian domestic violence protection order legislation: A comparative quantitative content analysis of victim safety provisions. *Current Issues in Criminal Justice, 25*, 627-643.

Laing, L. (2000). *Children, young people and domestic violence.* Sydney: Australian Domestic and Family Violence Clearinghouse.

Laing, L., & Andrews, L. (2010). *"No way to live": Women's experiences of negotiating the family law system in the context of domestic violence.* Retrieved from Sydney eScholarship Repository http://hdl.handle.net/2123/6255

Laing, L., & Humphreys, C. (2013). *Social work and domestic violence: Developing critical and reflective practice.* Thousand Oaks, CA: Sage.

Law, Crime and Community Safety Council. (2015). Communiqué: Law, Crime and Community Safety Council, 22 May 2015. Retrieved from http://www.ag.gov.au/About/CommitteesandCouncils/Law-Crime-and-Community-Safety-Council/Documents/22-May-2015-communique.pdf

Law, Crime and Community Safety Council. (2014). Communiqué: Law, Crime and Community Safety Council, 3 October 2014. Retrieved from http://www.ag.gov.au/About/CommitteesandCouncils/Law-Crime-and-Community-Safety-Council/Documents/3-october-2014-communique.pdf

Legal Aid NSW. (2014). Domestic and family violence guidelines for lawyers. Sydney: Legal Aid New South Wales.

Legal Aid Queensland. (2015). Best practice guidelines for lawyers working with respondents in domestic violence proceedings. Brisbane: Legal Aid Queensland.

Logan, T., Shannon, L., & Walker, R. (2006). Police attitudes toward domestic violence offenders. *Journal of Interpersonal Violence, 21*(10), 1365-1374.

Mack, K., Roach Anleu, S., & Wallace, A. (2011). Everyday work in the magistrates courts: Time and tasks. *Journal of Judicial Administration, 21*, 34-53.

Mansour, J. (2014). *Women defendants to AVOs: What is their experience of the justice system?* Sydney: Women's Legal Services NSW.

Meier, J. S. (2003). Domestic violence, child custody, and child protection: Understanding judicial resistance and imagining the solutions. *American University Journal of Gender, Social Policy & the Law, 11*(2), 657-724.

Messing, J. T., & Thaller, J. (2013). The average predictive validity of intimate partner violence risk assessment instruments. *Journal of Interpersonal Violence, 28*(7), 1537-58.

Meyer, S. (2014). Victims' experiences of short-and long-term safety and wellbeing: Findings from an examination of an integrated response to domestic violence. *Trends & Issues in Crime and Criminal Justice, 478.*

Mitchell, L. (2011). *Domestic violence in Australia: An overview of the issues.* Canberra: Parliamentary Library.

Monahan, J., & Skeem, J. L. (2014). Risk redux: The resurgence of risk assessment in criminal sanctioning. *Federal Sentencing Reporter, 26*(3), 158-166.

Muftić, L. R., Bouffard, J. A., & Bouffard, L. A. (2007). An exploratory study of women arrested for intimate partner violence: Violent women or violent resistance? *Journal of Interpersonal Violence, 22*(6), 753-774.

Mulroney, J. (2003). *Trends in interagency work*. Sydney: Australian Domestic and Family Violence Clearinghouse.

Murray, S. (2008). "Why doesn't she just leave?": Belonging, disruption and domestic violence. *Women's Studies International Forum, 31*(1), 65-72.

National Council to Reduce Violence against Women and their Children. (2009a). *Background paper to time for action: The National Council's plan for Australia to reduce violence against women and their children 2009-2021*. Canberra: FAHCSIA.

National Council to Reduce Violence against Women and their Children. (2009b). *Domestic violence laws in Australia*. Canberra: FAHCSIA.

New South Wales Ombudsman. (2006). *Domestic violence: improving police practice Special Report to Parliament*. Sydney: NSW Ombudsman.

NSW Police Force. (2015). NSW Police Force Statewide implementation of the Domestic Violence Safety Assessment Tool (DVSAT). Retrieved from http://www.police.nsw.gov.au/__data/assets/pdf_file/0009/349434/NSWPF_DVSAT_SUMMARY_SHEET.pdf

O'Malley, P. (2001). Risk, crime and prudentialism revisited. In K. Stenson & R. Sullivan (Eds.), *Crime, risk and justice* (pp. 89-103). Collumpton: Willan.

Onwuegbuzie, A. J., Leech, N. L., & Collins, K. M. T. (2012). Qualitative analysis techniques for the review of the literature. *The Qualitative Report, 17*(28), 28.

Permanent Bureau of the Hague. (2012). *Recognition and enforcement of foreign civil protection orders: A preliminary note Document No 7*. The Netherlands: Permanent Bureau of the Hague.

Permanent Bureau of the Hague. (2014). *Questionnaire on the recognition and enforcement of foreign and civil protection orders: Summary of member responses and possible ways forward*. Retrieved from http://www.hcch.net/upload/wop/genaff2013pd04b_en.pdf

Phillips, S. W., & Gillham, J. (2010). Policing domestic violence: The significance of charging in the post-arrest decision making of police officers. *Partner Abuse, 1*(2), 200-219.

Phillips, S. W., & Varano, S. P. (2008). Police criminal charging decisions: An examination of post-arrest decision-making. *Journal of Criminal Justice, 36*(4), 307-315.

Police Executive Research Forum. (2015). Police improve response to domestic violence, but abuse often remains the 'hidden crime'. Retrieved from http://www.policeforum.org/assets/docs/Subject_to_Debate/Debate2015/debate_2015_janfeb.pdf

Premier's Special Taskforce on Domestic and Family Violence. (2015). *Not now, not ever: Putting an end to domestic and family violence in Queensland*. Brisbane: Queensland Government.

Queensland Indigenous Family Violence Legal Service. (2014). *Domestic violence in Australia: 'No way, it's not our way'*. Brisbane: QIFVLS.

Queensland Police Service. (2013). *Domestic violence occurences 2012/2013*. Brisbane: Queensland Police Service.

Radford, L., & Gill, A. (2006). Losing the plot? Researching community safety partnership work against domestic violence. *The Howard Journal of Criminal Justice, 45*(4), 369-387.

Roach Anleu, S., & Mack, K. (2015). Magistrates research project. Retrieved from http://www.flinders.edu.au/ehl/law/research-activities/current-projects/magistrates-research-project/

Roberts, J. C., Wolfer, L., & Mele, M. (2008). Why victims of intimate partner violence withdraw protection orders. *Journal of Family Violence, 23*(5), 369-375.

Robertson, N., Busch, R., D'Souza, R., Lam Sheung, F., Anand, R., Balzer, R., . . . Paina, D. (2007). *Living at the cutting edge: Women's experiences of protection orders. Volume 2: What's to be done? A critical analysis of statutory and practice approaches to domestic violence*. Wellington: University of Waikato.

Rollings, K., & Taylor, N. (2008). Measuring police performance in domestic and family violence. *Trends & Issues in Crime and Criminal Justice, 367*.

Rowe, M. (2007). Rendering visible the invisible: Police discretion, professionalism and decision-making. *Policing & Society, 17*(3), 279-294.

Sack, E. J., Sarre, R., & Putt, J. (in press). *The Australian Cross-border Justice Scheme: an evaluation of a unique policing experiment*.

Salter, M. (2012). *Managing recidivism amongst high risk violent men*. Sydney: Australian Domestic and Family Violence Clearinghouse.

Sentas, V., & McMahon, R. (2013). Changes to police powers of arrest in New South Wales. *Current Issues in Criminal Justice, 25*, 785.

Sentencing Advisory Council. (2008). *Breaching intervention orders report*. Melbourne: SAC.

Sentencing Advisory Council. (2009). *Sentencing practices for breach of family violence intervention orders final report*. Melbourne: SAC.

Sentencing Advisory Council. (2013). *Family violence intervention orders and safety notices: Sentencing for contravention monitoring report*. Melbourne: SAC.

Smeenk, W. H., & Malsch, M. (2005). *Family violence and police response: Learning from research, policy and practice in European countries*. Aldershot: Ashgate.

Stephens, B. J., & Sinden, P. G. (2000). Victims' voices domestic assault victims' perceptions of police demeanor. *Journal of Interpersonal Violence, 15*(5), 534-547.

Stewart, J. (2005). *Specialist domestic/family violence courts within the Australian context*. Sydney: Australian Domestic and Family Violence Clearinghouse.

Trimboli, L., Bonney, R., & Wales, N. S. (1997). *An evaluation of the NSW apprehended violence order scheme*. Sydney: NSW Bureau of Crime Statistics and Research.

UN Committee on the Elimination of Discrimination Against Women. (1992). *CEDAW General Recommendations Nos. 19 and 20, adopted at the Eleventh Session, 1992* (contained in Document A/47/38), 1992, A/47/38). Retrieved from http://www.refworld.org/docid/453882a422.html

Victoria Police. (2004). Code of Practice for the Investigation of Family Violence. Melbourne: Victoria Police.

Wangmann, J. (2009). 'She said...' 'He said...': Cross applications in NSW apprehended domestic violence order proceedings (Doctoral dissertation). University of Sydney, Sydney, NSW.

Wangmann, J. (2012). Incidents v context: How does the NSW protection order system understand intimate partner violence? *Sydney Law Review, 34*, 695-719.

Wendt, S., & Baker, J. (2013). Aboriginal women's perceptions and experiences of a family violence transitional accommodation service. *Australian Social Work, 66*(4), 511-527.

Wilcox, K. (2010). *Recent innovations in Australian protection order law: A comparative discussion*. Sydney: Australian Domestic and Family Violence Clearinghouse.

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*. Canberra: Australian Institute of Criminology.

This page has intentionally been left blank.

ANROWS

ANROWS