



**Accurately identifying the “person most in need of protection” in domestic and family violence law**  
*Key findings and future directions*

**ANROWS**

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ANROWS Research to policy and practice papers are concise papers that summarise key findings of research on violence against women and their children, including research produced under ANROWS's research program, and provide advice on the implications for policy and practice.

This is an edited summary of key findings from ANROWS research "Misidentification of domestic and family violence aggrieved/respondents in Australia". Please consult the ANROWS website for more information on this project and the full project report: Nancarrow, H., Thomas, K., Ringland, V., & Modini, T. (2020). *Accurately identifying the "person most in need of protection" in domestic and family violence law* (Research report, 23/2020). Sydney: ANROWS.

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ANROWS research contributes to the six National Outcomes of the *National Plan to Reduce Violence against Women and their Children 2010-2022*. This research addresses National Plan Outcome 5—Justice responses are effective.

### **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 histories, cultures, and knowledge. We are committed to standing and working with Aboriginal and Torres Strait Islander peoples, honouring the truths set out in the [Warawarni-gu Guma Statement](#).

### **Acknowledgement of lived experiences of violence**

ANROWS acknowledges the lives and experiences of the women and children affected by domestic, family and sexual violence who are represented in this report. We recognise the individual stories of courage, hope and resilience that form the basis of ANROWS research.

Caution: Some people may find parts of this content confronting or distressing. Recommended support services include 1800 RESPECT—1800 737 732 and Lifeline—13 11 14.

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# Accurately identifying the “person most in need of protection” in domestic and family violence law

## BACKGROUND

- Domestic and family violence (DFV) is gendered: most victims/survivors of DFV are women and are more likely than men to experience harms associated with DFV (Australian Bureau of Statistics [ABS], 2017; ANROWS, 2019a; Australian Institute of Health and Welfare, 2019). Men are more likely to commit DFV than women (ABS, 2017).
- When police are called to an incident of DFV, one of their tasks under DFV law is to determine whether a party is in need of protection from future harm.
- A concern that has arisen out of the application of DFV law is the inappropriate use of legal sanctions, in particular protection orders, against women who use violence in response to violence perpetrated against them. This often occurs where there are conflicting claims of abuse and can result in cross-applications and cross-orders for protection.
- A recent development in efforts to curtail cross-applications and cross-orders is using the concept of the “person most in need of protection” to guide decisions around applications or orders for protection.
- In 2017, the Queensland Domestic and Family Violence Death Review and Advisory Board recommended research to identify how best to respond to the person most in need of protection when there are mutual allegations of violence and abuse. The resulting research project focused on identifying areas of improvement in police and court practice in relation to identifying the person most in need of protection.

## KEY FINDINGS

- Women—especially Aboriginal and Torres Strait Islander women—are being misidentified as perpetrators on protection orders and the effects of this are far-reaching.
- Police practice is guided by a focus on single incidents of visible or physical violence. This focus does not always support the appropriate application of DFV legislation, where violence would be considered in context in order to assess the need for protection from *future* harm.
- Police sometimes err on the side of caution in making applications, deferring to the magistrate to determine if an order is warranted. However, magistrates in turn may rely on the initial assessments made by police, as may prosecutors. This can create a pinball effect where each decision-maker defers to another’s assessment of the appropriateness of an order. Accordingly, this means that accountability for that assessment is unclear.

## KEY RECOMMENDATIONS

- Create guidance for police on identifying patterns of coercive control.
- Improve processes of decision-making and accountability between police and courts.
- Create guidance for magistrates on how and when they can dismiss inappropriate applications and/or orders.

# Understanding intimate partner violence and women’s use of violence

Domestic and family violence (DFV) is gendered: most victims/survivors of DFV are women and are more likely than men to experience harms associated with DFV, such as homelessness, injury and death (Australian Bureau of Statistics [ABS], 2017; ANROWS, 2019a; Australian Institute of Health and Welfare, 2019). Men are more likely to perpetrate DFV than women (ABS, 2017).

In the 1980s, advocates and legislators began to move away from an understanding of DFV as discrete incidents of violence to a framing that saw “power and control” as central to DFV (see Dobash & Dobash, 1979; Pence & Paymar, 1986). In more recent years, the idea of “coercive control” has helped to more clearly communicate the perpetration of DFV as a pattern of harmful behaviour aimed at controlling or regulating a partner’s life and restricting their freedom and autonomy (see for example Stark, 2007; Tarrant, Tolmie, & Giudice, 2019). That is, DFV does not comprise isolated incidents of violence. Rather, it exists when a perpetrator employs a range of coercive controlling tactics that can be physical or non-physical, are tailored to a specific victim and are responsive to the victim’s behaviour. Coercive control is not simply an action within a list of other actions that may constitute DFV, but is the *context* in which DFV occurs.

Women’s use of violence has been gaining attention in recent years. Current evidence suggests that women are more likely than men to use violence in self-defence or resistance, or in response to current or past trauma (Boxall, Dowling, & Morgan, 2020). Women’s use of violence can be helpfully understood through a lens of coercive control. A victim/survivor experiences tactics of DFV cumulatively: women’s use of violence, if not seen as a response to ongoing coercive control, can appear as an “overreaction”, or the woman herself can appear as—or can be made out to be—an instigator of violence. Further, coercive controlling behaviours can sometimes be less visible due to gender role expectations. For example, values around marriage or motherhood can be exploited by an abuser, where expectations or demands around housework, employment or reproduction can be constructed as “reasonable”.<sup>1</sup>

This is compounded by gendered stereotypes about “real” victims. A “real” victim is seen to be one who is submissive and passive, doesn’t fight back and cooperates with law enforcement. Many victims do not present this way, and have extremely varied responses. These may include being unwilling to talk to the police (or leaving the scene); appearing to be “emotional”, angry, aggressive or unafraid; being confused or unable to convey a “straight” account or story; or expressing a desire to not act against, or leave, the other person (see for example Salter 2020; see also Segrave, Wilson, & Fitz-Gibbon, 2018).



Coercive control is not simply an action within a list of other actions that may constitute DFV, but is the *context* in which DFV occurs.

<sup>1</sup> Accordingly, a particularly hidden aspect of DFV is sexual violence. Sexual violence is one of the most under-reported tactics of DFV (State of Victoria, 2016) and is a significant indicator of escalating frequency and severity of DFV (see ANROWS, 2019b). As Tarrant et al. (2019) argue, “It is not surprising, therefore, that intimate partner sexual violence ... plays a significant part in the violence against which primary victims/survivors sometimes act in self-defence.”

# Identifying the “person most in need of protection”

All states and territories in Australia have civil laws in place to address the harms of DFV. These laws were introduced, on the whole, to ensure that victims/survivors of DFV could seek protection from *future* harm. A concern that has arisen out of the application of civil DFV law, however, is the inappropriate use of legal sanctions, in particular protection orders, against women who use violence in response to violence perpetrated against them. When police are called to an incident of DFV, one of their tasks under civil DFV law is to determine whether a party is in need of protection from future violence. However, it is not easy in the moment for police to determine if the violence they have been called to attend to is violence that has been used in response to DFV. This can lead to women who use violence in response to abuse being identified as a respondent<sup>2</sup> on applications for protection orders, rather than as an aggrieved party.<sup>3</sup>

Prior focus on this issue has mainly centred on cross-applications or cross-orders for protection under DFV laws (where both parties are seeking protection as an aggrieved party, or police have sought protection for both parties, with or without their consent). This most often occurs when there are mutual allegations of violence. Cross-applications and cross-orders can be a mechanism for systems abuse by a perpetrator of DFV. That is, they use the legal system itself to perpetrate abuse, for example, through false allegations of violence or retaliatory applications for protection orders.

A recent development in efforts to curtail cross-applications and cross-orders is the concept of the “person most in need of protection”. This concept was proposed by the Australian Law Reform Commission (ALRC) and the New South Wales Law Reform Commission (NSWLRC) in their joint report (2010, p. 410) as a useful concept to distinguish between aggrieved and respondent. It has subsequently been incorporated in principles and provisions of the *Domestic and Family Violence Protection Act 2012* (Qld), and was included in principles set out in the *Restraining Orders Act 1997* (WA) in 2016.

However, a recent review of DFV-related deaths found that in just under half (44.4%) of all cases of female deaths subject to the review, the woman had been identified as a respondent to a DFV protection order on at least one occasion (Queensland Domestic and Family Violence Death Review and Advisory Board [QDFVDR&AB], 2017, p. 82). Further, in nearly all of the DFV-related deaths of Aboriginal people, the deceased had been recorded as both respondent and aggrieved prior to their death (QDFVDR&AB, 2017, p. 82). These numbers indicate that a concerning amount of DFV victims are being recorded as perpetrators. Consequently, the Queensland Domestic and Family Violence Death Review and Advisory Board recommended research to identify how best to respond to the person most in need of protection when there are mutual allegations of violence and abuse (2017, p. 83).

<sup>2</sup> Specific terminology differs across jurisdictions, but a “respondent” is the subject of a protection order made for the protection of another person.

<sup>3</sup> Specific terminology differs across jurisdictions, but an “aggrieved” is the person named on the court order as the person for whose protection the order is made.

# “Misidentification of domestic and family violence aggrieved/respondents in Australia” by Heather Nancarrow, Kate Thomas, Valerie Ringland and Tanya Modini

This research focused on identifying areas of improvement in police and court practice in relation to identifying the person most in need of protection. This is because police and courts are pivotal points of contact—with considerable powers—in the Australian legal system.

The research team conducted a national analysis of statistical data (domestic violence order applications, police-issued orders and related criminal charges) for the years 2015–2018, with a breakdown by gender and Indigeneity. The team also conducted a national desktop review of existing legislative and police requirements and guidance on identifying the DFV victim or perpetrator.

The project involved an in-depth case study of Queensland as a state that has already incorporated the concept of the person most in need of protection into legislation. Using court observation as well as semi-structured interviews and focus groups with Queensland Police Service (QPS) personnel, support service workers, magistrates and women with lived experience, the case study further investigated:

- where and in what circumstances police and courts in Queensland struggle to identify the DFV victim/survivor where there are mutual allegations of violence
- what legislative, policy and practical factors enable or hinder Queensland police and courts in correctly identifying victims/survivors
- what improvements could be made to better assist police and courts to identify and support victims/survivors.

The themes identified in the qualitative component conducted in Queensland were consistent with the themes discussed in the national and international literature. Therefore, many of the results will resonate in other Australian jurisdictions.

Quotes appearing in this paper come from the interviews that were carried out as part of the study, and also appear in the full report.

See [anrows.org.au](https://anrows.org.au) for the full report.

# Key findings

## Women are being misidentified as perpetrators of DFV and named as respondents on protection orders

While national comparisons are difficult to draw due to differences and inconsistencies in recording data, it is apparent that in most jurisdictions a significant minority (between one fifth and one quarter) of respondents on protection orders are female. Given what is known about the gendered nature of DFV and women's use of violence, this proportion of female respondents suggests a likelihood of victims/survivors being misidentified as perpetrators of DFV.

In most jurisdictions, Aboriginal and Torres Strait Islander peoples are over-represented as respondents on DFV protection orders. They are also over-represented in charges for breaching DFV protection orders. This disproportionality is consistent with the literature on the over-representation of Aboriginal and Torres Strait Islander people in the legal system overall.

## The impacts of being misidentified are far-reaching and can increase vulnerability to violence and risk of associated harms

The findings of this research echo previous literature that shows that being subject to a DFV protection order can have lifelong impacts. It can impact on housing, contact with or residence of children, employment, immigration and safety, or result in a criminal record (as a consequence of breaching the protection order) or entrenchment in the legal system. If someone experiencing DFV is identified as a respondent, they may also miss out on risk-screening because they are not seen as a victim. They may be unable to access critical support services (such as shelter, social services or counselling) because they have been labelled a perpetrator. Therefore, women who are misidentified—or criminalised—experience compounding harm. In addition to this, their own victimisation becomes invisible once they are labelled a perpetrator.

Misidentification can also contribute to distrust of the police and legal system. A service provider explained how clients can fear calling the police for help if they have had a previous experience of being misidentified:

I agree about that reluctance to contact the police because we talk about safety planning and what to do in an emergency and we will sometimes have those responses where you say, "Please, if it's an emergency, call the police, ring 000" and they'll say, "What good it did me last time?" and you can tell that that's not going to be part of their own safety plan. (Service provider focus group 1)

A number of service providers and women discussed how the consequences of misidentification are often amplified for Aboriginal women. This is due to a historic distrust of policing responses, and because misidentification can trigger social isolation from their communities. At a personal level, misidentification also impacts self-worth, with many women expressing shame and humiliation. This is often tied up with trauma that women have experienced from being separated from their children, and the effects being treated as a perpetrator has on their identities as mothers.

## Policing focuses on isolated incidents of violence

Civil DFV law is about protection from future harm and was developed to address *patterns* of violence in a context of coercive control. However, policing is also heavily focused on criminal law, which tends to focus on *incidents* of violence. Balancing these approaches when responding to a call can mean a tendency to consider only single acts of violence in isolation from a history of coercive control.

Interviews with general duties officers (GDOs) highlighted an overriding focus on making the scene safe, rather than assessing who was most in need of protection overall. Police prosecutors and women spoke about responses that focused on physical injury. They stressed that sometimes orders were taken out without speaking to both parties, particularly if the woman appeared to be uninjured. Police prosecutors offered examples:

[Participant 1:] She’s making allegations of prolonged domestic violence but actually in their wording they’ve got, “We can see scratches and bite marks on him therefore we have determined he is in most need of protection. She presents with no injuries. He is in most need of protection.”

[Participant 2:] When officers ... look at injuries and determine causation and whatever, they’re looking based on ... that incident alone, instead of looking at the entire relationship and the dynamics of that relationship and other allegations of DV and anything like that. (QPS focus group 6 [police prosecutors])

Time and resource constraints make it difficult for officers to move beyond the immediate incident. It is particularly difficult for first responders to consider the context—the history and dynamics of a relationship—when they have limited time and information available to them:

It’s very difficult when you’re going to a job to get that whole picture of the relationship in a 10-second radio transmission ... So, really when we’re going to an incident in that critical moment, we focus probably more on what’s happening now as opposed to the entire relationship. (QPS focus group 9 [GDOs])

Some women identified that a reliance on the parties’ records, often the most accessible information available to police to establish background, was a critical factor in their being misidentified as a respondent:

He had no history, he worked full time, he was a good person in their eyes, so they’d just stand there and talk to him about fishing for an hour and then just leave and not even listen to me. (Women’s focus group 1)



Balancing [civil and criminal legal] approaches when responding to a call can mean a tendency [for police] to consider only single acts of violence in isolation from a history of coercive control.



A focus on incidents is concerning given reports from women and service providers of the context of women's use of violence, for example:

He didn't so much bash me every day but he did things like he would stop me from ringing people, he'd eat my SIM cards and lock me inside my house and turn my electricity off. So I couldn't leave, I couldn't ring anyone, little things like that. Over the course of him doing that constantly to me I kind of lost it and went insane. (Women's focus group 1)

Without knowledge of the history of the relationship, use of violence against someone who is perpetrating DFV may be misread, and the law will be inappropriately applied.

## Assumptions about behaviours of victims affect policing practice

Despite decades of research on women's resistance to violence perpetrated against them, stereotypical assumptions about women who are subjected to violence persist. Police and courts are confused by women who do not fit the stereotypical image of a victim. That is, they are confused by women who fight back, particularly if they use weapons, and those who are uncooperative. Participants in this study observed the tendency for investigating police to hold women to a higher standard than men in their need to appear composed and cooperate with police.

How a party presents at the scene contributes to police perceptions of whether they are in need of protection. As one police officer said:

Yeah, if they're willing to carry on when you're there, then you certainly get a bias that whatever happened before, they could well be the instigator. So that's definitely something that stands out. (QPS focus group 2 [GDOs])

However, stories from survivors show how these presentations can be misleading:

He was all calm and collected by the time they got there; I was the one that was going off smashing everything and all the rest of it and that's why I had the orders put on me because that's what they walked into, but I had marks all over me ... [but] they came into me being the one that was screaming and me—yeah. (Women's focus group 1)

A lack of cooperation with police was sometimes used against women, as it does not align with the idea of an ideal or "real" victim (who would desire police assistance):

I was flogged to a point where I couldn't even brush my own hair. Couldn't ... lift my arm up. The female officer ... tried to talk to me but because I wouldn't talk to her ... she went and spoke to him. I was sent to the hospital too because of my injuries ... But because I didn't talk, that order went out against me. (Women's focus group 2)

However, reluctance to cooperate with police stems from prior negative experiences, feelings of intimidation and mistrust of police. This was acutely felt by Aboriginal women in this research. Service providers and women described how racism and biased attitudes inform police conceptions of a "victim", which in turn contributes to both misidentification and women's reluctance to seek police help. Two Aboriginal women explained:

Years later now I'm in another predicament. I'm in a current relationship right now

where I wasn't there again, I fled before the police can come. And sadly, admittedly, it's a thing that we think about, we don't want to be around the police. I'm very intimidated by them. Very intimidated by them. (Women's focus group 2)

I was already convicted in their eyes I know because that's how they treated me, and as a black woman against the white man too they—nobody wants to hear your story, they're going to believe the white man. (Women's focus group 1)

## Systems abuse contributes to misidentification

Systems abuse can result in misidentification, and was raised by all participant groups. Women and service providers described a number of sophisticated strategies successfully used by perpetrators of DFV, such as making false allegations with little or no evidence and having these accepted by police. Additionally, women and service providers explained that perpetrators of DFV deliberately manipulate the system by employing a range of “image management” strategies such as being the first to call police or, as described above, presenting as calm when police arrive. Image management is a key way that perpetrators of DFV can continue the abuse, and is further exacerbated if services (inadvertently) collude in abuse by accepting the false image or story.

Service providers were particularly concerned about false allegations and image management being used successfully against people with limited English in the absence of interpreters:

[A] trend that's been happening for quite some time last year and continuing into this year is that CALD [culturally and linguistically diverse] women, so police attending, interpreters not used, they appear to be heightened or unable to communicate, he can communicate perfectly, speaks English, they speak to him, they get his version of events, she then becomes the respondent without her version of events being heard. (Service provider focus group 3)

Misidentification can also itself enable further systems abuse by perpetrators of DFV. For example, a recurring theme in focus groups was perpetrators of DFV using protection orders against victims/survivors who have been misidentified as respondents. This can include, for example, threats to call the police and allege a breach of an order, pressuring victims/survivors to withdraw their own protection order applications or threats to call child safety. Victims/survivors who have been misidentified are entitled to free legal advice but may not know this or not be supported to access it, so may not be aware of their rights. A victim/survivor being misidentified as a respondent means a perpetrator of DFV has another tool of control they can use:

[Participant 1:] See, I've got a current order out now where I'm the perpetrator. And that's fearful for me because—and it's his house. All he's got to do is ring the police and he threatens me all the time with it.

[Participant 2:] You're walking on eggshells.



A recurring theme in focus groups was perpetrators of DFV using protection orders against victims/survivors who have been misidentified as respondents ... for example, threats to call the police and allege a breach of an order, pressuring victims/survivors to withdraw their own protection order applications or threats to call child safety.

[Participant 3:] So, you're kind of sitting on the fence of knowing you can go to jail, just stick around with it or ...

[Participant 2:] Like you were saying, you'll get locked up.

[Participant 1:] I can't stand up for myself in fear that his retaliation is make a phone call to the cops and he could have me removed just like that. (Women's focus group 2)

## **A lack of role clarity and accountability between police and courts results in deferred responsibility for decision-making**

Disjointed processes between police and courts mean that cross-applications are being inappropriately made. Misidentification is then not picked up by magistrates once an application proceeds to court.

Responses from police participants reflected a preference to leave a determination to the courts when they are unsure about whether an application would be appropriate. The phrase "cover your arse" was mentioned in almost every police focus group, and reflected a fear of liability that manifested in orders being taken out "just in case it does go pear-shaped later on" (QPS focus group 1 [DVLOs, police prosecutors, GDOs, victim support personnel]):

So now when they go into DVs they're not thinking about, "Okay, this is the policy and this is what I would normally do", they're thinking about, "Well I just got in trouble for not doing enough so I'm going to be extra cautious and take out a DV order when I really don't think it needs it, because if I don't do it and something happens I'm going to get in trouble". So, we're very reactive. (QPS focus group 9 [GDOs])

Many prosecutors were confident that they operated as a critical point where inappropriate applications were filtered out. However, participants from those same focus groups described processes that meant prosecutors deferred back to the original police officer's decision when an application was queried.

Magistrates were seen by many participants as best positioned to decide who was in most need of protection. However, the magistrates interviewed explained they had to rely on the evidence put before them in court, and were equally as resource-constrained as police, sometimes hearing as many as 115 cases in a day. Therefore, similarly to prosecutors, magistrates often relied on the initial police assessment when making decisions about orders. Magistrates also reported that the law is unclear about whether and at what point they have the power to strike out an application when they assess that it has been made inappropriately. According to some participants this uncertainty results in orders being made against each party or matters being adjourned for a further hearing. This subjects victims/survivors to prolonged involvement with the legal system.

The combination of these approaches by police, prosecutors and magistrates creates a situation where there is no shared understanding of who is accountable for decisions including determining the person most in need of protection or whether an order is appropriate, or correcting misidentification once it occurs. Currently there are limited systemic safeguards to address misidentification; instead, the system relies upon individuals, namely:

- victims/survivors having resources to contest inappropriate applications or defend charges brought against them
- individual magistrates and prosecutors proactively making further enquiries
- for police applications, applicant police officers (with support of their superiors) being receptive to changing their decisions when further information is available.

# Recommendations for policymakers and practitioners

## Guidance on identifying patterns of coercive control

Police (especially GDOs) are faced with multiple and competing pressures when responding to DFV matters. Consequently, some have difficulty shifting from the incident-based focus of police investigations in general to the pattern-based focus of civil law. Thus, police need clearer guidance and training to assist them to distinguish between coercive controlling violence (physical and non-physical) and violence used in response to ongoing abuse. Explicit guidance on identifying patterns of coercive control would assist police in identifying the person most in need of protection in ambiguous circumstances, and in determining whether a protection order is necessary or desirable.

## Police response: Consider alternative models

The changes to policing and investigation models most widely supported by participants were specialist DFV police units or co-responder models. These models see specialists with expertise in coercive control accompany police at investigations, or otherwise support police assessments. Co-responders were widely seen as potential enablers of good police practice in identifying the aggrieved and respondent, and the appropriate action to be taken. Police participants in particular expressed support for specialist and co-responder models as strategies to improve policing responses. Some QPS participants supported a specialist DFV police unit. They felt this would allow GDOs to concentrate on making the scene safe and allow those with DFV expertise to make assessments about what response was required.

There was widespread recognition that this would require significant resourcing. However, there may be other ways to achieve some of the benefits of a co-responder model. Police in this research suggested, for example, consultation with a specialist unit to support investigation and decision-making on whether an application is necessary or desirable.

## Provide training for police and legal professionals

Police in this study expressed a desire for more training to keep up with quickly changing policies and procedures.

Areas of focus for training and education for police and legal professionals (for example, prosecutors, lawyers and magistrates) include clarity about the rationale for police and court powers in civil law; guidance on key concepts that are relied on in the relevant legislation; and development of trauma-informed and culturally and gender-sensitive understandings of the dynamics of DFV. Trauma-informed responses can have flow-on effects: for example, supporting victims to report violence, and sexual violence in particular, will facilitate responses based on the entirety of a victim's/survivor's experience.

Effective training on the appropriate application of the law would result in:

- trauma-informed and culturally and gender-sensitive understandings of DFV

- an understanding of Aboriginal and Torres Strait Islander peoples' resistance to police intervention and strategies to support victim/survivor cooperation
- an ability to detect image management and systems abuse, and therefore reduce collusion with perpetrators of DFV
- skills to investigate and present evidence of coercive control
- an ability to determine when action other than an application for a protection order is appropriate.

Training should also include a focus on the intersections of disadvantage, for example, being aware of specific issues facing women with disability, women in LGBTQ communities and women from culturally and linguistically diverse backgrounds. The concerning evidence from women's and service provider focus groups indicates that there is a continuing need for education to address sexist and racist attitudes held by some police. This could include education about the context in which Aboriginal and Torres Strait Islander violence takes place, by paying attention to structural racism and intergenerational harm and trauma. This is particularly important in relation to Aboriginal and Torres Strait Islander women's resistive violence and reluctance to cooperate with police during investigations.

## Improve court-police processes

The different roles and mechanisms for decision-making in applications/orders for protection require clarification. This would address the current ambiguity surrounding responsibility and accountability for the determination of the person most in need of protection. Improvements to how and by whom decisions are reviewed within and beyond the responding police officer's unit are necessary. Where inappropriate applications for protection orders are made, either by police or privately, the processes and roles for prosecutors and magistrates in remedying this must be clear.

Further research should explore ways to improve the disjointedness between police and court processes in dealing with DFV matters where there are allegations of mutual violence or applications have been inappropriately brought.

## Create guidance for magistrates on dismissing inappropriate applications

Courts, including police prosecutors and magistrates, need clarity about when it is appropriate to withdraw or dismiss inappropriate applications. Guidance for courts on dismissing applications or withdrawing orders is also extremely important given participants' reports of women consenting to inappropriate orders. Participants described the way women may consent due to exhaustion from systems abuse (for example, endless applications for protection orders by perpetrators), legal and other financial costs resulting from systems abuse, or pressure from the abuser.

Jurisdictions should also consider incorporating principles for determining the person most in need of protection in relevant bench books and supporting materials.

# Further reading

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