

Enforcement of Domestic Violence Orders in Queensland's Discrete Indigenous Communities

APRIL 2016

This report addresses Recommendation 11.8 of the Queensland Child Protection Commission of Inquiry Report.

Recommendation 11.8 states:

That the Queensland Police Service, in consultation with local community organisations, review current arrangements for the enforcement of domestic violence orders in discrete communities with respect to the adequacy of assistance being given to parties to seek orders, the adequacy of enforcement of orders and support for parties to keep orders in place.

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ACKNOWLEDGEMENTS

This review and report would not have been possible without the invaluable input of the many participants who took the time to share their views and experience regarding domestic and family violence in discrete Indigenous communities. In particular, the contribution of the community organisations, community members, police officers and police liaison officers in discrete communities who participated in the review is gratefully acknowledged. Many thanks to Dr Michael Limerick, who was engaged to conduct the community consultation interviews, for his professional expertise, knowledge and skills in conducting research with Aboriginal and Torres Strait Islander communities.

The assistance of Statistical Services within the Public Safety Business Agency (PSBA) and the Performance Reporting & Business Application Support Section of the Department of Justice and Attorney-General (DJAG) were critical in providing data on domestic and family violence.

A number of individuals provided assistance in engaging relevant community organisation stakeholders in the discrete communities visited. Dr Limerick's visit to Doomadgee was aided by staff from the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP). In Palm Island, the assistance of staff from the Palm Island Community Company, and in Pormpuraaw, the support of the Community Justice Group (CJG) coordinator was greatly appreciated.

ACRONYMS

AIATSI	- Australian Institute for Aboriginal and Torres Strait Islander Studies
AODS	- Alcohol and Other Drugs Services
ATSILS	- Aboriginal and Torres Strait Island Legal Services
AMP	- Alcohol Management Plan
CJG	- Community Justice Group
CMC	- Crime and Misconduct Commission
DATSIP	- Department of Aboriginal and Torres Strait Islander Partnerships
DFVC	- Domestic and Family Violence Coordinator
DJAG	- Department of Justice and Attorney-General
DV	- Domestic and Family Violence
DVLO	- Domestic Violence Liaison Officers
DV-PAF	- Domestic Violence Protective Assessment Framework
DV Referral	- Domestic and Family Violence Referral
FRC	- Family Responsibilities Commission
LGA	- Local Government Administration
NAIDOC	- National Aborigines and Islanders Day Observance Committee
NGO	- Non-Government Organisation
No-DV	- No Domestic and Family Violence
OIC	- [Police] Officer-in-charge
PCYC	- Police-Citizens Youth Clubs
PICC	- Palm Island Community Company
PLO	- Police Liaison Officer
PPAC	- Pormpur Paanthu Aboriginal Corporation
PSBA	- Public Safety Business Agency
QGAP	- Queensland Government Agent Program
QPRIME	- Queensland Police Record Information Management Exchange System
QPS	- Queensland Police Service
QWIC	- Queensland Wide Interlinked Courts System
REPAIR	- Readily Establishing Police and Indigenous Relations
RFDS	- Royal Flying Doctor Service

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EXECUTIVE SUMMARY

In 2013, the Queensland Child Protection Commission of Inquiry released its final report *Taking Responsibility: A Roadmap for Queensland Child Protection* (the Inquiry Report). A particular focus of the Inquiry Report was the over-representation of Aboriginal and Torres Strait Islander children in the child protection system, particularly children in the discrete¹ Indigenous communities across Queensland.

The Inquiry Report highlighted the risk that high levels of violence, particularly within families, can pose to the well-being of children. The Inquiry Report noted that exposure to family violence is compounded in remote communities where victims and their children may not be able to physically escape the situation (Carmody, page 356).

The importance of access to domestic violence² (DV) protection orders prohibiting perpetrators from having contact with victims was emphasised in the Inquiry Report, but it was noted that DV orders are not effective if they are not enforced (Carmody, page 379). Therefore Recommendation 11.8 from the Inquiry Report stated:

“That the Queensland Police Service, in consultation with local community organisations, review current arrangements for the enforcement of domestic violence orders in discrete communities with respect to the adequacy of assistance being given to parties to seek orders, the adequacy of enforcement of orders and support for parties to keep orders in place.”

This report outlines the findings of this review, exploring the use and enforcement of DV orders by police in discrete communities, including an examination of current barriers and issues impeding the effectiveness of DV orders in these communities.

In addressing Recommendation 11.8, the review explored three key research questions:

- 1) Is police assistance to aggrieved parties to seek DV orders adequate?
- 2) Is police enforcement of DV orders adequate?
- 3) Is police assistance to keep orders in place adequate?

Between March 2015 and July 2015 a range of data was sourced for the review including police and court statistical data, community consultations in three discrete communities (Doomadgee, Pormpuraaw and Palm Island) and interviews with local police Officers-In-Charge (OICs) and Police Liaison Officers (PLOs) working in discrete communities.

While the data in the review reflects higher rates of violence in the discrete communities, caution should be exercised in interpreting the data due to the small population size of some communities, the relatively small number of offences or DV applications and the range of factors that may influence DV data. It is also important to note that while rates of domestic

¹ Discrete communities are communities in a specific geographic location mainly inhabited by Aboriginal or Torres Strait Islander people where infrastructure is usually either owned or managed on a community basis (Carmody pg. 350).

² For the purpose of this report, the abbreviation DV has been used for brevity as the legislation refers to Domestic Violence orders. This is not meant to discount that domestic and family violence would be a more inclusive term.

violence are higher in the discrete communities, DV does not discriminate and can affect anyone, regardless of race, religion, age, gender, sexuality or socio-economic status.

The review was informed by, and reflects on, the previous research undertaken by Professor Chris Cunneen which specifically addressed whether DV orders are an adequate and effective legal mechanism to respond to violence against Aboriginal and Torres Strait Islander people, particularly in rural and remote areas (Cunneen, 2010).

The review findings have also been placed in the context of the substantial broader DV reform work currently being undertaken by the Queensland Government to implement recommendations arising from the Special Taskforce on Domestic and Family Violence in Queensland (DV Taskforce) *Not Now Not Ever* report (Bryce, 2015) and the ongoing child protection reform resulting from the Inquiry.

It is also acknowledged that both domestic violence and child protection are underpinned by a range of complex social factors and that other work and investment by the government, such as alcohol management reform can be expected to impact on levels of violence in discrete communities.

KEY FINDINGS

Community stakeholder satisfaction with the police response to DV in the three discrete communities visited was mostly positive, including satisfaction with the timeliness and cultural sensitivity of the response. Many of the police interviewed felt that reporting by female victims of DV had improved over time and police collaboration with other support services appears to be working well. There was also a sense that administrative processes have improved and are less likely to influence the decision to initiate DV applications, with approximately half of the police interviewed agreeing that the administrative processes and paperwork in relation to DV incidents is less of a burden than it once was and the remainder indicating that residual administrative issues are associated with the impact of remoteness on court processes.

Some of the issues that were identified in the Cunneen report still appear to be present. In particular, in discrete communities very few applications for orders are initiated by the aggrieved party. This may indicate a continued disengagement or lack of confidence in the legal protection process by Indigenous victims, or reflect that Indigenous cultural values may influence engagement with the criminal justice system. The Cunneen report also identified a limited understanding by parties of DV orders including the operation of the order and associated conditions, often leading to breaches, and this continues to be the case.

Of note, the incidence of female perpetrators and male victims is of significant concern to community members and represents a dynamic that is not as readily evident in the Queensland community as a whole. This could also perhaps be attributed to the relative small size of the discrete communities, whereby violence by women may be more visible and apparent.

Interviews with police and community members reflected a strong sense of commitment to reducing the impact of DV in communities but a frustration with entrenched issues that are created or compounded by remoteness, isolation and the challenges of delivering services in this environment.

Particular barriers to more effective enforcement of DV orders were identified as:

- The reluctance of women to contact police in relation to DV incidents, largely due to fear of retribution by the perpetrator and intervention by child protection authorities;
- The difficulty in applying the full range of available protections as conditions on orders (such as no contact or ouster conditions) in small communities where contact between parties is likely;
- Lack of evidence to support the arrest and detainment of perpetrators, particularly complaints from victims or the availability of witness statements;
- Logistics of detaining suspects in communities or transferring detained suspects away from the community;
- The practice of requiring a new application rather than extending an existing order where protection is still needed, creating an administrative burden and potentially leaving a gap in protection for victims; and
- Lack of support services operating full time in communities including for both female and male victims and perpetrators.

The substantial DV and child protection reform work currently being undertaken in Queensland as a result of the Inquiry Report and the DV Taskforce Report is likely to contribute to improvements in the systems and services underpinning responses in discrete communities. This will potentially address some of the ongoing barriers identified in this review, leading to better outcomes for these communities.

It is intended that this report will inform this ongoing work program. The review has also identified a number of areas of improvement that can be progressed by the QPS and recommendations to address these are made in the final chapter of this report.

1. INTRODUCTION

This report assesses the role of the Queensland Police Service (QPS) in the enforcement of domestic violence orders in discrete Queensland Indigenous communities. Domestic violence orders are court-issued orders designed to stop threats or acts of DV. Specifically, this report reviews the police role in terms of the adequacy of assistance being given to parties to seek these orders, the adequacy of the enforcement of orders and support for parties to keep orders in place.

The report is the result of recommendation 11.8 of the Queensland Child Protection Commission of Inquiry (the Inquiry) final report - *Taking Responsibility: A Roadmap for Queensland Child Protection*, published in 2013:

“That the Queensland Police Service, in consultation with local community organisations, review current arrangements for the enforcement of domestic violence orders in discrete communities with respect to the adequacy of assistance being given to parties to seek orders, the adequacy of enforcement of orders and support for parties to keep orders in place.”

1.1 Background: the Inquiry

The Inquiry was established on 1 July 2012 with the Honourable Tim Carmody SC appointed as Commissioner. The Inquiry was established to review Queensland child protection services, design a new child protection system and develop a roadmap for the next decade.

Taking Responsibility: A Roadmap for Queensland Child Protection 2013 (The Inquiry Report) was presented to the Queensland Government on 1 July 2013. The Inquiry Report reviews the effectiveness of the child protection system, focusing on major issues such as the adequacy and efficiency of the use of available resources, tertiary interventions (including entering, transitioning and exiting the system), oversight of, and public confidence in, the system, and strategies to reduce Aboriginal and Torres Strait Islander over-representation, particularly in out-of-home care.

The Inquiry Report made 121 recommendations for comprehensive, systemic reforms to achieve the best possible outcomes for children, young people and families.

On 16 December 2013, the Queensland Government released its response to the Inquiry Report, accepting all 121 recommendations (six were accepted in-principle).

A key area of focus identified by the Inquiry was the needs of children in discrete Aboriginal and Torres Strait Islander communities, where over-representation in the child protection system is both acute and chronic (Carmody, page 353).

The Inquiry found that violence in discrete communities has increased in recent decades and, in some communities, the types of violence has worsened. The Inquiry found that many children are being exposed to violence, either directly or indirectly, mostly within the home. The high levels of violence, particularly violence within families, poses risks for the physical, social, emotional and psychological wellbeing of children.

The Inquiry Report noted that exposure to family violence is compounded in remote communities where victims³ and their children are not able to physically escape the situation (Carmody, page 356). The Inquiry received submissions that rather than victims of family violence having to flee their residence to alternative accommodation, the perpetrators of DV should be required to leave the household (Carmody, page 379).

The Inquiry Report also highlighted the importance of ready access to DV protection orders to prohibit perpetrators from being in contact with victims, but asserted that, while arrangements are in place to make orders, these are not effective if they are not enforced (Carmody, page 379).

Therefore this review explores the use and enforcement of, DV orders by police in discrete communities, including an examination of current barriers and issues impeding the effectiveness of DV orders in these communities.

1.2 DV orders and the role of the police

As noted above, a DV order is a court-issued order designed to prevent domestic violence. These orders are most often made upon an application to the court under the *Domestic and Family Violence Protection Act 2012*, by a police officer or an aggrieved individual. DV orders were first introduced in Queensland in 1989 when the *Domestic Violence (Family Protection) Act 1989* provided, for the first time, separate legislation for the protection of spousal victims of domestic violence (Bryce, page 66).

DV orders can remain in place for up to two years and may be extended. Orders may include a range of conditions to which the person subject to the order must adhere. However, every DV order will include a standard condition that the respondent must be of good behaviour and not commit domestic violence. Other conditions might include requiring the respondent to leave the family home or not approach, or come within a certain distance of, the aggrieved. A DV order is a civil order obtained from the court and granting of the order is based on the civil standard of proof (the balance of probabilities). A breach of the order or conditions of the order is a criminal offence which requires a higher standard of proof (beyond reasonable doubt).

Each incident of DV is unique and requires police to ensure their response accounts for the individual circumstances of the case. It is not uncommon for DV matters to involve the complexities of mental health issues, family law and child protection concerns, as well as alcohol or drug abuse. In Aboriginal and Torres Strait Islander communities this can be further complicated by unique cultural issues and a broad range of kinship relationships (Cunneen 2010). The complexity of policing domestic and family violence within discrete communities is also compounded by a number of factors such as geographical environment and isolation, lack of support services, and available response options.

Despite the unique nature of DV incidents, the initial police response can be generalised into the stages outlined in Attachments 5 and 6. Typically a DV incident would be initiated by a call to police. Police would then respond to the incident and commence their investigations.

³ Throughout this report the terms “victim” and “aggrieved” are used interchangeably as are the terms “perpetrator” and “respondent”.

This would generally involve separating the parties, interviewing relevant parties and witnesses, conducting a protective assessment, gathering sufficient evidence and initiating an appropriate course of action.

Police have a number of options when responding to DV incidents. Measures are employed to ensure ongoing protection of the victim and of their family. Police are legislatively required to investigate suspected DV and officers must record their reasons if no further action is taken after an investigation. Some of the actions police can take include:

- issuing a police protection notice if they are satisfied that DV occurred and the aggrieved requires immediate protection from further violence;
- entering and searching premises without a warrant if they suspect DV has occurred or there is a risk of it occurring;
- seizing anything that has been or may be used to commit DV;
- taking the person committing the violence into custody for the purpose of making an application for a domestic violence order and holding them for up to four hours (or eight hours if the person is intoxicated or presents a continuing threat);
- applying for a protection order or temporary protection order on behalf of an aggrieved if they are satisfied DV occurred;
- investigating breaches of a DV order when a respondent continues to commit DV after the order has been made; and
- charging a person with a criminal offence if there is evidence that a breach of DV order has occurred⁴.

Further details of these options are provided in Attachment 7.

Officers investigating DV or a breach of a DV order also consult with the aggrieved and named persons (where applicable) about the possibility of pursuing criminal charges where the acts of DV amount to criminal acts, for example assault (QPS Operational Procedures Manual (OPM) section 9.6.7).

Once a police-initiated application for a temporary protection order, protection order or variation of an existing order or a breach of an order goes before a court, a police prosecutor makes the police case to have an order granted or varied, or prosecutes the breach offence. In addition, police prosecutors may assist an aggrieved in making a private application for a protection order, should the aggrieved so desire.

In recognition that an integrated response to DV is good practice, police also provide all parties involved in DV with contact details for appropriate support agencies, if available. Police may notify an appropriate agency on behalf of the aggrieved, with their consent (QPS OPM section 9.6.10).

The QPS maintains a network of District Domestic and Family Violence Coordinators (DDFVC) and Station Domestic Violence Liaison Officers (DVLOs) who can provide direction, guidance and advice to staff and the community on issues associated with domestic and family violence.

⁴ *Legislation explained: The Domestic and Family Violence Protection Act 2012 Fact Sheet*, Department of Communities, Child Safety and Disability Services, Brisbane. <https://www.communities.qld.gov.au/communityservices/violence-prevention/domestic-and-family-violence-protection-act-2012>

The QPS also has Indigenous Police Liaison Officers (PLOs) who assist in developing trust and understanding between police and local communities. PLOs do not have police powers to carry out law enforcement functions and do not wear accoutrements.

1.3 Previous inquiries and research

A number of inquiries and reports have examined the justice response to domestic and family violence within Indigenous communities. Key Queensland reports include:

- **Alternative and Improved Responses to Domestic and Family Violence in Queensland Indigenous Communities 2010** (the Cunneen Report): addresses the issue of whether the legal system is responding adequately to domestic and family violence against Indigenous people.
- **Crime and Misconduct Commission (CMC) Restoring Order 2009**: examines crime prevention, policing and local justice in Queensland Indigenous communities.
- **CMC Policing Domestic Violence 2005**: examines the challenges that confront police in identifying potential strategies to improve their effectiveness and efficiency when dealing with domestic and family violence incidents in Queensland.
- **Aboriginal and Torres Strait Islander Women's Taskforce on Violence 1999**: addresses the role of alcohol in crime in Indigenous communities, particularly the need for policing to actively support strategies and laws to reduce the supply of alcohol.

1.4 Special Taskforce on Domestic and Family Violence

In September 2014, the Special Taskforce on Domestic and Family Violence in Queensland (*the DV Taskforce*) was established. Chaired by The Honourable Quentin Bryce AD CVO, the role of the Taskforce was to examine and make recommendations to the Queensland Government on a long-term strategy to address domestic and family violence in Queensland.

In February 2015, the Taskforce delivered its report – *Not Now, Not Ever. Putting an End to Domestic and Family Violence in Queensland* (the DV Taskforce Report). Making 140 recommendations for systemic change in Queensland, the DV Taskforce Report advocated a range of reforms including changes to the criminal law, education and awareness campaigns, enhanced community service delivery, improved police and court responses, and an integrated service delivery trial.

In August 2015, the Government released its response to the DV Taskforce Report accepting all 140 recommendations. A significant implementation reform program is currently underway across Queensland. The intersection between this DV reform work and the child protection reform occurring as a result of the Inquiry has necessitated a holistic and coordinated response by Government.

1.5 Scope of the review

In accordance with Recommendation 11.8 of the Inquiry Report, this review explores police assistance to aggrieved parties to seek DV orders, enforcement or ability of police to enforce orders, and police support to parties to keep orders in place. It is acknowledged that a range of stakeholders other than police also provide assistance and support to victims and respondents through the DV order process.

At the time of this review the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) recognises 19 discrete communities in Queensland (over 15 local government areas) with a number of these communities comprising clusters of smaller communities.

The discrete communities in Queensland currently include:

- Aurukun
- Cherbourg
- Doomadgee
- Hope Vale
- Kowanyama
- Lockhart River
- Mapoon
- Mornington Island
- Napranum
- Northern Peninsula Area (Bamaga, Injinoo, New Mapoon, Seisia and Umagico)
- Palm Island
- Pormpuraaw
- Woorabinda
- Wujal Wujal
- Yarrabah

Not all of these communities are represented in this review - the availability, limitations and representative sampling of data is covered further in Chapter two - Methodology.

1.6 Structure of this report

Chapter 2 Outlines the methodological approach of the review and the key research questions posed.

Chapter 3 Provides a snapshot of statistical data highlighting DV trends in discrete communities including some comparisons with the broader Queensland community. The data includes both numbers and rates of DV applications and breaches in discrete communities for a ten year period from 2004-2014. The chapter also includes a discussion of stakeholder views on possible explanations of some of the trends identified in the data.

Chapter 4 Is police assistance to seek orders adequate?

This includes consideration of police versus private initiated applications and the use of conditions on orders. This chapter examines the overall expectations and satisfaction of community stakeholders with the police response to DV. It also describes the administrative or process issues impacting police and discussion of the willingness of victims and community members to report DV.

Chapter 5 Is police enforcement adequate?

This includes whether breach offences and any other associated criminal offences are being pursued and a discussion of key factors inhibiting the ability of police to enforce orders such as evidence gathering issues including the cooperation of victims, the standard of proof required and

intoxication levels. Issues affecting the ability of police to detain or remove perpetrators is also discussed, as well as challenges regarding remote courts and bail processes and general resourcing issues affecting the police response to DV.

Chapter 6 Is police assistance to keep orders in place adequate?

Describes police assistance to people to vary or extend orders and police referrals to other organisations. Including discussion of the collaborative work being undertaken between police and support services and issues regarding a lack of support services in some discrete communities.

A summary of the key findings and information related to each research questions is provided at the end of Chapters 4-6.

Chapter 7 Provides further discussion of the key findings and conclusions drawn and places the findings in the context of the substantial DV and child protection reform work currently being undertaken. This chapter identifies a number of linkages with the current and ongoing implementation arising from the DV Taskforce report and also identifies a number of recommendations for the QPS that will assist in addressing the key findings from the review.

In the course of this review, a number of issues were raised by both the community stakeholders and police which did not directly relate to the key research questions. Suggestions from stakeholders about how a new integrated response model could work, as per Recommendation 9 in the DV Taskforce report, were of particular interest and are summarised in Attachment 1. These findings will be shared with the relevant DV Taskforce Inter-departmental Working Group for their information.

2. METHODOLOGY

This review explores police assistance to aggrieved parties to seek DV orders, enforcement or the ability of police to enforce orders, and police support to parties to keep orders in place. In exploring these three elements of Recommendation 11.8, the objective of the review was to gain a better understanding of the effectiveness of police involvement in DV orders in discrete communities.

The review was conducted in two phases. The first phase included a review of the quantitative data. This was followed by the development of interview questions as well as the selection of communities for the second phase which involved the qualitative data collection.

2.1 Research questions

The key review questions developed based on the wording of Recommendation 11.8 were:

- 1) Is police assistance to parties to seek DV orders adequate?

Assistance to aggrieved parties to seek orders occurs as a result of police attendance at, and investigation of, DV incidents and any subsequent decision to apply for a protection order. It also includes providing assistance to aggrieved parties to make private applications for DV orders or referring victims to legal services to assist them in making private applications.

- 2) Is police enforcement of DV orders adequate?

Enforcement or the ability of police to charge a respondent with contravening/breaching the DV order or conditions under the order. Police can only enforce the order if they are made aware and are satisfied on reasonable grounds, that an offence has been committed. Police must then apply their discretion to prosecute, including the 'sufficiency of evidence' and 'public interest' tests (drawn from the Director of Public Prosecutions Guidelines).

It is acknowledged that concepts such as 'enforcement' can be more widely interpreted by the various stakeholders involved in DV.

- 3) Is police assistance to keep orders in place adequate?

Supporting parties to keep orders in place by applying for a variation of an order where it is considered necessary to maintain or increase the safety of the aggrieved. The variation sought may include any aspect of the order, for example, duration of the order, a condition of the order and the persons named in the order.

In order to address the review questions, both quantitative and qualitative data was sourced and included:

- Data from police and the courts regarding DV applications, orders and DV breaches;
- QPS staffing numbers in discrete communities;
- Interviews and focus groups with community organisations in three discrete communities (Doomadgee, Pormpuraaw and Palm Island);
- Telephone interviews with local police Officers-In-Charge (OICs) and PLOs in eight discrete communities and one OIC in a station that polices neighbouring discrete communities;
- Discussions with QPS Domestic and Family Violence Coordinators (DFVCs) who oversee discrete communities.

The table below indicates how the data sources were used to answer each of the review questions:

Key review questions	Data source/s
1) Is assistance to parties to seek orders adequate?	Police/court data on DV applications and orders Police staffing figures Police and community consultation
2) Is enforcement adequate?	Police/court data on DV breaches and orders Police staffing figures Police and community consultation
3) Is assistance to keep orders in place adequate?	Police and community consultation

The themes and issues identified in the qualitative data have been linked where possible to the analysis of the quantitative data to validate or corroborate the information received.

2.2 Framing the review

DV is a complex social and justice sector issue that is impacted by a wide range of influences, of which police responses are just one. Further, entrenched violence in Indigenous communities is a long standing issue. To place the review data in context it has been compared, where possible, to the earlier findings of Professor Chris Cunneen.

The Cunneen report, which was commissioned by the then Queensland Department of Communities in 2007, specifically addressed whether DV orders are an adequate and effective legal mechanism to respond to violence against Aboriginal and Torres Strait Islander individuals, particularly in rural and remote areas. This research is of particular relevance to Recommendation 11.8.

The Cunneen research examined the initial police responses to domestic violence incidents, data on the number of DV orders involving the Aboriginal and Torres Strait Islander population and discussed a number of barriers identified by victims regarding the use of domestic violence orders. The report included data from a number of sources including police, courts

and domestic violence service providers as well as qualitative data gathered through interviews with Aboriginal and Torres Strait Islander DV victims. The Cunneen report made a number of recommendations across government regarding child protection, justice, health and policing. Recommendations for police included:

- the extension of police powers to enable police to issue short-term emergency domestic violence orders;
- a review of training for police and Indigenous police liaison officers (PLOs) regarding domestic and family violence;
- the role of Indigenous PLOs in providing follow up and explaining orders to victims and perpetrators; and,
- a review of policy regarding referral of children exposed to domestic violence to the Department of Child Safety.

These recommendations were addressed, for the most part, by implementation activity related to the introduction of the *Domestic and Family Violence Protection Act 2012 (DFVPA 2012)* which was the most significant reform of the Queensland DV legislation since its commencement in 1989. Pending the introduction of the DFVPA 2012, the QPS undertook a comprehensive review of police training on DV and state-wide training on the legislation changes was delivered, which included roll out of the QPS Domestic Violence Protective Assessment Framework (DV-PAF) and introduction of police protection notices.

Despite considerable work to improve police response and practice regarding DV, it was anticipated that a number of the issues and themes around barriers to reporting and seeking orders in Indigenous communities outlined in the Cunneen report may still be relevant today. The current review was informed by, and reflects on, the Cunneen findings to determine if there are continuing gaps or areas of improvement in police practice.

2.3 Quantitative data

Data used in the analysis is derived from QPS and Department of Justice and Attorney-General (DJAG) court databases. There is currently no comprehensive system for regularly reporting and analysing domestic and family violence data in Queensland. The data used represents live data accurate only at the time of the individual extraction of data reports.

Information was obtained from the Queensland Police Record Information Management Exchange (QPRIME) system regarding the number of police and private applications for domestic violence orders and the number of breaches of domestic violence orders.

Since October 2008, all domestic and family violence incidents that police attend must be entered onto QPRIME. However, not all incidents entered are accompanied by an application for a domestic violence order. As previously noted, there are a number of actions available to police in responding to a domestic violence incident. Once a court order is made, the contravention of that order by the respondent becomes a criminal offence, commonly referred to as a breach.

Information regarding the type of DV orders and conditions on those orders that are processed by the Magistrates Courts of Queensland was also obtained from DJAG.

Some of the data reflects the entire State-wide Indigenous population and could not be disaggregated to discrete communities. Descriptive statistics were used to examine the data and, where relevant, data was converted into a rate per 1,000 population to allow for meaningful comparisons.

Human Resource data on staffing rates for police and PLOs in discrete communities was also obtained.

2.3.1 Main DV data sources

The data used to investigate domestic violence trends in the discrete communities was based, where possible, on the period from 2004/2005 to 2013/2014, including the years already covered in the Cunneen Report 2010. The sources included:

- QPRIME data for domestic violence incidents, applications and breaches of domestic violence orders, by discrete community, for the years 2004/05 to 2013/14;
- Due to limitations in the reliability of State-wide data on police and private applications prior to the introduction of QPRIME, a five year period of data (from 2009/10 to 2013/14) has been used to compare State-wide application and breach data with the discrete communities' data, rather than the full decade used elsewhere in the report.
- Queensland Wide Interlinked Courts System (QWIC) data on domestic violence orders in the Magistrates courts for the years 2004/05 to 2013/14. The data identified Indigenous and non-Indigenous aggrieved and respondents at State level, not at the discrete community level;
- The discrete communities identified for the purpose of the review are included in section 1.5 'Scope of the review'; however, not all data is available for all communities. This is identified in each table when it occurs;
- Population data for discrete communities was sourced from the Australian Bureau of Statistics, Regional Population Growth (Cat. No. 3218.0), unpublished data (derived by the Queensland Government Statistician's Office), accessed March 2015;
- State population data used to obtain rates per 1,000 population was obtained from the Australian Bureau of Statistics (Cat. No. 3101.0) Australian Demographic Statistics, December 2014;
- Police staffing (strength) data by community identified in Attachment 11 identifies both budgeted roles and actual roles filled; and
- Tables or Figures used to illustrate current trends identify the source of the data at the time of the reports' extraction. Where data could not be disaggregated to the discrete community level, data is presented at a state-wide level.

2.3.2 Limitations of DV data

Interpretation of DV data collected through QPRIME and QWIC systems should be considered in the context of a number of caveats and limitations outlined below:

- Number of offences (applications and breaches) are presented as a simple number count and do not represent a unique person count, as a person may be the victim of more than one offence within the reference period;

- A person aged under 10 years of age is considered too young to be criminally responsible. Persons under 10 are excluded from offender counts;
- Parts of data may not be available for all discrete communities;
- Data may be presented in different formats or combined in one larger Local Government Area (LGA);
- Data collected by Court jurisdiction may combine more than one discrete community;
- Small community populations may show relatively large percentage change results;
- Due to small Indigenous community populations, data is converted into a rate per 1,000 population to allow for meaningful comparisons; and
- Data on cross-applications and/or cross-orders was not readily available to include in the analysis of domestic and family violence trends.

2.4 Qualitative data

The qualitative data collection involved a combination of face-to-face and telephone interviews and focus groups with two distinct stakeholder groups, the first being community organisations and the second being police stakeholders.

Two sets of similar and complementary interview questions were developed to guide the qualitative data collection with both stakeholder groups. The interview questions were largely drawn from issues identified in the Cunneen report regarding barriers to the effective use of DV orders in Indigenous communities. The community interview questions are provided in Attachment 2, while police participant interview questions are provided in Attachment 3.

Throughout the document the terms ‘community stakeholder’ or ‘police’ are used to describe the two different sets of participants that were involved in the qualitative research. Given the relatively small numbers of interview participants and to avoid over-complicating the findings, responses have not been quantified. Terms such as ‘a few’ or ‘several’ generally mean there were up to four people out of the whole stakeholder group (community or police) who identified or raised the same issue or theme.

Chapters 4-6 of this report outline the views expressed by both the community and police stakeholders on the key research questions explored in the interviews and focus groups. Based on the qualitative data analysis, the consultation results have been summarised according to the emerging themes. Wherever possible, direct quotes from stakeholders have been included.

Where stakeholders have been directly quoted, only general descriptions have been used (e.g. Service Provider or OIC) in order to protect anonymity of interviewees. Also, in recognition that many community interviewees speak as both representatives of their organisations and members of the local Indigenous community, attributions have noted when an interviewee is also a “community member”. CJG members and women’s and men’s group members are, of course, community members. In some cases where feedback relates to gender issues, it might be relevant for the reader to know whether the comment is by a male or female. In these cases, this is also indicated.

2.4.1 Community consultation

An external consultant with extensive experience and professional expertise in working with Aboriginal and Torres Strait Islander communities was engaged to undertake the community consultations. Material from the consultant's report on the outcome of the community consultation has been replicated and used throughout this review report.

A sample of three Indigenous communities was chosen for the consultations – Palm Island, Doomadgee and Pormpuraaw. Analysis of the quantitative data about trends in DV applications and breaches informed the choice of communities to visit. Palm Island and Doomadgee have both seen significant increases in breaches of domestic violence orders in the past decade, while Pormpuraaw is one of the few communities to record a decline in the number of DV applications and breaches since 2004. Part of the rationale guiding this choice was that Doomadgee and Pormpuraaw were included in earlier consultations in late 2007 and early 2008 for the Cunneen report.

Visits to the three communities occurred in June 2015. The consultant also conducted consultations with community organisations based in Mount Isa, Townsville and Cairns, as these organisations provide outreach services to the three communities.

The consultations were undertaken by using interviews and focus groups. An interview running sheet was prepared with question prompts exploring various elements of the key focus questions. Interviews were loosely structured in a way that enabled exploration of the focus questions in an informal manner, while still ensuring comparability of data. In all, 26 interviews and focus groups were conducted, involving a total of 49 individuals⁵.

Of the 49 participants:

- 34 were women and 15 were men;
- 37 were Indigenous and 12 were non-Indigenous.

Four interviews were conducted by telephone and the rest of the interviews and focus groups were face to face. The consultant also had the opportunity to attend a men's domestic violence discussion group convened by local police and a community organisation in Doomadgee, attended by about ten community men and four police officers.

Information sheets setting out the objectives of the review were provided to all participants and consent obtained prior to all interviews. Commitments were given regarding the confidentiality of data collected, in accordance with the Australian Institute for Aboriginal and Torres Strait Islander Studies' (AIATSIS) Guidelines for Ethical Research in Indigenous Communities.

Where appropriate or practical, interviews were audio-recorded and transcribed at a later date. Where audio recordings were not possible, detailed notes were taken. Notes and transcripts of all the community stakeholder interviews were entered into a database. This data was analysed and coded using qualitative data analysis software.

⁵ For a list of the community organisations and groups consulted please refer to Attachment 4.

2.4.2 Police consultation

Semi-structured interviews with police officers in charge of discrete communities and police liaison officers were undertaken via telephone in July 2015. Participation was voluntary, following a request for participation. Information about the review and the interview questions were sent to participants prior to their interview. Participants had the option of providing a written response or undertaking a telephone interview. In total, eight interviews were conducted with 11 people (eight OICs and three PLOs), and one written response was received:

- OIC and PLO Aurukun
- OIC Cherbourg
- OIC and PLO Kowanyama
- OIC Lockhart River
- OIC Palm Island
- OIC Pormpuraaw
- OIC Weipa (not a discrete community but services Napranum and Mapoon)
- OIC Woorabinda
- OIC and PLO Yarrabah

The interview questions were piloted with a former OIC of a discrete community and two current domestic and family violence coordinators. Interviews were typically between 45 minutes to one hour long and were audio-recorded with permission and later transcribed. The data was analysed and coded manually to identify common themes and patterns.

The three PLOs were interviewed alongside their OIC mostly due to the fact that interviews were conducted via telephone and the OIC was able to assist with any language issues that may have presented. While OICs/PLOs were given the option to conduct the interview separately, all chose to do so together.

A face-to-face focus group and interview session was also conducted in Brisbane with four QPS domestic and family violence coordinators (DFVCs) from Cairns, Mount Isa, Rockhampton and Gladstone who oversee some of the discrete communities. DFVCs are generally responsible for coordinating and monitoring the response to DV in their regional areas. This focus group was conducted after the police interviews with the OICs were undertaken so that a number of the issues and themes that arose from those interviews could be explored with the coordinators.

While police working in the Torres Strait were not in scope for the interviews conducted for this review, a number of issues were raised by police from Northern Region through the consultation and feedback process for the draft review report. In most instances these issues were consistent with the information received from police working in the discrete communities. Where an issue was unique to the Torres Strait this has been identified in the body of the report.

3. DOMESTIC AND FAMILY VIOLENCE DATA AND TRENDS

This chapter brings together information from a range of sources to provide a snapshot of domestic and family violence trends in discrete communities, including some comparisons with the broader Queensland community. What the data shows in respect of the questions posed by the review is explored in more detail, along with the qualitative data in Chapters 4 through 6 and in the concluding discussion in Chapter 7 – ‘Key Findings and Way Forward’.

3.1 Statistical data

Throughout this chapter DV application data for the discrete communities represents the entire community population, that is, the data includes both Indigenous and non-Indigenous residents in the discrete communities. The breach data for discrete communities, which is criminal offence data is able to be broken down by Indigenous status of the offender (and victim).

3.1.1 Applications and breaches: discrete communities compared with the rest of Queensland

Tables 1 and 2 compare the number of applications and DV breaches in discrete communities with the broader Queensland community.

The following trends were identified in the data over the period 2009/10 to 2013/14. Due to limitations regarding state-wide data on police and private applications prior to the introduction of QPRIME, a 5 year period of data has been used for Tables 1 and Table 2.

DV Applications:

- At State level, total police applications increased from 13,258 in 2009/10 to 15,621 in 2013/14 or 18% (Table 1); while in the discrete communities total police applications increased from 661 in 2009/10 to 825 in 2013/14 (Table 2), or an increase of 25%;
- The rate of police applications per 1,000 population, at a State level, has increased by 10% from 2009/10 to 2013/14 (Table 1), while the same rate, in the discrete communities, increased by 19% (Table 2);
- The rate of applications per 1,000 population was 12 times greater in discrete communities than the State level in 2009/10; by 2013/14, this rate was 13 times greater than the State level; and
- At State level private applications represent 36% to 37% of total applications during the period, whilst in the discrete communities private applications vary between 2% and 5% of total applications.

DV Breaches:

- At State level breaches of court orders increased from 9,700 in 2009/10 to 14,551 in 2013/14 or an increase of 50% (Table 1); while in the discrete communities breaches increased from 766 to 1,066 or an increase of 39% (Table 2);
- The rate of breaches per 1,000 population at the discrete community level increased from 40 per 1,000 population in 2009/10 to 54 per 1,000 in 2013/14, or 33% (Table 2); whilst at State level, the same rate increased from 2.2 to 3.1 per 1,000 population or 40% (Table 1); and
- The rate of breaches per 1,000 population was 18 times greater in discrete communities than at the State level in 2009/10; by 2013/14, this rate was 17 times greater than at the State level.

Table 1: Queensland - Number of DV Protection Applications and Breaches, July 2009 to June 2014

Description	2009/10	2010/11	2011/12	2012/13	2013/14	% Change
DV Applications - Police	13,258	12,847	12,847	14,665	15,621	18%
DV Applications - Private	7,559	7,707	7,445	8,256	8,623	14%
Total Applications	20,817	20,554	20,292	22,921	24,244	
Rate of Police Applications per 1000 population	3.0	2.9	2.8	3.2	3.3	10%
Order Breaches	9,700	10,153	11,001	12,757	14,551	50%
Rate of Breaches per 1000 population	2.2	2.3	2.4	2.7	3.1	40%

Source: Unpublished QPS ZAP Data (24 September 2015)

Table 2: Discrete Communities - Number of DV protection Applications and Breaches, July 2009 to June 2014

Description	2009/10	2010/11	2011/12	2012/13	2013/14	% Change
DV Applications - Police	661	668	616	839	825	25%
DV Applications - Private	32	34	26	13	17	-47%
Total Applications	693	702	642	852	842	
Rate of Police Applications per 1000 population	35	35	32	43	42	19%
Order Breaches	766	716	849	971	1,066	39%
Rate of Breaches per 1000 population	40	37	43	49	54	33%

Source: Unpublished QPS ZAP Data (24 March 2015)

Note 1: For consistency, in this table the same discrete communities for both applications and breaches have been used. Therefore this table data does not include Northern Peninsula area, Mapoon, Napranum and Wujal Wujal.

3.1.2 DV applications in discrete communities

Throughout the remainder of this chapter, where possible, data has been obtained for a full decade from 2004/05-2013/14. The number of DV applications in discrete communities has been included in the analysis to help illustrate current data trends in domestic and family violence. The data in Table 3 shows applications in the discrete communities and reveals the following:

- Total DV applications across discrete communities has increased by 31%, from 643 in 2004/05 to 842 in 2013/14;
- The applications data shows a variety of patterns across communities. For example, two communities, Mornington Island and Pormpuraaw saw a decrease in DV applications in 2013/14, compared to 2004/05; and
- Three communities, Palm Island, Yarrabah and Cherbourg represented nearly half (49%) of the total DV applications over the decade.

Table 3: Number of DV Applications by Discrete Community (1, 2)

	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	Total	% Change	% Total
Aurukun	48	76	56	38	44	45	41	27	49	62	486	29%	7%
Cherbourg	76	63	53	46	79	101	100	73	76	103	770	36%	11%
Doomadgee	54	61	78	50	42	50	44	63	87	103	632	91%	9%
Hope Vale	22	28	22	22	28	31	22	28	38	28	269	27%	4%
Kowanyama	67	87	94	50	35	53	54	42	105	75	662	12%	9%
Lockhart River	12	30	16	32	22	20	29	12	23	30	226	150%	3%
Mornington Island	61	42	62	44	43	45	46	49	71	44	507	-28%	7%
Palm Island	71	192	145	166	183	138	160	119	109	159	1,442	124%	20%
Pormpuraaw	40	42	32	30	22	35	25	25	26	23	300	-43%	4%
Woorabinda	59	37	72	67	56	61	49	61	84	74	620	25%	9%
Yarrabah	133	136	143	112	72	114	132	143	184	141	1,310	6%	18%
Total	643	794	773	657	626	693	702	642	852	842	7,224	31%	100%

Source: Unpublished QPS ZAP Data (24 March 2015)

Note 1: Applications data not available for Northern Peninsula, Mapoon, Napranum and Wujal Wujal

Note 2: Data includes police and private applications.

Domestic violence applications in the discrete communities were converted to a rate per 1,000 population (Table 4) to enable a comparison between communities. Whilst DV applications in discrete communities increased by 31% (Table 3), this should be noted in the context that the population in the same communities increased by 16% (Attachment 10).

- In total, the rate of DV applications per 1000 population, for all communities increased from 48 DV applications in 2004/05 to 54 in 2013/14, representing an increase of 13%; and
- The rate per 1,000 population shows different patterns across communities. Whilst Palm Island's rate of DV applications per 1,000 population almost doubled, the rate in Pormpuraaw halved in the same period (Table 4).

Table 4: Rates of DV Applications per 1000 population (1, 2, 3)

	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	Growth
Aurukun	44	70	48	30	33	33	29	19	35	44	0%
Cherbourg	64	53	44	38	65	81	79	57	59	80	25%
Doomadgee	41	47	56	35	29	33	28	40	56	66	60%
Hope Vale	24	31	24	22	27	28	19	24	32	23	-2%
Kowanyama	62	79	84	45	31	46	47	36	91	65	5%
Lockhart River	19	49	27	56	38	35	53	22	41	54	175%
Mornington Island	57	39	56	39	37	38	38	40	58	36	-36%
Palm Island	33	92	66	72	77	56	62	46	41	60	80%
Pormpuraaw	64	68	49	45	33	51	35	35	36	32	-51%
Woorabinda	66	43	82	73	63	67	52	64	87	77	16%
Yarrabah	55	55	57	44	28	44	51	54	68	51	-6%
Total	48	60	56	47	44	47	46	42	55	54	13%

Source: Unpublished QPS ZAP Data (24 March 2015)

Note 1: Data not available for Northern Peninsula, Mapoon, Mossman Gorge, Napranum and Wujal Wujal

Note 2: Data includes police and private applications

Note 3: Population data in each discrete community includes both Indigenous and non-Indigenous population; total rate includes only the population for the communities in the table.

3.1.3 DV Breaches in discrete communities

A breach or contravention of a domestic violence order is a criminal offence under the *Domestic and Family Violence Protection Act 1989*. Table 5 shows the numbers of breaches of DV protection orders for the period 2004/05 to 2013/14 as well as the percentage changes per discrete community.

A level of caution needs to be exercised when interpreting the data on breaches in the discrete communities. While in relative terms the percentage change (increase) may appear significant, e.g. 1100% in Mapoon (one breach in 2004/05 to 12 in 2013/14) the number of offences is too small to allow for meaningful comparison between discrete communities.

- Overall increase in breaches of court orders was 78% during the decade;
- Domestic and family violence applications increased by 31% in the same period (Table 3);
- Three communities showed a reduction in breaches compared to the beginning of the decade, Mornington Island (-5%), Wujal Wujal (-21%) and Pormpuraaw (-48%); and
- Five communities represented over 60% of all breaches: Palm Island, Yarrabah, Cherbourg, Woorabinda and Kowanyama).

Table 5: Breaches of DV Protection Orders by Discrete Community (1)

	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	Total	% Change
Aurukun	31	49	51	26	28	44	62	26	27	41	385	32%
Cherbourg	50	67	69	58	53	86	96	117	90	81	767	62%
Doomadgee	21	37	33	31	16	32	39	68	82	80	439	281%
Hope Vale	46	42	36	22	22	50	40	40	74	64	436	39%
Kowanyama	56	56	69	53	41	47	25	34	82	104	567	86%
Lockhart River	14	23	25	47	16	35	10	12	14	14	210	0%
Mapoon	1	3	-	1	2	2	5	10	9	12	45	1100%
Mornington Island	60	20	60	44	43	46	28	29	54	57	441	-5%
Napranum	22	29	35	29	24	25	22	22	35	53	296	141%
Palm Island	52	118	99	118	166	191	147	211	152	203	1,457	290%
Pormpuraaw	40	48	25	20	10	22	13	14	16	21	229	-48%
Woorabinda	73	53	63	69	76	57	70	73	94	101	729	38%
Wujal Wujal	14	9	9	14	9	11	6	9	10	11	102	-21%
Yarrabah	90	93	94	84	81	96	115	148	173	166	1,140	84%
Northern Peninsula	30	47	33	25	32	22	38	36	59	58	380	93%
Total Breaches	600	694	701	641	619	766	716	849	971	1,066	7,623	78%

Source: Unpublished QPS ZAP data (24 March 2015)

Note 1: Northern Peninsula includes Bamaga, Seisia, Umagico, Injinoo and New Mapoon;

The rate of DV protection order breaches per 1,000 population provides another indicator of the scale of domestic violence in the discrete communities, with variations amongst communities (Table 6). This rate enables a level of comparison across communities showing high levels of domestic and family violence relative to populations.

- In general, most communities showed increases in the rate of DV breaches per 1,000 population over the decade (Table 6);
- Whilst the population across all communities grew by 16% in the decade (Attachment 10), the rate of breaches grew by 53% in the same period;
- Pormpuraaw, showed a reduced rate from 64 per 1,000 population to 29 or a reduction of 55%; and
- Mornington Island and Wujal Wujal also show a reduction in their rate of breaches over the decade;

Table 6: Rates of Breaches of DV Protection Orders per 1000 Population

	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	% Change
Aurukun	28	45	44	21	21	32	44	19	19	29	3%
Cherbourg	42	57	58	48	43	69	76	91	70	63	49%
Doomadgee	16	28	24	22	11	21	25	44	53	51	219%
Hope Vale	50	46	39	22	21	45	35	34	62	53	7%
Kowanyama	51	51	62	47	36	41	22	29	71	90	75%
Lockhart River	23	38	42	82	28	61	18	22	25	25	10%
Mapoon	4	12	0	4	7	7	18	35	31	41	879%
Mornington Island	56	18	54	39	37	39	23	24	44	47	-16%
Napranum	26	33	40	33	27	27	24	24	38	56	119%
Palm Island	24	56	45	51	70	77	57	81	58	77	214%
Pormpuraaw	64	77	39	30	15	32	18	19	22	29	-55%
Woorabinda	82	62	71	75	85	62	74	76	98	105	27%
Wujal Wujal	23	16	16	25	16	21	12	17	19	21	-8%
Yarrabah	37	38	37	33	32	37	44	56	64	61	63%
Northern Peninsula (1)	14	23	15	11	14	9	15	14	23	22	54%
Total	35	41	40	36	34	40	37	43	49	54	53%

Source: Unpublished QPS ZAP data (24 March 2015)

Note 1: Northern Peninsula includes Bamaga, Seisia, Umagico, Injinoo and New Mapoon

3.1.4 DV Orders by relationship type and status of the aggrieved

Sections 3.1.4 and 3.1.5 use court data, which is state-wide data and therefore does not relate directly to the discrete communities information obtained from the QPS system. However, this data allows some comparisons to be made about court orders for Indigenous people generally. All tables used courts data for 2004/05 to 2013/14 albeit obtained at different points in time from the courts system. The data on orders should be considered with the following caveats:

- Approximately two percent of applications/orders are excluded from the data due to missing or erroneous content;
- As the courts system is a “live” operational system in which records are updated as the status of the court matters change or input errors are detected and rectified this may generate different data sets;
- Changes in definitions may impact the data sets, (For example until 2006/07 spousal data was shown separately from other family categories. From 2007/08 onwards spousal data was included in “intimate personal relationships”); and
- DV orders data for 2012/13 and 2013/14 included an error for the Refused/Not Provided category due to a missing box in the application form. This error was adjusted by using the average “refused/not provided” data of the previous three years and applying it to the total DV orders to establish an approximate result in line with the trend for “refused/not provided”. The difference was then added to Non-Indigenous orders where the gap had been identified.

DV orders by relationship and status of the aggrieved are presented in Table 7 represented at State level. The following observations were identified:

- In the Indigenous population, “family relationships”⁶ represented 23% of all orders granted, whilst in the non-Indigenous population this rate was 16%;
- In the Cunneen report, “family relationships” represented 21% of the Indigenous population and 16% in the non-Indigenous groups⁷; and
- In the Indigenous population, 77% of total orders were for people classified as in an “intimate personal relationship or spousal relationship⁸” which may include partners, spouses or de facto spouses; whilst in the non-Indigenous population this rate was higher at 83%.

Table 7: DV Orders by Relationship Type and Status of the Aggrieved

Relationship Type	Indigenous	Per cent	Non-Indigenous	Per cent	Refused/ Not Provided	Per cent	Total	Per cent
Family Relationship	11,759	23%	42,772	16%	879	17%	55,410	17%
Informal Care Relationship	51	0%	622	0%	74	1%	747	0%
Intimate Personal Relationship	32,164	62%	174,827	67%	3,136	60%	210,127	66%
Spousal	7,904	15%	42,518	16%	1,120	22%	51,542	16%
Total	51,878	100%	260,739	100%	5,209	100%	317,826	100%

Source: Queensland Wide Interlinked Courts System (QWIC), 23 April 2015

⁶ Please note, it is acknowledged that under section 19 (4) (b) of the *Domestic and Family Violence Protection Act 2012* Aboriginal people and Torres Strait Islanders may have a wider concept of family member or relative.

⁷ Table 3.4: *Number of domestic violence orders by relationship type and Indigenous status of the aggrieved 2006/07*, page 62, Cunneen 2010.

⁸ Note, “spousal” data was reported as a separate category until 2006/07, from thereafter it was included in “intimate personal relationships”.

3.1.5 DV Orders by conditions placed on the order

Domestic violence orders issued by the courts are represented in Table 8, compared by conditions placed on the order, and by Indigenous status of the aggrieved. The following observations were identified:

- Just over two thirds (68%) of all the Indigenous orders were “standard” orders, that is, they had no other conditions imposed;
- In the non-Indigenous population the majority of orders, 55% (142,334) had “other conditions” imposed on respondents; and
- In the Indigenous population, the total number of orders represented 16% (53,770 orders) of total orders issued by the Courts for the State during the period 2004/05 to 2013/14.

Table 8: DV Orders by Conditions placed on the Order

Order Conditions	Indigenous	Per cent	Non-Indigenous	Per cent	Refused/ Not Provided	Per cent	Total	Per cent
Other	17,408	32%	142,334	55%	10,350	53%	170,092	52%
Standard	36,362	68%	114,225	45%	9,225	47%	159,812	48%
Total	53,770	100%	256,559	100%	19,575	100%	329,904	100%

Source: Queensland Wide Interlinked Courts System (QWIC), 23 April 2015

The data presented in the Cunneen Report is generally consistent with the data presented in the current analysis. For the Indigenous group, 70% of the orders issued by the courts had “standard” conditions, and 30% were classified as having “other additional conditions”⁹. For the non-Indigenous population, 46% of orders had “standard” conditions only, and 54% had other additional conditions.

3.1.6 DV applications by gender of aggrieved and respondent

Table 9 shows DV applications by gender and person type (aggrieved and respondent) for the discrete communities used in the study, for the period 2012/13 to 2014/15.

- Females represent 78% of the aggrieved of total DV applications, and this rate varied between 76% and 80% for the last three years; and
- Females in discrete communities were 3 to 4 times more likely to be the aggrieved in DV applications than males. Conversely, males were 3 times more likely to be the respondent.

Table 9: Total DV Applications by Gender

	Aggrieved	Per cent	Respondent	Per cent
Female	1,927	78%	645	26%
Male	542	22%	1,824	74%
Total	2,469	100%	2,469	100%

Source: Unpublished QPS ZAP data 24 March 2015)

Note 1: Applications data not available for Mapoon, Mossman Gorge, Napranum and Wujal Wujal.

⁹ “Alternative and Improved Responses to Domestic and Family violence in Queensland Indigenous Communities”, Table 5.3: Number of domestic violence orders in Queensland by conditions placed on the order by Indigenous status of the aggrieved, 2006/07, pg. 88

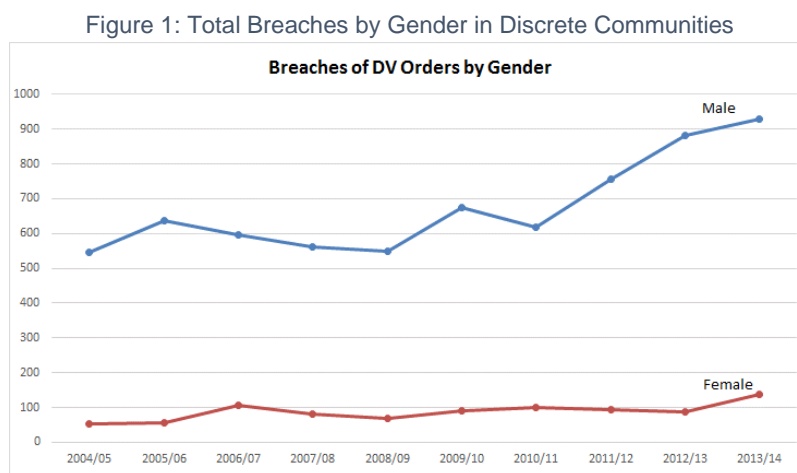
In some individual communities, the percentage of female aggrieved persons were as high as 90% such as in Aurukun (2014/15), or 87% in Pormpuraaw (2014/15). On the contrary, in some communities, female respondents represented 39% in Cherbourg (2012/13), or 36% in Woorabinda (2013/14 and 2014/15). More detailed data regarding DV applications by gender of the person involved in the application and by discrete community, is included in Attachment 8.

The overall ratio of female aggrieved in the discrete communities for the period 2012/13 to 2014/15 of 78%, as per Table 9 is similar to the findings in the Cunneen report where 81.4% of Indigenous victims were female.¹⁰

3.1.7 Breaches of DV orders by gender

The breaches by gender in each of the discrete communities is identified in Attachment 8, whilst Figure 1 “Total breaches in discrete communities by gender” helps to illustrate the gap between male and female offenders with males as the predominant offenders.

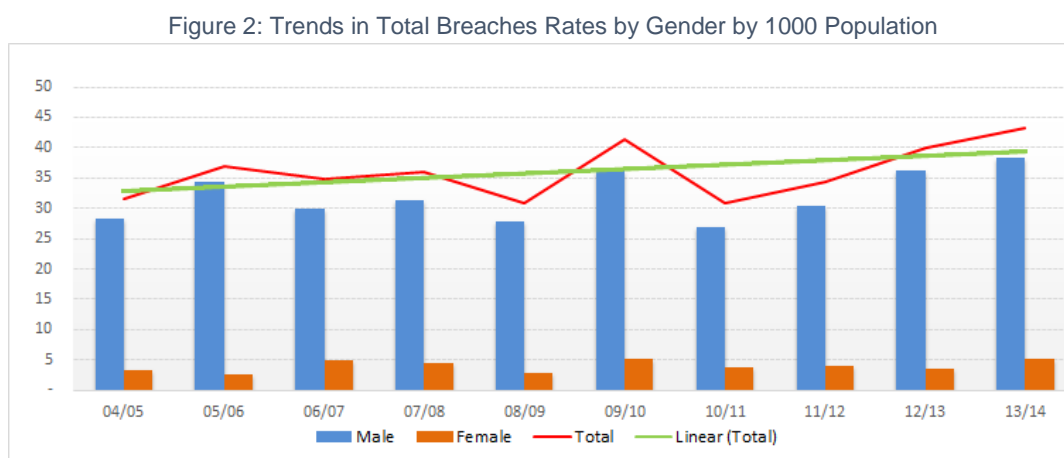
- In 2004/05 the ratio of male to female breaches was approximately ten to one (Attachment 8);
- By 2013/14 the same ratio had reduced to seven (male) to one (female). This is due to the number of breaches by females having grown in the same period by 257%, whilst male breaches grew by 72% (Attachment 8); and
- The trends of DV breaches by gender varies widely between communities as exemplified in Attachment 8. However, this data needs to be interpreted with care as numbers of breaches are generally small.



Source: Unpublished QPS ZAP data (24 March 2015)

¹⁰ Cunneen Report, Page 48, Table 2.5: DV Index Recorded Incidents attended by the police by Indigenous status of the aggrieved 2006-07.

Figure 2 “Trend and total rates of breaches per 1,000 population by gender” also demonstrates the gap in domestic and family violence between males and females.



3.1.8 Police staffing in the discrete communities

The police strength in each of the discrete communities is represented in Attachment 11. The data shows the following changes:

- In discrete communities the total number of police officers increased by 89% in the decade. By contrast the total population increase in the same discrete communities was 16% (Attachment 10); and
- The police strength per 1,000 population grew in the discrete communities from 3.3 police officers in 2004/05 to 5.4 police officers in 2013/14, reflecting an increase of 64% in this ratio; by contrast at the State level the same ratio grew from 2.27 police officers to 2.36 reflecting an increase of approximately 4% in 2011/12¹¹.

3.2 Stakeholder explanation of the data trends

This section provides stakeholders views on possible explanations for the statistical trends in the rates of DV, applications and breaches in their communities and in discrete Indigenous communities more generally.

In the selected communities (Doomadgee, Palm Island and Pormpuraaw) graphs with trend rates and comparisons with other discrete Indigenous communities were shown to the participants¹². The telephone interviews with OICs and PLOs included a specific question addressing the overall trends for their community based on whether rates had increased or decreased.

¹¹ This reference is an estimated calculation from the QPS Statistical Review, 2011/12, www.police.qld.gov.au. Police strength data was available at community level to 2013/14, but at State level only up to 2011/12.

¹² The graphs and data shown to interviewees were derived from the statistics in Tables 3, 4, 5 and 6 of this chapter.

Community stakeholders and OICs/PLO's identified changes in legislation and a range of other factors that may have explained increases in DV such as:

- Increased compliance with domestic violence policy by police officers;
- Increased and improved reporting of DV incidents;
- Repeat or multiple offenders;
- Police staffing numbers; and
- Environmental or seasonal factors particular to specific communities.

3.2.1 Changes in Legislation

In September 2012, Domestic and Family Violence legislation reforms were implemented which broadened the definition of domestic and family violence from a previous focus on physical violence to include a wide range of controlling behaviours such as economic, emotional and psychological abuse, physical, sexual abuse or other behaviours which control or dominate another person.

A number of the stakeholders and police interviewed suggested that the above mentioned legislative amendment and subsequent implementation, plus other amendments in 2002, to include intimate personal relationships and family relationships, which are particularly prevalent in Indigenous communities, may also have led to significant increases in DV order applications over time.

3.2.2 Community stakeholders views on trends

Domestic and family violence applications and breaches in the three communities visited are highly variable and do not necessarily follow the trend for all discrete communities. There was no consistent view amongst stakeholders as to whether overall levels of domestic and family violence had changed in their particular community over the past decade:

- In Palm Island, most stakeholders did not offer a view on this, while one stakeholder perceived no change, and two stakeholders felt there was more violence amongst young people and women than previously;
- In Doomadgee, a few stakeholders noted that violence in the community tended to be episodic, flaring up around particular incidents that rippled out to involve broader family factions (*"the season comes around for family feuding and then it stops"*). Increased violence by young people and women was also commented on; and
- In Pormpuraaw, stakeholders commented that it was a generally quiet community, and less violent now than it had been in the early 2000s, as a result of the alcohol restrictions and the ongoing work by the elders to reduce conflict between particular family groups. However, it was noted that episodes of violence flared up as a result of the periodic influx of 'sly grog' shipments. A domestic violence incident had resulted in a murder on Boxing Day 2014 at a time when there was a substantial amount of alcohol in the community.

It was not possible to draw any correlations between this anecdotal feedback about perceived levels of violence in the communities and the DV trend rates indicated in the QPS data. Rather than reflecting underlying levels of DV it was noted by some stakeholders that the number of DV applications and breaches is strongly influenced by the approach of the local police and the willingness of community members to seek police intervention in DV incidents.

The higher public profile of DV issues, commencement of new legislation and the justice challenges in Indigenous communities in recent years could be translated into a stronger focus by police and magistrates. A stakeholder had noticed that Magistrates often renewed their efforts to tackle particular issues such as DV following their annual conferences. Community stakeholders also commented that police seemed to be focusing more on DV issues in recent years.

3.2.3 Police interviewees views

Many of the police interviewed stated that the analysis of DV data, in their particular communities, while interesting was not particularly useful given that trends could either be explained positively or negatively, i.e. increased figures could mean police were more active in enforcement or it could mean there was a higher level of violence in the community.

Besides the changes in legislation, most police agreed that a range of other factors also influenced increasing trends in DV. The most frequently cited factors are as follows:

- **Increased compliance due to training of police officers:** More than half of all participants in the interviews stated that incidents are more likely than before to be recorded as a DV incident and applications pursued because of better training of police officers;
- **Improved reporting of DV incidents:** Improvements in the reporting due to victims and community members more willing to come forward were named by more than half of all interviewees;
- **Repeat offenders:** Half of the police participants identified that repeat offenders with multiple breaches can provoke large spikes in the data, especially after they are released from custody and/or if the order is not extended. Proximity to larger regional centres was also believed to assist serial offenders to abscond and be more difficult to find;
- **Number of police officers on the ground:** A few of the interviewees stated that recent increases in police numbers may have resulted in more DV incidents being attended to, showing that an increase in DV may reflect increased police activity; and
- **Environmental/local/seasonal factors:** A few of the participants named a range of one-off factors that also help to understand spikes in violence data as well as general trends. They include:
 - Termination of staff by employers;
 - Wet seasons impact on transportation in and out of communities;
 - Alcohol consumption and sly grogging activity (e.g. end of financial year tax returns);
 - Sporting carnivals or other special events (e.g. State of Origin game, football carnivals); and
 - Visitors or other transient people temporarily relocating to communities.

The interviews with the OIC/PLOs also covered any perceived improvements that may have occurred within communities, since the Cunneen Report 2010. Some examples identified by the officers include the following:

- Greater community awareness and education;
- Pro-active policing and counselling and support intervention to manage the violence cycle to stop incidents before they occur;

- Improved relationships between police and stakeholders;
- Severity of violence has diminished since the introduction of Alcohol Management Plans (AMP) in some communities;
- Increased reporting of DV incidents to police; and
- Women's shelters and community counselling services having a greater impact on the protection of victims.

4. IS POLICE ASSISTANCE TO PARTIES TO SEEK ORDERS ADEQUATE?

Police provide assistance to parties to seek DV orders in a number of ways. Primarily that assistance occurs as a result of police attendance at, and investigation of, DV incidents and any subsequent decision by police to apply for a DV order. Police also provide assistance to aggrieved parties to make private applications for DV orders or refer them to appropriate legal services for assistance in making private applications.

To determine if police are providing adequate assistance to parties to seek orders, two questions were examined.

Firstly, are police assisting parties when requested, and in the right way? This included consideration of who is applying for orders, the number of police versus privately initiated applications, as well as the use of conditions on orders. This also included consideration of the overall expectations and satisfaction of community stakeholders with the police response to DV and factors such as the timeliness of the response and cultural sensitivity of police. The use of Police Liaison Officers in responding to DV and whether parties understand the DV order process are also covered here.

Secondly, what, if anything, is preventing police from assisting parties more? This included consideration of administrative or process issues and the willingness of victims and community members to report DV to police.

A summary of the information gathered is at the end of the chapter. Key findings and conclusions are further explained in Chapter 7 – ‘Key Findings and Way Forward’.

Are police assisting people when asked and in the right way?

4.1 Applications

The number and rate of applications, both police-initiated and private applications has increased in the discrete communities across the decade (Chapter 3 – ‘DV Data and Trends’, page 26-27, Tables 3 and 4).

It is noted that staffing numbers in the discrete communities have also increased across the decade. While it is not possible to draw any conclusions regarding staffing levels because of the complex factors impacting on crime rates and reporting, there were some comments from community stakeholders and police that an increase in police numbers on the ground does increase police activity in response to DV.

Gender

The proportion of females who were identified as the respondent in a DV application (and also the respondent for breach of DV) is higher in the discrete communities than in the general Queensland population (refer to Table 9 and Figures 1 and 2 on page 29-30).

An increase in reported female perpetrated violence within discrete communities was also highlighted as an emerging issue in the interviews with both police and community stakeholders. Community organisation stakeholders in all three communities visited expressed the concern that more violence was being perpetrated by women, particularly

young women, both in the wider community and within domestic relationships. Views were mixed, with some considering that women were reacting and/or defending themselves against violence, and others believing that women as respondents is becoming a serious issue and trend across the communities.

Members and coordinators of men's groups interviewed, in all three communities, highlighted instances where women were the instigators of physical or other forms of domestic violence. A common concern expressed by these men was that police were not taking their claims seriously and they ended up as respondents on DV applications following incidents where they felt they were the victims. Some Indigenous female stakeholders agreed.

Three non-Indigenous service providers agreed that DV perpetrated by women was a serious issue in the community. However, others expressed the view that physical violence perpetrated by women was retaliatory in nature. Some women suggested that increased violence was an unintended consequence of the empowerment of Indigenous women in the community.

Some stakeholders emphasised that because the gender dimensions of violence in remote Indigenous communities have a different profile to mainstream communities, the appropriate responses may be different.

OICs and PLOs reflected the views of the community organisation stakeholders that DV by women against men was on the increase.

It was not possible to collect data on cross orders for this review which might have indicated whether the violence by women in these communities was retaliatory or defensive in nature or reflected higher numbers of female perpetrators in DV relationships. The issue of the increased prevalence of DV perpetrated by women in remote Indigenous communities was not mentioned in the Cunneen report, which may indicate that this is an emerging trend.

Young People

A consistent theme from the stakeholder consultation, in the three communities, was a concern about the level of violence generally amongst young people, including young people involved in DV. Several stakeholders were concerned that violence had become 'normalised' for children and young people.

In the police interviews, participants expressed some of the same concerns about young people, but this was counteracted by statements that younger people were more aware of DV and were less tolerant of it.

Type of relationship

The proportion of family relationship type orders compared with spousal or intimate personal relationship type orders was higher in the Indigenous population compared with the general Queensland population (Chapter 3 – 'DV Data and Trends', page 29, Table 7). This indicates that family violence rather than spousal or partner violence may be more prevalent in Indigenous communities and may also reflect the expanded definition of family or relatives in Aboriginal and Torres Strait Islander communities.

4.1.1 Police versus private applications

In remote Indigenous communities, very few applications for orders are initiated by an aggrieved party, in contrast to urban areas where DV support services more regularly assist the aggrieved to make applications (Chapter 3 – ‘DV Data and Trends’, page 25, Tables 1 and 2). Community consultations indicated that this may be largely due to local community services in remote Indigenous communities not having the capacity or training to prepare DV applications for court.

One service provider expressed the view that only solicitors should assist with private applications. Another stakeholder noted that legal services visit remote communities too irregularly to provide a reliable service to individuals to apply for orders. One police officer also suggested that where available legal services are limited, the same legal service may be in a position of potentially representing both the respondent and aggrieved. Queensland Indigenous Family Violence Legal Services assists many clients who have been referred by child protection authorities as needing to apply for DV orders. In Palm Island, two of the local service providers indicated that they took clients to the police station so that police could initiate applications.

It may not be just a lack of capacity that deters local service providers from initiating DV order applications. Some representatives from these organisations mentioned that both the service providers’ staff and the clients prefer that police initiate applications to deflect some of the potential repercussions on the staff and the victim.

“I don’t think we would like to [assist with applications] as Indigenous people... as community members ourselves. Rather, let the authorities do it. So they can cop the flak afterwards”. (Service provider/community member)

“Women prefer the police to take out the order. However, if the police do not witness the violence, they may not be able to start the process for the order – they might advise the woman to seek assistance to apply for an order, but the women rarely want to do this later”. (Service provider)

Although private applications were very rarely mentioned by police in the interviews, similar reasons were raised as to why it was preferred that police initiate DV applications.

“Well they don’t understand private orders. We don’t do any here so it’s all police orders. I think the understanding is if we go to the police, the police will look after us, take control and take the blame. So it won’t come back on us so our husbands or defactos won’t beat us again because we’ve gone to the police.” (OIC)

A legal service provider expressed that victims of DV should be encouraged to seek legal services more, because these services can provide more appropriate assistance than police. It was conveyed that solicitors may be able to put forward a better case for DV orders and ensure more appropriate conditions are placed on orders. For example it was suggested that if victims are not prepared to pursue a DV application at that point in time, at least their statements will be on file if they want to seek protection under a DV order in the future. The legal service provider also pointed out that women may feel more comfortable seeking assistance from a legal service than police, because legal services will not automatically report matters to child protection authorities, which has been a key barrier to women approaching police.

However, community stakeholders acknowledged that access to regular legal services was limited in remote communities. The only community where the local OIC did suggest there were more private applications occurring, this appeared to be linked to the availability of legal services because of the proximity to a larger regional centre.

The Cunneen report also noted that there were very few private applications for DV orders in remote Indigenous communities, indicating this issue has remained relatively unchanged in the past decade (Part 3.5 page 65).

4.2 Conditions on orders

All domestic violence orders must include the following standard conditions which states that:

- The respondent must be of good behaviour and must not commit domestic violence; and,
- If a child of the aggrieved is a named person, the respondent must not expose the child to domestic violence.

The court can impose extra conditions to help protect the aggrieved, their relatives, or children, such as preventing the respondent from having contact with the aggrieved.

4.2.1 No contact or “ouster” conditions

Community organisation stakeholders were asked about the appropriateness and workability of the conditions that are placed on DV orders in remote Indigenous communities. As almost all applications are police-initiated (Chapter 3 – ‘DV Data and Trends’, page 25, Table 1), most orders contain the standard conditions that the respondent must be of good behaviour towards the aggrieved and must not commit domestic violence against the aggrieved. As identified in Chapter 3 – ‘DV Data and Trends’, page 28, Table 8, in the total Indigenous population of Queensland only 32% of orders contained other conditions (note data regarding conditions on orders at the discrete community level was unable to be obtained).

Community stakeholders were aware that, in some instances, further conditions of “no contact” between the parties were being imposed, but these were seen by many people as problematic. In small communities, the practicality of separating parties is limited, and conditions that specify separation distances are unworkable. Police also spoke about the reluctance of Magistrates to impose “no contact” conditions for this reason. In addition, in many cases it was felt that women did not want “no contact” conditions.

“Sometimes I think they (the victim) ask for the non-contact very quickly and don’t realise the ramifications of two years of non-contact. They think the non-contact is just until they are ready to come back, within two weeks sort of thing, and then that can in turn put this person in a breach and puts the aggrieved against us again because we are taking enforcement action against someone for a non-contact with someone that they actually do want contact for and it can become a bit messy”. (OIC)

In addition to the small size of these communities and the high likelihood of contact between parties, police also spoke about the interconnectedness of families within communities which meant that no contact conditions were also problematic. Where “no contact” conditions were being included, it was reported that breaches were common.

“One problem we have is women breaching their own orders. They put the ‘no contact’ conditions on and then everything cools down and they ask him back over. We sometimes have to seek a variation because he could go to jail for that breach. That’s why it is very important that solicitors get involved at the application stage to make sure the right conditions are placed on the order. To ascertain if there is a good chance that they might want to get back together with the man, then we won’t advocate the no contact or the ouster condition”. (Legal service provider)

Some of the police interviewed suggested that while non-standard conditions on orders were rare, police were not opposed to using them where they were considered necessary to protect the aggrieved but that the policing or enforcing of the conditions required a common sense approach.

“It’s rare that we put those extra conditions on. But if we do, we just have a common sense approach to policing them, so I’ll tell them, you’ve got a no-contact order and you’re going to run into them at the shops, it’s going to happen, you’re going to be in contact if you have that contact you’ve got to withdraw yourself from it. And I’ll tell the aggrieved the same, you can’t go running after him and then say oh he’s in contact with me. So we’ve got to, if we’re going to prosecute it’s got to be a legitimate attempt to unlawfully contact her. So it’s not really a problem as long as you take that common sense approach to prosecuting it”. (OIC)

A further issue raised was that in small communities there is a lack of alternative accommodation options for men ousted from their family home. Other stakeholders felt that ouster or ‘no contact’ orders unduly impacted on family units and relationships.

“It creates a problem when men come back to the community and they have a ‘no contact’ order in place – where are they going to live? There’s house overcrowding”. (Former men’s group coordinator/community member)

“And you see, it makes men madder. They might not be alcoholics, they might just be people having these arguments all the time”. (Female elder, Doomadgee)

“And sometimes these orders don’t allow you to heal your relationships maybe. There’s always a question of what a disagreement is, and/or what a DV is”. (Service provider/female community member)

Men’s groups’ feedback also focused on the impact of DV orders on male perpetrators of DV. The focus of the concerns was that where men were removed from the home due to DV orders or breaches, there was no alternative place for them to stay and no programs for their rehabilitation.

“A lot of these fellas here, when they come out of jail because of DV they don’t come back home [to Doomadgee], they stay in Mt Isa. That’s how a lot of these fellas are not home, there’s nowhere for them to go. And then the mother finds it harder because the husband can’t come home and [people say] ‘Hey, you’re the one who put the DV order on him. Well, he can’t be anywhere near you and the kids.” (Former men’s group coordinator)

On the other hand, some stakeholders saw ouster or no-contact orders, and particularly conditions that kept DV perpetrators out of the community, as an important response to DV. This view was particularly strongly held by legal service providers, but representatives from community services also highlighted that by the time a woman sought police assistance, they were often at the threshold where they were wanting the man removed from the community.

“I would say the police don’t apply so much... they should keep applying for ouster orders, they should keep applying for bail conditions to get the offender out of the community. They don’t do it as much because normally the court isn’t interested. If they keep going at it, keep doing it, keep doing it, and don’t care what the court says, the court might listen. That’s the main change I see needed there”. (Legal service provider)

One legal service representative suggested that the best process was for police to seek a temporary protection order and then ensure the victim had legal assistance to ensure the appropriate conditions are included on the permanent order made by the court.

In addition to the appropriate use of ouster and ‘no contact’ conditions, stakeholders made suggestions about the need for police to be more creative in applying for conditions tailored to the circumstances of the parties and the particular community.

“Some magistrates say you can’t be in the residence if you are over 0.05 and police can breath-test them – I’ve seen some magistrates do that and it works. But it is up to the police to ask for these things. The more creative conditions that the OIC or the prosecutor could come up with for that specific community, it would be 100 times better than what it is now. Because what it is now is just: mandatory conditions, there’s a breach, there’s another breach and then its ‘ok, we’re sending you to remand’ and by that time... Well, we’ve had a client who had the same thing – breach, breach, third breach – and then last year, the woman ended up being murdered, because he was allowed back into the community. It just wouldn’t happen in the city, because the perpetrator would not be allowed in the suburb”. (Legal service provider)

However one police officer spoke about the difficulties caused by a lack of standard wording or consistency for the other non-standard conditions in terms of enforcement.

A few stakeholders suggested the need for conditions to mandate that DV perpetrators, or even both parties, attend particular programs or women’s or men’s groups or CJGs.

“The application should be looking at how to prevent the reoffending. Make it mandatory that the men should go to a program. The women have to go to these support groups or programs because of child safety and the children being at risk because of the DV. But the men are not being required to do it”. (Legal service provider)

A legal service provider noted that the current legislation enables a perpetrator to agree to a Voluntary Intervention Order¹³ at the time that a DV order is made, but that this was not mandatory or enforceable:

“They can do a voluntary intervention order at the same time as making a DV order – Mt Isa’s a big one for that. But there’s no real comeback if you don’t do it, because it’s voluntary. As a defence lawyer, you can agree to that and get a lesser penalty later. But the client just doesn’t even go to the program because they don’t bother and there’s no comeback. It would be fantastic if DV orders had “must” attend something – a program for both the client and the perpetrator, diversionary or anything. It’s going to cost a hell of a lot, but if it just gives some awareness and hopefully you save a lot of money in the future with the justice issues”. (Legal service provider)

The Cunneen report suggested that orders should include conditions that direct DV perpetrators to attend counselling or behaviour change programs within a period after the

¹³ A voluntary intervention order is an order that can be made by the court requiring the respondent to attend an approved intervention program (behavioural change program) and/or counselling. *Voluntary Intervention Orders: Information for the Respondent Fact Sheet*, Department of Communities, Child Safety and Disability Service, Brisbane, <https://www.communities.qld.gov.au/resources/communityservices/violenceprevention/fact-sheet-perpetrator.pdf>.

order is made (Recommendation 13). The current consultations indicate that this issue has been consistent over time.

4.3 Expectations and overall satisfaction with police

When asked what the community expects of police in responding to DV incidents, the most common response from community organisation stakeholders was that police were expected to keep people safe and respond quickly to protect women, their children and other vulnerable community members from violence. It was noted that for many participants this meant that, in practice, when people called the police, it was often with the expectation that the police would come and physically remove the aggressor.

Responses to the question about community expectations of police overwhelmingly focused on their role in immediately intervening in violent situations, rather than their follow-up role in helping access legal processes under the domestic violence legislation. Some community members expected police to provide information about the legal process, including the DV legislation. However, several community stakeholders explained that police were called when victims of violence wanted immediate protection, and generally they believed that victims were usually not interested in following up later with legal processes for DV protection.

The majority of police and PLOs interviewed conveyed similar sentiments to that of the community organisation stakeholders regarding what is expected of police. Primarily the police believed that the community expects them to immediately deal with the situation at hand and to safely resolve it, separate parties by either removing or detaining the respondent or seek accommodation or shelter for the aggrieved. Similarly, police also indicated that many victims wanted immediate protection but were not usually interested in the legal process for long term protection from DV and did not want to provide statements. Some officers said this was perhaps because victims were not entirely sure of their rights or the obligations for police to investigate the incident and proceed with an application where necessary.

“Sometimes there’s unrealistic expectations of what actually can be done. And it will be things like, arrest him, arrest him for domestic violence yet there’s no actual information that’s been shared about why, or what’s been happening. They’ve not passed on what’s happening, they’re just focused on the end result, arrest him and lock him up”. (OIC)

Feedback from the interviews and focus groups indicated that community stakeholders in all three communities visited were generally satisfied with the response of police to domestic and family violence. Several interviewees commended the police for being proactive about addressing DV and working with the community. For example:

“People feel that there should be more police on the island and that they should have more power... but I think the police on this island really know what they are doing...” (Service provider/community member)

“They take it quite seriously.....with DV they’re pretty serious... The police have been really proactive about putting stuff out there about DV”. (Service provider/community member)

Further examples of community engagement regarding DV are highlighted in Chapter 6, section 6.4 ‘Police collaboration with support services’, page 67.

4.3.1 Timeliness of response

Asked about the timeliness of police response to urgent DV incidents, responses by community stakeholders were varied:

“Sometimes [they respond quickly]... It depends... Other times people say ‘I waited half an hour – I could have been dead’... It’s mixed.” (Service provider/community member)

Three interviewees highlighted that police were reluctant to attend an incident where there was a large number of community members present because they were concerned about their safety.

“They will not come when there are 100 people at a party. There is no response to DV then.” (Justice Group member/community member)

All of the police interviewed indicated that they believed response times were good if not very good. The only exception to this was for stations that were not 24 hour stations, where calls were diverted to a central communications centre after hours. An after-hours call out for officers off duty may take slightly longer, as would instances where police are attending other incidents and cannot immediately attend.

“We are pretty good. Although the community is never happy on response times. Obviously it’s a bit subjective depending on when the job comes in. If we are not at work it takes a bit longer”. (OIC)

Unsurprisingly, timeframes were reported by police to be exacerbated in the Torres Strait where police travel time varies depending on remoteness of the location.

Quantitative data on response times was unable to be obtained for this review.

4.3.2 Cultural sensitivity

Community stakeholders were asked whether they felt police were showing sufficient cultural sensitivity in their dealings with community members around DV. This question elicited both positive and negative responses as was the case in the Cunneen report (Part 6.2.7).

“I sit there and listen [to police] and go why are you talking to the client like that? They’re just rude. And not all police; there’s been a few good ones, but they’re few and far between”. (Service provider/community member)

“I think... it’s a mixed bag. Because some police are really empathetic... others, people get the feeling that they are not really helpful”. (Service provider/community member)

One of the concerns raised repeatedly in all three communities was that younger police constables were often posted to remote communities with very little experience or cultural awareness, and often for short periods. An Indigenous service provider who has been involved in providing cultural awareness training for first-year constables felt that the amount of training for dealing with Indigenous communities delivered at the police academy was inadequate. On the other hand, criticism of younger police did not appear universal. In one community, for example, stakeholders were impressed with younger constables.

4.4 Involvement of Police Liaison Officers

Some community stakeholders flagged the need for more female police in Indigenous communities, as they felt they would be more approachable for Indigenous women suffering

DV. However, this was countered by comments by stakeholders in one community about a previous female police officer who the community felt was disrespectful and 'too rough'.

A strong theme in stakeholders' responses was the need for more effective use of Police Liaison Officer (PLO) positions. Many interviewees felt that PLO positions were crucial to ensuring that police are more aware of the cultural issues in the community, and to provide an avenue for better relationships between police and the community. A stakeholder in Mt Isa credited the local PLOs with the increased level of reporting of DV to police.

However, community stakeholders reported that Palm Island's PLO positions were vacant apart from one recently appointed officer, Doomadgee's PLOs were working only at the PCYC and the school, rather than at the police station, and Pormpuraaw had no PLO positions. Therefore, it was felt that in some instances PLOs were not providing the key liaison role around DV issues that they should be providing.

*"I think you need an Indigenous liaison officer to be there for when incidents like that happen. Because some people in the community don't like to talk to the police but if they have someone there who knows their background then they might feel more comfortable".
(Doomadgee service provider/ community member)*

Out of the nine communities where police were interviewed, only two communities, Pormpuraaw and Lockhart River, did not currently have any PLOs although Lockhart River had recently advertised a position and Pormpuraaw did have a Community Police Officer employed by the local council¹⁴. A number of the OICs spoke about problems with recruiting suitable PLOs as has been highlighted in various other reports¹⁵. In Aurukun, Kowanyama and Weipa, PLOs had been recently recruited and were still receiving training.

Where PLOs are involved in DV work, police described this as typically including follow up work with families, calming situations at the time of the crisis (including initial language interpretation), speaking to family members, educating victims and respondents on the DV process and engaging and working with other agencies. The OICs in Woorabinda and Yarrabah both indicated that PLOs play a major role in DV matters and in Yarrabah this involves reviewing all DV occurrences.

"PLOs we go out and we probably do 5 or 6 follow ups a day in our shifts...we also explain part of a DV application, about the conditions and what they need to do...and we explain to them how it can affect them [in the future] when they commit the next domestic violence... Most of them understand and stick to it". (PLO)

"They are an asset in that they understand the family networks and identify respondents and aggrieved from previous incidents that we may not be aware of. Obviously they are not available to us 24/7 and on call.... They can identify who is in a relationship and who is not which helps us tremendously". (OIC)

One OIC said that issues with family and clan relationships made it difficult for PLOs to engage in this type of work, therefore the PLOs in the station were not heavily involved in DV work but

¹⁴ Community Police Officers are not employed by the QPS but are employees of the local Indigenous council under legislation specific to the Indigenous communities. They are employed primarily to 'maintain peace and public order' and to enforce local council 'law and order' by-laws in their communities.

¹⁵ "Restoring Order: Crime prevention, policing and local justice in Queensland's Indigenous communities", Crime and Misconduct Commission, November 2009 and Indigenous People in Policing Roles – A follow-up review to the Restoring Order report", Crime and Misconduct Commission, September 2012.

focused more on community engagement. This was echoed by another OIC who explained that the intricacies of clan groups and the volatility of the community meant that DV work for PLOs was limited.

The Cunneen report recommended that PLO involvement in follow-up work after a DV incident could be improved and extended (Recommendation 6). While in some communities this appears to be happening it does not appear to be a standard or a uniform part of their role in every community.

4.5 Parties' understanding of DV orders

Police officers have an obligation to explain a DV order and any associated conditions to both the aggrieved and respondent at various stages of the process from the initial application through to the matter being determined by the court and any serving of associated documents. If both parties are present in court when the order is made then the court has a duty to explain the DV order to both parties. A clerk of the court, an interpreter, local CJG or elders may also explain the order, verbally or by the use of written notes. If parties are absent from court then police will explain the order as part of their duty to serve the documents to the respondent. Police will also contact the aggrieved to advise them that documents have been served, or that they have been unable to serve documents.

While some stakeholders suggested that DV orders were so common in Indigenous communities that most people understood them, other interviewees believed that lack of detailed understanding, by both parties, of orders was a significant problem.

"There is a severe lack of understanding about DV orders, especially the conditions placed on orders. And cross-orders, there's heaps of them and no one really knows what's going on with them. That doesn't seem to get talked about a lot." (Legal service provider)

A commonly stated concern was that lack of understanding of the conditions of orders was leading to breaches.

"We need to outline the order and the respondent's obligations. [For example] it does not matter if [the aggrieved] rang you first or said "come around" – you've breached your order. It's your responsibility not to break the order, not the woman who has sought the DV action. We need to go over this stuff with our respondents". (Service provider)

Half of the police interviewed said they believed that orders were well understood but the remaining half suggested that there was a lack of understanding of orders, what conditions on orders required from the respondent and confusion around the civil process for the application of the order and the potential consequence of breaching the order as a criminal offence. Two police officers also suggested that literacy and language were a problem and another officer explained that intoxication was a barrier to understanding the process.

"Explaining to people that when an application is made this is a civil process it is not a charge. Sometimes people go, ok and they don't fully understand the ramifications that later on should they breach it then it's going to be trouble and even though you do explain it to them in depth it is sometimes hard to put that connection through and it's not only in the communities." (OIC)

Although it was widely agreed that there needed to be better explanation of DV orders to both parties, there was little consensus about who is best placed to do this. Some stakeholders

suggested it was the role of police. However, others pointed out that at the time of the incident when police are initiating a DV application is not an ideal time to explain the details of an order.

“It’s difficult for police to explain it at the time. The perpetrator is worried about getting out of there so they are saying ‘yes, yes’ to get them out of the situation straight away. The victim is possibly intoxicated and they are not in a position where they can understand what the conditions are.” (Legal service provider)

Further, it was pointed out that police may not have time to follow up to explain an order, and parties are unlikely to seek police out to explain orders, as police have the role of enforcers for these orders. On the other hand, several people suggested that PLOs might be well placed to follow up with parties to explain orders.

Legal services were mentioned as the logical service providers to assist parties to understand orders, but it was acknowledged that there is limited access to these services in remote communities. Nevertheless, legal services were seeking to re-direct their time and resources from court support to more early intervention and educational functions. Magistrates were said to have little time to explain orders to parties and in most cases, parties do not attend court when the orders are made.

The current situation appears to be piecemeal. In some communities the CJG coordinator assists with explaining the orders while in other places, local community organisations try to fill this gap where they have the expertise.

“We explain the orders, because I used to be a JP magistrate, and our coordinator is a JP magistrate. We used to sit on the bench. [Before we started explaining the orders], we would have people just handing out these papers and they didn’t know what it is.” (Service provider)

Some stakeholders suggested the need for more workshops with men and women to explain DV orders generally, as well as education in schools. Legal services who were interviewed emphasised that they were keen to play a greater role in community education around DV issues, especially with men’s and women’s groups. One legal service representative suggested that a service similar to the Queensland Government Agent Program (QGAP) offices could provide advice to parties about DV orders.

The Cunneen report also observed that there was a poor understanding of DV orders and a general “disengagement” with the legal process (Part 5.2.1). Cunneen recommended that PLOs or CJGs should be trained to take on the role of explaining DV orders to respondents and victims (Part 8.3, page 127). It was also recommended that courts make attendance at a CJG meeting a condition of the order. The Cunneen report also recommended simplifying the documentation for applications and orders (Recommendation 11, page 127). The current consultations indicate that while some PLOs or CJGs are assisting with explaining orders, this is not occurring consistently across communities.

What, if anything, is preventing police from assisting more?

4.6 Administrative burden (paperwork)

The Cunneen review found that police were often reluctant to initiate a DV application because of the amount of paperwork involved (page. 69, Cunneen 2010). This question was put to community organisation stakeholders, but there was no strong view that this was a factor

currently affecting numbers of DV applications in remote communities. Stakeholders perceived that police were taking DV issues seriously, and that it was victims rather than police who tended to be unwilling to proceed with DV applications or breach proceedings.

When police were asked whether paperwork was still an issue, half of the police agreed that paperwork and processes had been streamlined and were less burdensome than they once were. The other half indicated that paperwork remained an issue, although it seemed to be more about the impact remoteness had on the frequency of court sittings and court processes in these communities. Service of orders was an area of particular frustration for police where a considerable amount of time and resources was spent locating offenders. One police officer raised this as a particular concern in communities where police and community relations could be negatively impacted by police seen to be “harassing” families in order to locate respondents for the purpose of serving orders and paperwork.

Only one police officer commented that the time taken to complete paperwork may have deterred officers from proceeding with a DV investigation due to competing workloads and priorities which meant they may not pursue an investigation to avoid paperwork.

This was counteracted by a few comments by police about how seriously DV is perceived by police and the level of oversight of DV incidents by supervisors, OICs and Station DVLOs.

4.7 Willingness of female victims to seek assistance

Given that non-police applications are rare, all of the community stakeholders acknowledged that the capacity of the DV legislation to protect women in remote Indigenous communities is highly contingent on the willingness of victims to seek police assistance. However, the strong and consistent feedback of all stakeholders was that women in remote Indigenous communities tend to be very reluctant to contact police in relation to DV incidents, and even where they do contact police out of necessity, they are very reluctant to follow through with providing information to support an application for a DV order. The reluctance to report violence and to seek DV orders was also noted in the Cunneen report (Part 6.2 page 100).

When police were asked about reporting behaviour the majority said it was a mix of the aggrieved, concerned family member or other witness or child who typically report the DV incident. Police also indicated that incidents may be detected by police where it occurs in a public place or in the course of their duties.

OICs indicated that they felt that reporting had increased and women were more likely to report than in the past. Often the police remarked that this was due to greater rapport and trust that was built up over time with officers who were stationed in communities for longer periods.

“But now we’re getting more and more women coming to see us when there’s just verbal abuse, emotional abuse, certainly they’re mindful of that and our position here in (community name withheld) with our counselling services they have the opportunity to resolve their issues before they escalate to a stage where we need to take out an order. Yes front counter or ringing police, we are getting more and more women on the phone. I believe we are more contactable, since I’ve been here we have the practice of putting office phones through to my phone after hours because DV occurs not necessarily when the police are working”. (OIC)

However, despite these improvements one police officer acknowledged the underreporting of DV.

"We are only getting the tip of the iceberg reported to us so if the aggrieved does not want to contact police, or if the police go along and they find the aggrieved don't want to contact us at all or are unwilling, then they can be underreported". (OIC)

Also in contrast, one OIC explained that in their particular community there was perhaps an overreliance on police or that police are the 'port of call' for everything including DV disputes that were of a more trivial or minor nature.

Mirroring the Cunneen report's findings (Part 6.2, page 100), in the present consultations there were two main reasons that were offered by stakeholders for reluctance to report: firstly, the potential for retribution from the perpetrator and the perpetrator's family and secondly, the perceived risk that Child Safety Services (CSS) might become involved and remove the aggrieved's children. Other factors raised to a lesser extent were that female victims felt sympathy for their partner, did not understand the DV system, or had no faith that DV orders would make any difference. Each of these factors are discussed below.

4.7.1 Fear of retribution from perpetrators and their families

Part of female victims' reluctance to seek police assistance was noted as the fear of retribution from the perpetrator of the violence.

"Within the community, (they don't report) if they don't want family members including their spouses sent to jail.the respondent can threaten them, I'll get you when I come back, or I'll get you if you report this, so they know that the threat is quite real so they don't ring us". (OIC)

However, a more frequently raised issue was the potential for retribution from the perpetrator's family. Stakeholders explained that the kinship-focused nature of Indigenous society meant that the dimensions of DV cut across a much broader range of relationships than in non-Indigenous society.

"I've had instances where fellows have been breached repeatedly for DV breaches and we've remanded them and held them in custody. The family on his side has insisted the female be banned from the canteen and I've fought a number of battles with family asking, why? What has this female done to this man? She wasn't drunk, hasn't been drinking sly grog was stone cold sober when he hit her, why should she be penalised?" (OIC)

Two stakeholders highlighted that a limitation of the DV legislation is that the order can only place conditions on the perpetrator and not the perpetrator's family.

Even if they go against the perpetrator, they cannot go against the whole family. And we hear atrocious things – sister on sister-in-law violence. But the lateral, wider family cannot be on the DV order [as respondents]. (Legal service provider/ community member)

4.7.2 Fear of children being removed

The second most commonly mentioned barrier to women reporting DV to police by community stakeholders was the fear of CSS being notified, potentially leading to removal of the children. However, only one police officer mentioned that fear of CSS was an issue impacting on

reporting to police. Most stakeholders were of the understanding that it was mandatory for police to report DV incidents to CSS¹⁶.

“We get a sense that community rarely call police unless absolutely necessary across the board because they know that Child Safety will come and possibly take their children”. (Service provider)

A service provider who previously worked for CSS expressed the view that even if police were supposed to make an assessment before reporting a DV incident to CSS, it seemed as though they were just reporting matters automatically. A legal service provider raised the concern that police were explicitly warning couples that they would report DV matters to CSS and were making these notifications even when no DV had been substantiated. On the other hand, a couple of service providers were supportive of CSS being notified in instances of DV.

“As much as everyone works hard to keep the children in the community, I hear from [a leading elder] that she's frustrated and someone needs to make the decision to just do what is best for the kids – take them out of the community, put them with another family, because they are just constantly being passed to another family and the same thing is happening. They are just witnessing the same stuff at different families.” (Service provider)

4.7.3 Impact of incarceration of spouse or partner

Another reason for female victims' reluctance to seek police intervention was that they did not want their partner removed. Some police interviewed suggested that victims do not want their partners to go to jail, fearing the impact this would have financially and on any children involved.

“The aggrieved and the respondent usually have children and the aggrieved believes if she reports the matter to the police and the respondent is removed from the family home the family will suffer financial hardship”. (OIC)

“An impact on reporting is just fear that the partner will end up in jail which makes people reluctant to report these issues. The respondent may be the breadwinner or maybe just that they want him at home supporting them so there's a reluctance to report. They don't want to see the person go to jail, they'll get locked up especially if they've got a bad history, if they are on parole”. (OIC)

One police officer also spoke about victims feeling shame and not contacting police or wanting to be referred to the women's shelter because the community is small and they do not want to share their personal business with staff that may know them.

4.7.4 Faith in the police or the system

As discussed previously, some community members question the cultural sensitivity of police and a few interviewees suggested that this might be a reason why victims might be reluctant to seek police assistance in sensitive domestic matters. Generally, however, most stakeholders expressed confidence that police were consistently and diligently enforcing the

¹⁶ As per Recommendation 4.3 of the Carmody Inquiry, in January 2015 the QPS revoked its administrative policy that mandated reporting of all domestic violence incidents to Child Safety Services (CSS) where at least one of the parties has a child residing with them. The QPS now has a simplified system of appropriate reporting to CSS based on the definition of 'significant harm'. Officers still need to consider the protection needs of children exposed to DV incidents and use the Child Harm Referral Report policy to guide decision-making when attending DV incidents.

law. A few stakeholders suggested that some women do not seek police assistance to obtain a DV order simply because they do not believe that the order will make any difference, and two stakeholders suggested that police might be hesitant to put in the time and effort for the same reason. However, the issue of trust in police did not appear to be as significant to stakeholders as the fear of retribution and child protection authorities.

Two police officers indicated that police staffing and call taking procedures had an impact on reporting. For example, where stations were not 24 hours and telephones were diverted to Policelink or a centralised communications centre people perhaps were less likely to report as when they did not have their call answered directly by the local station.

4.7.5 Lack of awareness of DV and the possible responses

Some stakeholders highlighted that women who suffer violence or other forms of abuse at the hands of partners may not be seeking assistance because they do not recognise they are suffering DV and are not aware of the possible responses. This was seen as a particular barrier for younger women. Several stakeholders noted that younger women were less likely to seek police assistance.

Some of them they just accept it. There is such a high tolerance of acceptance of domestic violence within the community that you could be bordering on slashed with a knife and they still won't say a thing about it because a) the acceptance or b) the fear of retaliation is so real. (OIC)

4.8 Willingness of family or community members to intervene

Stakeholders reported that the main deterrent for family or neighbours of victims of DV from intervening by calling the police was that they also feared retribution from the perpetrator or his/her family. One interviewee pointed to cultural reasons that prevent people from intervening.

"Family members are often reluctant to report DV to police because they don't want trouble. We went to an incident where the daughter was being beaten by the partner and the mother was watching TV in the next room. She just turned up the TV. She did not want to call the police in case he turned on her." (Justice Group member)

"For a lot of people, it's that cultural responsibility. "I'm not going to "dob my brother in" and such. "Oh, they're in the room, I'll shut the door, not my business" (Service provider/ community member)

Despite this, several stakeholders pointed out that family members, especially mothers and grandparents, did often seek police assistance on behalf of victims of DV. A community organisation manager argued for the need for more education and awareness to encourage reporting of DV and child abuse:

"That's not just around the domestic violence but that's also around the child abuse. We've got to give people the tools, to have the courage to ring. Even if it's your brother or your sister, you've got to ring. But how do we change people's thinking?" (Service provider/ community member)

4.9 Willingness of male victims to seek assistance

The consultation included a meeting with the men's group at Palm Island (6 people), the current and former coordinators of the men's group at Doomadgee, a DV discussion group of Doomadgee men (10 people) and an interview with the men's group coordinator at

Pormpuraaw. A central theme in the feedback from men was their concern about whether male victims of DV were being sufficiently listened to or supported.

*“They [the men] sit quiet and they just ask for psychological support. We have a couple of quite violent women in the community and you know how people think it's just men against women – it's difficult to enforce [the DV laws when it's] women against men”.
(Men's group coordinator)*

A male participant at the Doomadgee DV discussion group explained that he had been the victim of violence by his partner, who was a regular drinker. One evening when she had returned late intoxicated she had started kicking his locked door so he had called the police. The police attended, but he was distressed that the police had initiated a DV order against him as well as his partner. A men's group stakeholder felt that these instances showed the system did not take sufficient account of the perspective of men.

Concern for male victims of DV was raised by some female stakeholders. A female elder from the Pormpuraaw justice group expressed concern about a perceived imbalance in the justice system's response to DV in the community – a concern which appeared to be shared by other members of the group:

“At Kowanyama Court, the men said ‘you judges got to listen both sides of the story, it isn't just the men that is the one that is causing all the trouble.’ I've seen it myself too. They're not listening to both sides... Woman is very violent. I have seen it all my life and poor men, they are sitting in Lotus Glen and the women, they are free and easy and still drinking. No law for the ladies here. The ladies have got to get something too [i.e. from the police and courts], not only the men”. (Justice Group member)

The OICs interviewed appeared to be sensitive and supportive of male victims and some acknowledged the stigma men felt in reporting to police.

“I don't know, probably without looking at the stats, obviously our typical aggrieved is a female but we are seeing more and more males come through as an aggrieved. And I think that's got a lot to do with the police awareness of the situation that women aren't always going to be the victims”.

The fact that a number of men's groups have been established by or with the support of police seems to attest to this increased police awareness. However, it may be the case that frontline police may not be as experienced as OICs at recognising and appropriately protecting male victims.

Several interviewees – mostly men's groups but also several female service providers – raised issues around support for male victims of DV in remote communities. A common theme was that men were unlikely to seek police assistance to protect them from DV.

*“Men still aren't willing to go out and make a complaint and get an order against their partner. Police and health need to facilitate this. We're still finding that men are talking about it amongst themselves, but they still won't take it up with police or anyone else.”
(Legal service provider – male)*

Several reasons for this were put forward. Firstly, there was perceived stigma for men to report DV, and secondly, men did not think that police took their perspectives seriously.

“They won't complain because it's not being a man. And being a man in this community is not to complain and put up with your wife and get on with life”. (Service provider – male)

As was the case with women, men also were said to be reluctant to report matters for fear of it being notified to CSS. A men's group member complained that the only time police made a DV application against a woman was when a physical injury was inflicted on the man. It was also noted by one stakeholder that men are not aware of what constitutes actionable DV.

"There is a lack of awareness around what DV covers. The emotional abuse... heaps of men suffer that, which is then ultimately capped off by the physical stuff. But they are not aware they can charge somebody for that. Or financial abuse – mum will gamble away her whole pay. Also, the swearing, the jealousy stuff. When you chuck social media on the top, there's a whole lot of stuff men suffer but they don't realise it's classed as abuse so they don't charge for it". (Service provider / community member – female)

Some stakeholders noted that with male victims of DV unwilling to go to police, there needed to be other services to support them to apply for DV orders. The men's group at Palm Island had noted that men in Townsville were receiving assistance from the men's group there to apply for DV orders, and had received some training in how to complete an application, but it was only partial and they did not feel confident in the process. Stakeholders at Doomadgee observed that there was nowhere for male victims to go to seek assistance in dealing with DV.

Further suggestions about support services for men are discussed in Attachment 1.

Chapter 4 - Key findings

- The number and rate of applications, both police and private, has increased in the discrete communities across the decade.
- The proportion of female respondents in a DV application is higher in the discrete communities than in the general Queensland population and both community stakeholders and police described this as an emerging issue.
- The proportion of family relationship type orders compared with spousal or intimate personal relationship type orders is higher in the Indigenous population than in the general Queensland population.
- In discrete communities, very few applications for orders are initiated by the aggrieved party, rather than police, in contrast to urban areas where DV support services regularly assist victims to make applications.
- The majority of DV orders in remote communities contain only the standard conditions to be of good behaviour and not to commit DV. Community stakeholders and police confirmed a number of challenges for imposing 'no contact' or 'ouster' conditions in these small remote communities.
- Community stakeholder satisfaction with the police response to DV in the three communities visited was mostly positive.
- Community stakeholders suggested that PLOs should be used more effectively although police acknowledged a number of barriers to engaging PLOs in DV work.
- Both community stakeholders and police believed that there was a lack of understanding of DV orders and any associated conditions of orders, and this situation often led to breaches.
- Half of the police interviewed agreed that the administrative processes and paperwork in relation to DV incidents was less of a burden than it once was. For the other half who indicated that paperwork was still an issue, this seemed more about the impact of remoteness on court processes and the service of documents was an area of particular frustration.
- The strong and consistent feedback of all of the community stakeholders was that women in Indigenous communities tend to be very reluctant to contact police in relation to DV incidents. Many of the police interviewed however felt that reporting by female victims of DV had improved over time. The most commonly cited reasons for not reporting were fear of retribution from the perpetrator – especially his or her family – and the fear that child safety authorities will be notified, leading to children being removed.
- Male victims were considered even less likely to seek police assistance than women.

5. IS POLICE ENFORCEMENT ADEQUATE?

As noted in Chapter 2 – ‘Methodology’, for the purposes of this review, enforcement was taken to mean the ability of police to charge a respondent with contravening or breaching the DV order or conditions under that order.

To determine if police are adequately enforcing orders, two questions were asked. Firstly, are breach offences and any other associated criminal offences being pursued by police?

And secondly, what, if anything, is preventing police from enforcing orders? This involves a discussion of key factors inhibiting the ability of police to enforce orders such as evidence gathering issues including the cooperation of victims, the standard of proof required and intoxication levels. Issues affecting the ability of police to detain or remove perpetrators is also discussed, as well as challenges regarding remote courts and bail processes and general resourcing issues affecting the police response to DV.

A summary of the information gathered is at the end of the chapter. Key findings and conclusions are further explained in Chapter 7 – ‘Key Findings and Way Forward’.

Are breach offences and any other associated criminal offences being pursued by police?

5.1 Appropriate enforcement of DV breaches

The number and rate of breach offences in the discrete communities has increased over the decade (refer to Tables 5 and 6 page 26-27, Chapter 3 – ‘DV Data and Trends’).

Community stakeholders were asked whether police were appropriately enforcing DV orders in remote communities. This question did not elicit any strong response; rather, there was a sense of resignation that breaches of DV orders were part of an inevitable cycle occurring in violent relationships. Police were perceived to be doing their job as well as they could.

“The police are just trying to do their best in any way possible, but it’s the people”.
(Justice Group member)

Where orders have ouster or ‘no contact’ conditions, the tendency of couples to get back together and the small size of communities made breaches of these conditions very likely. Where DV orders had only the standard conditions, they were not perceived to have any impact on behaviour and there was a perception of inevitability about a breach occurring next time there was an altercation in the relationshippage

“In the end they’ve breached because they go back together again and a week down the track one of them will get drunk and then they end up in another big brawl.” (Doomadgee elder)

The ability of police to enforce DV orders depends to some extent on the willingness of victims or other community members to contact police when incidents arise. The same reasons why victims do not initially seek police assistance with DV matters appear to apply when there are current orders in place. In particular, the fear of retribution and of losing custody of children are applicable to breaches. It was noted that police are often only contacted when the level of violence has escalated and the victim, usually a woman, needs immediate protection.

Nevertheless, despite women's reluctance to seek police intervention, some interviewees noted that often it was the case that once a woman had taken action and a violent spouse had been removed, they were pleased with the outcome.

"They kept wanting to withdraw the charge but I said no, don't talk about that to me, talk to the magistrate. So gradually we stalled them off long enough to get it to court and some of these fellas went to jail and the women thought hey, this isn't too bad now he's in jail for a few months and nothing's happened". (Former police officer currently employed in a community organisation)

5.2 Appropriate enforcement of other criminal law offences

Stakeholders were also asked whether they thought police were sufficiently pursuing other criminal law offences in response to DV incidents, rather than relying solely on prosecuting breaches of DV orders. There were mixed opinions about this. Some stakeholders felt that police were not active enough in prosecuting assaults and other criminal offences, with the implication that DV incidents were not being taken seriously.

"I hear the abuser threatening to kill people. It's not taken seriously. It is a criminal offence. It's very serious. And that's why you've got the younger people coming along thinking violence is okay. People swear and abuse you, threaten you, and you're not allowed to do that. There must be something – tougher penalties." (Service provider/ community member)

"This is why there is such a high number of breaches, because the police don't take the [criminal] offence seriously, the perpetrator knows the police will just lock them up for a couple of hours, or even if they have to go to the big house [prison] it's not that bad for them". (Legal service provider/ community member)

A CJG coordinator observed that the court lists they received showed that police were actively prosecuting Criminal Code offences in addition to breach of DV order offences. A community organisation stakeholder in Pormpuraaw felt that, if anything, police were more actively pursuing Criminal Code offences than DV breaches.

Several interviewees emphasised that evidentiary issues made DV breaches much easier to prosecute than assault offences. A legal service provider argued that given the difficulty of prosecuting an assault charge in a domestic relationship – such as the unwillingness of the victim to make a complaint and the unavailability of witnesses – a DV breach is a more effective way for police to prosecute violent behaviour and protect DV victims.

"It is a lazier option, but police are so overworked I can see why they do that. It's a good thing for my clients [DV victims], as the [perpetrators] go to prison and they're out of the community. I'd hate a DV to be treated the same way as ABH [assault occasioning bodily harm] – you'll find a lot less breaches but the overall severity of the violence would be increased in the community". (Legal service provider)

The community stakeholder feedback suggested that the problem was not so much a lack of enforcement of DV orders or criminal offences, but the lack of an effective intervention to break the cycle of violence in relationships.

"That girl from [Community name withheld] who was murdered had 12 DV breaches [committed against her], and my first thought was - did the police stuff up and were they slack? And I went through it and they'd responded and asked her every time if she wanted to proceed with the assault charge and she said 'no' every time... When you see this woman dead and you see this process after process, obviously it's not working. It has no effect whatsoever". (Service provider)

As outlined in the previous section, many of the same issues were present for police when proceeding with criminal charges associated with DV incidents. Almost all of the police interviewed indicated that criminal assaults were involved in a high proportion of cases due to the severity of the violence. However, high levels of intoxication made obtaining statements and complaints difficult and often after the initial incident people did not want to pursue the matter or sought to have their complaints withdrawn.

“We often have the case where we might be able to get a statement out of people and because there’s a lag in locating the respondent, in the meantime they will come in and withdraw their criminal complaint. There is always an argument we can still proceed without, but the practice is we don’t proceed with the criminal side of things if they don’t want to. There’s an argument more than any that it’s an offence against the state, the good order of the state, so we should be able to proceed regardless...”. (OIC)

“... with DV we take a statement. Well I always take a version now straight away and if I can I get a statement straight away for a DV. For an assault, you are probably supposed to do that as well but history has taught me that if I’m going to take a statement today and tomorrow they are going to withdraw it so usually with an assault I’ll take a version with a recording, take some photos and say mate if you want to make an assault complaint come and see me tomorrow because otherwise there’s no point. Because tomorrow they are going to change their mind and you’re going to do a whole investigation for nothing”. (OIC)

From the interviews with police it seems that officers are making a judgement call on what is most likely to get a successful prosecution which is why breaches may be pursued over criminal offences. The Cunneen report noted that many assaults in domestic relationships were being taken to court as DV breaches rather than assault charges, due to the lack of complaint from the victim (page. 92, Cunneen). However, the prevalence of DV breaches over assault charges did not seem to be affecting the outcomes; courts were taking the violence into account and imposing prison terms for DV breaches where they would otherwise be imprisoning the offender for the assault charge. Consultation for this review suggested that this may still be the case and that DV breaches are proving as effective as assault charges in having perpetrators imprisoned.

What, if anything, is preventing police from enforcing orders?

5.3 Evidence gathering issues

5.3.1 Cooperation of the victim

Many of the police suggested that while the aggrieved may want the respondent detained or ‘taken away’, they were not concerned necessarily with police formally charging or arresting the respondent, rather they had called police as a ‘last resort’ to interrupt the assault or have the violence stopped. While victims generally wanted assistance to have the perpetrator removed, this may not extend to them providing police with a formal statement of what has occurred. In other situations, police also said that, particularly where another witness had reported the incident, a victim may be openly hostile or not want police attendance at all.

“Sometimes we do get both sides turn on us and outside influences even though the call taker may have called us sometimes they do object to us being there and tell us in no uncertain terms to remove ourselves from the community or there will be serious consequences.” (OIC)

One police officer highlighted the importance of training for police to understand how the uncooperative behaviour of the aggrieved should not impact on police providing a thorough

investigation. This particular officer explained that the Coronial findings on the death of Noelene Beutel (*Findings of inquest into the death of Noelene Marie Beutel*, DJAG, Queensland Courts, Office of the State Coroner, Brisbane, 17/11/14) were highlighted to staff as an example of the critical role of police in determining whether the aggrieved is in need of protection, irrespective of whether the aggrieved cooperates with police.

Only one police officer suggested perhaps less experienced police experience frustration at the lack of cooperation from victims or witnesses, which may impact on their motivation to follow through with an investigation in terms of finding other witnesses or obtaining statements.

"It's frustrating for young police, because you know, they are really keen to get in there and do the job but at the same time, you know, we can't go any further if they don't provide the evidence".
(OIC)

5.3.2 Obtaining statements and standard of proof required

As noted in the DV Taskforce report, difficulty gathering sufficient evidence to successfully prosecute a criminal offence, including breach offences, is a significant impediment to police commencing criminal action from a DV incident (Bryce page 318). Investigations occurring in the context of intimate partner or family relationships are often limited by the availability of the victim or independent witness testimony and photographic or medical evidence of physical injury (Bryce page 318).

As identified in the Crime and Misconduct Commission 2005 report: *Policing Domestic Violence in Queensland* and in the DV Taskforce report, one of the most important factors influencing an officers' decision not to proceed with criminal charges was the victim's reluctance to have the perpetrator charged. The situation is often aggravated by the victim's fears of pursuing criminal conduct based on the realities of their life circumstances. This includes such issues as fear of the perpetrator and perpetrator's family, financial and personal hardship experienced by the family should the partner be convicted and not wanting their partner to be incarcerated (Bryce page 319).

The issue of proof is highly complex. For police, the likelihood of success in a criminal or civil matter may impact on an officer's decisions regarding how to proceed in a DV case and the relevant standard of proof is a significant consideration.

The majority of police stated that a lack of evidence and victim and witness statements and the standard of proof required was an impediment to prosecuting breach offences.

"The main challenge is obviously getting statements and witnesses to actually step up and say something. Tell us the truth about what's happened." (OIC)

"My biggest thing is the standard of proof we need to continue these DV applications and breaches. Most of my officers have recording equipment and I think the Prosecutions process can be made slightly easier to prove a breach. Most of the DV involves defactos and husbands and invariably the only witnesses are the aggrieved and this is a problem". (OIC)

Some police noted the reliance on typed written statements from the victim or witnesses:

“...There’s a reluctance among police, more than ever these days, to not want to proceed on a matter unless they have a Statement, a typed Statement. At times of crisis we can’t get that Statement or one or both parties are intoxicated, meaning we can’t get a statement. The rules of evidence, like if we can sit there and use a recording, a lot of police now have body-worn video or carry recording devices. If they can record the conversation, 93A Statement, let’s use that as evidence”. (OIC)

Other police officers suggested alternative ways or strategies to address these evidentiary issues by:

- Using elders and PLOs to help support and convince victims to proceed with a criminal complaint;
- Summoning witnesses who were otherwise uncooperative;
- Using Communication Centre records (initial phone recording of call to police for assistance); and/or
- Using video evidence where the assault occurred in a public place such as the community canteen.

5.3.3 Intoxication

Intoxication of both the victim and the respondent was raised throughout the interviews as a significant challenge for police in investigating DV. Intoxication was raised by police as a substantial barrier to obtaining critical evidence from witnesses at the time of the incident.

A recurring theme in the feedback from community stakeholders was that women who are suffering DV are most likely to welcome the action of police in initiating an application for a DV order at the time of a violent incident, and they are far less willing to proceed in this way the next day or at a later time.

“Police need to take action in the moment. Because overnight there is just going to be so many influences. And she is going to start thinking about everything, the children... And she will cool down the next day and be hesitant”. (Legal service provider)

“As far as the victim goes, in my experience, it depends whether they are intoxicated or not. I find if they’re intoxicated, they’re more likely to go to police, because they don’t have that forward thinking of what’s the consequences if he does get stung, what will his family think, what’s the retribution from family if I get him in trouble”. (Legal service provider)

However, intoxication of victims at the time of the incident can present police with difficulties in terms of obtaining reliable evidence and intoxication was raised by police as a substantial barrier to progressing DV matters. Police also spoke about the impact of alcohol on the overall volatility of the community, which can be a factor in progressing DV investigations, both at the time of the incident or when following up. One police officer spoke about the heightened risk alcohol can present when police may try to detain a person in relation to a DV matter, particularly where there are large numbers of bystanders. The potential for violence by the community against police to escalate very rapidly is a key factor in determining what action to take in regard to the DV incident.

5.4 Detaining or removing the perpetrator

One of the themes that emerged in the interviews with community stakeholders was a dissatisfaction that more respondents were not arrested by police and taken into custody.

In situations where police are attending a domestic violence incident and there is not a DV order already in place, taking a perpetrator into custody and imposing release conditions can be an effective method of providing protection for the aggrieved. However, this is only lawful where the perpetrator has committed DV and is presenting an immediate threat of violence. In some cases of DV the perpetrator may flee prior to the arrival of police. Should the police locate the perpetrator elsewhere, during the course of their investigation, there may be diminished grounds for the police to lawfully detain them. The absence of the perpetrator however, does not preclude the police from taking some action, including seeking a temporary protection order.

Where there is already a DV order in place and police are called to investigate a breach of the order, police will conduct a full investigation in the same manner as investigating any other criminal offence (QPS Operational Procedures Manual, section 9.6.7 'Prosecution of statutory offences'). If the perpetrator cannot be immediately located, this can result in delays in the investigation and the commencement of proceedings against the offender.

Some community stakeholders noted that victims of violence tend not to seek police assistance until the situation reaches the point where they want the perpetrator removed by police. Community stakeholders reported that by the time police attended DV incidents, the perpetrator had often left the scene and some people felt that police should be more active in tracking down the perpetrator.

"The women I deal with want them to step in and remove the man from the situation... [But] men run away or they provide a false name and this is a huge part of the problem. My understanding is that there is no follow up by police". (Legal service)

Some interviewees pointed out that in a smaller community like Pormpuraaw with only a few police on duty, holding an aggressor in the watchhouse meant that police were taken offline supervising the prisoner, at a time when they were probably needed in the community. One stakeholder suggested that police allow family members to supervise the person held in the cell to ensure their wellbeing and to ensure the facility is not damaged.¹⁷

Another community stakeholder in Pormpuraaw expressed concern that the practical inability to hold a perpetrator in custody meant that police usually took the individual to another family member's house in an effort to separate him or her from the victim.

"The police just take them [DV perpetrators] for a ride and leave them in the family's house, like this one lady they just brought her back to me because she was really drunk... Police take intoxicated people to the families to look after. But family might have their children there. So that's the risk. Sometimes they do need to put them in the lock house". (Justice Group member)

Some stakeholders noted that the current practical options for responding to DV often resulted in the male perpetrator remaining in the family home while the female victim and her children are removed to a women's shelter.

¹⁷ Note, chapter 14, pages 242-247 of the *Restoring Order* CMC 2009 report discusses options regarding community involvement in the watchhouse. The report suggested however that supervision should be restricted to QPS employees (potentially Indigenous police officers or Indigenous civilian watchhouse staff). This suggestion has therefore not been progressed further.

“We strongly advocate that it further victimises the woman. The children are traumatised because they are taken out of their own home and they are leaving their sanctuary and he is continuing to commit DV because he’s forced them out of the home and he is only entrenching that power control further. Whereas if he’s removed and put into an environment with all the other perpetrators to deal with the violence and address it and change. Yet, they continue to call for more women’s shelters”. (Legal service provider)

Many police interviewed also expressed frustration that many of the women’s shelters have policies not to accept victims who are intoxicated which often meant there was no alternative for police to safely house the victim other than with family or relatives.

Many stakeholders believe that more ‘cooling off’ facilities for men are a key gap in the current response to DV (this is discussed further in Attachment 1). The need for more efforts to remove perpetrators was also raised in the Cunneen report (part 8.4).

5.5 Resourcing issues

Staffing and resources in the more remote communities was a critical factor impacting on the arrest of perpetrators:

“When you arrest someone here and you want to keep them in custody, you have to wait for a plane, that’s if you get approval, to fly them out to a watchhouse, which means you can, we’ve waited here two days, so they’re in custody, actually three days we waited once, that means you’ve got someone in your cell. So you’ve only got two police, so now you’re working 24/7 or you’re tagging your partner, looking after that person but then you’ve got no response for the town. So you do one DV and now there’s a big brawl on the street, ringing up oh what are you doing? Well I can’t leave the person in custody. So there’s a lot of time where you are thinking this person needs to go, they’re in danger here, but then you’ve got to make a judgement call on the rest of the town because you’re not going to be able to provide a policing service” (OIC).

There appears to be a difficult balance for police between perpetrator accountability and protection of the aggrieved with the sensitivity and practical implication of custody of Indigenous offenders in small stations in remote locations. Police decision-making regarding custody is also undertaken in the context of a significant emphasis by Government on reducing the overrepresentation of Indigenous people in custody.

For stations that were not as remote and had watchhouse facilities and greater staffing numbers this was not raised as an issue.

5.6 Remote courts and bail processes

While some of the community stakeholders spoke about a disappointment that police did not arrest the perpetrator in more instances, some police raised frustrations regarding court processes and other factors impacting on the remanding of offenders in custody and application of bail in remote communities. Some of these issues were seen as an impediment to continuing to detain a perpetrator, particularly for breach offences.

Some police voiced concerns about a perceived tendency by both Magistrates and Remote Justices of the Peace (JP) to release offenders on bail for breach of DV offences rather than remanding them in custody as might be the case in metropolitan areas. While the cost and logistical challenges of remanding someone in custody in the more remote communities (i.e. transferring them out of the community to a remand centre) can be significant, as outlined in the previous section 5.5, the extent to which these challenges are affecting watchhouse and court bail decisions was not clear.

Other police suggested that there was an overreliance on bail release conditions rather than hearing the DV application or granting temporary protection orders. Police also commented that the infrequency of court sittings in remote locations can cause issues in terms of the overall protection of the aggrieved until determinations are made. There were also some comments from police regarding inefficiencies created when JPs were unavailable, producing a backlog of matters until the next Magistrate court sitting. This included matters such as authorising service of documents or affidavits and determining Fail to Appear warrants for breach offences.

The use of virtual court or video conferenced facilities was raised as a possible solution to some of these issues.

Chapter 5 - Key findings

- The number and rate of breach offences in the discrete communities has increased over the decade.
- Police were perceived by community stakeholders to be doing their job by enforcing DV orders as well as they could in circumstances where breaches seemed to be an inevitable consequence of the cycles of violence in relationships.
- There were mixed views about whether police were sufficiently acting to prosecute Criminal Code offences or were unduly relying on DV breach proceedings. Both community and police stakeholders pointed out that in circumstances where victims are often unwilling to proceed with charges, police use of DV breach proceedings is an effective way of achieving the same outcome of prosecuting and, if necessary, incarcerating perpetrators of violence and protecting victims.
- There remains a number of challenges for police in enforcing orders. A lack of evidence and victim and witness statements and the standard of proof required to commence an investigation is an impediment to enforcing DV orders or successfully prosecuting breach offences.
- Community stakeholders were dissatisfied that more perpetrators were not arrested and detained. Detention of perpetrators is dependent on the availability of evidence to charge an offender. Detention, for an extended period of time, may also be impacted in smaller stations in remote locations by limited staffing or the cost and logistics required for transferring a detained suspect outside of the community.
- Police also highlighted difficulties regarding court processes and remanding and application of bail, in remote communities, as an impediment to continuing to detain a perpetrator, particularly for breach offences.

6. IS POLICE ASSISTANCE TO KEEP ORDERS IN PLACE ADEQUATE?

Police support parties to keep orders in place by applying for a variation of an order where it is considered necessary to increase the safety of the aggrieved person and referring parties to support services where necessary.

To determine if police are providing adequate assistance to keep orders in place, two questions were examined. Firstly, are police assisting people to vary or extend orders? The variation sought may include any aspect of the order, for example, duration of the order, a condition of the order and the persons named in the order.

Secondly, are police referring people to other organisations for assistance? For example, are aggrieved parties being referred to counselling, accommodation and other support services which may make them feel more confident in seeking and maintaining a DV order and/or are respondents being referred to appropriate support services to assist them in dealing with the underlying issues impacting on their violence which might help them to adhere to orders. This also included discussion of the electronic referral process used by police, the collaborative work being undertaken between police and support services, and issues regarding a lack of support services in some discrete communities.

A summary of the information gathered is at the end of the chapter. Key findings and conclusions are further explained in Chapter 7 – ‘Key Findings and Way Forward’.

Are police assisting people to vary or extend orders?

6.1 Variation of orders to reduce their duration

A common issue raised by community organisation stakeholders is that the aggrieved often want to take steps to have DV orders ‘revoked’. Reasons cited were pressure from the respondent or their family members, guilt on the part of the victim, or a reconciliation between the parties. There was a widespread belief amongst stakeholders that where police have initiated a DV order, only they can take action to have it varied.¹⁸

“I know a woman who went to court who tried to revoke an order for fear of partner. The good thing is that police will not let the order be revoked” (Service provider)

Some interviewees recognised that where parties had a ‘no contact’ or ouster condition on the order and have since reconciled, they may have valid reasons to want to remove these conditions. In these cases, service providers encourage the aggrieved to seek a variation rather than a revocation of the order. However, a legal service provider noted that there was significant duty of care risk for an organisation in assisting a party to weaken a DV order.

¹⁸ This is not technically correct, as other parties can apply to have the order varied to reduce the duration of the order. However, from a practical point of view, in remote communities parties would most likely be relying on police to take such a matter to court (in the absence of legal services to assist parties), and even if the matter was taken to court, opposition by police in the interests of protecting the aggrieved would make it unlikely to succeed.

“It’s a minefield, however, if you reduce the ‘no contact’ and someone gets murdered. Each organisation would be worried about the potential risk”. (Legal service provider)

Police were also asked about assistance given to victims to vary orders (other than to extend the order), for example, to change the conditions on the order such as the named persons or no-contact conditions. While most police said they provide this support to victims when they requested it, it was not a common occurrence.

“Really the only variations that they do is no-contacts. Um yeah, that’s pretty much it and so, when it’s got as bad as a no-contact usually their partner is going to jail anyway. So we don’t do a lot of variations, I think we’ve got one in court this week for a no-contact...” (OIC).

6.2 Extending duration of orders

Under section 42 of the *Domestic and Family Violence Protection Act 2012*, a court is able to extend the duration of a DV order for a further term if it convicts a person of an offence involving DV. The court can also make a variation to the order extending its duration following an application from parties such as the victim or a police officer under section 86 of that Act. Community organisation stakeholders had little awareness of these provisions. A stakeholder in Mt Isa observed that the previous magistrate had a practice of extending DV orders on his own initiative when convicting a person of a DV offence. In Pormpuraaw, a stakeholder raised a concern that the court was not extending DV orders. A legal service provider suggested that police prosecutors should, as a matter of course, be asking the court to extend DV orders when convicting DV offenders.

The extension of orders was a key area of concern for police. A number of police spoke about a lack of consistency and a perceived reluctance by Magistrates to extend orders following conviction for a domestic violence related offence including breaches of an order. This issue was also reiterated in interviews with the QPS Domestic and Family Violence Coordinators. Police indicated that, where extensions to orders were not granted but the victim still required a protection order, the application process had to be reinitiated for a new order. This creates significant time and resource impost for police in completing the documentation and impacts negatively on the aggrieved through revisiting the reasons for the order. Police also spoke about the potential for victims to be left vulnerable during the period an order has lapsed.

There were some suggestions that police processes could be standardised to ensure an automatic flag was set up to alert relevant officers and police prosecutors that an order was about to expire and to prompt officers to consider whether an application to extend the order should be made to the court. This procedure was happening in many places where resources permitted but it did not appear to be a standardised approach in every area. One police officer also explained that often the police prosecutor may not have all of the relevant facts and history to help the Magistrate determine the need to extend the order to protect the victim.

“At the moment we rely on either the Prosecutor asking for an extension when a conviction is recorded for a DV related offence, or the Magistrate the Court can do it of their own volition. But again, they seem reluctant to do that. I think it should just become mandatory”. (OIC)

One officer suggested making the order mandatory for two years on conviction and that orders perhaps should exclude the period in custody.

“We have people who might get convicted in the first three months of their Order and get a significant sentence and even on review you’ll go back and go ok the Order expires 2 years down the track, but when you review it you realise 18 months of the Order the person has been in custody. In a lot of these communities, people just come back to the relationship and it starts all over again”.
(OIC)

Are police referring people to other organisations for assistance?

This section covers the collaborative arrangements in place regarding police referrals to other support services. Preventing violence escalating and breaking cycles of DV are dependent on collaboration and integration of services. This work is often reliant on police appropriately referring both victims and perpetrators to other services.

6.3 Electronic referral process used by police

Most community stakeholders were aware of the electronic referral process, whereby police refer victims and perpetrators, with their consent, to relevant support services using an online system that generates automatic emails. The services then have a period of two to three days to contact the client.

On Palm Island, the Palm Island Community Company women’s service had been registered to receive these notifications and reported that this process was working very well as it enabled them to follow up with families in need. However, concerns were expressed that the police had not been active enough in ensuring parties consented to the referral to victim support services. It was suggested that PLOs should have the role of following up with families to secure the consent to be referred to relevant services.

In Doomadgee, the Wellbeing Centre was receiving referrals in some cases to its mental health service, whilst in Pormpuraaw, because it is a small community, referrals by police often worked on an informal basis, with police advising the services about families that needed support on DV issues. The OIC in Pormpuraaw also mentioned that support services were referring matters to police where there were injuries or breaches reported by victims. The OIC explained that counselling and early intervention work was happening with both victims and respondents and that referrals were often occurring proactively prior to violence escalating.

The majority of police interviewed indicated the electronic referral process was working well in terms of referrals; however, a few identified that obtaining consent was an issue or barrier. One police officer suggested it was dependent on how the offer of support was “sold” to affected parties. Many OICs said that referrals were high and that this process was monitored regularly. It was suggested in some cases referrals may not be captured as a DV referral but as a referral for alcohol or other issues that are affecting the relationshippage

A telephone follow up service was not seen as successful as a face-to-face service and was often affected by poor network, reception or a lack of mobile phones for people in these communities. Another OIC also said that brochures and cards were still relied upon in addition to electronic referrals so that people could self-refer at a later time if they wished and that this approach had been successful in the past. One OIC identified that electronic referrals were not working well in their community; however, it appears that this may have been related to a lack of services on the ground that were prepared to provide face-to-face support to this community rather than a problem with the referral system itself.

A legal service solicitor stated that the relative inexperience of many police officers in remote Indigenous communities was affecting the level of referrals to support services. This was due to less experienced police officers' apprehension about whether they were following correct procedures; a desire not to have third parties involved, especially legal services, or perhaps they did not know what services were available to assist.

However, one OIC said that police often tried to refer victims to local legal services such as the Aboriginal and Torres Strait Island Legal Service (ATSILS) or the Women's Legal Service but that Indigenous people often felt ashamed and did not want to discuss their child custody or DV issues with other services whom often employed local community people.

6.4 Police collaboration with support services

Community organisation stakeholders were asked for feedback about the approach by police to working with other services in the three communities.

Community organisations were largely positive about the collaborative approach taken by police in the communities.

In Doomadgee, the consultant observed this first hand with the convening of a men's DV discussion group by the local police and the Child and Family Centre. This was a follow-up to an earlier women's DV discussion group. Community stakeholders acknowledged the range of activities that the police had engaged in to build relationships with the community.

The efforts of the Doomadgee police to work with the Council and the community were recently recognised with an award for their 'Operation REPAIR (Readily Establishing Police and Indigenous Relations)' in the partnerships category at the Queensland Reconciliation Awards¹⁹. One stakeholder noted that the long-serving Officer-in-Charge was moving on and they hoped these efforts would be sustained.

It was also evident in Pormpuraaw that there were very good relationships between the police and other services in the community. Community stakeholders spoke about processes for supporting DV victims that had been developed between the police, the health clinic, the women's shelter, the counselling services and the CJG. Formal protocols were in place between the women's shelter and counselling services operating from the Pormpur Paanthu Aboriginal Corporation (PPAC) and the police and clinic. Community organisations could not identify any areas where the collaboration with police was not working well.

In both Doomadgee and Pormpuraaw, it was clear that relationships between the police and community had been helped by having the same Officer-in-Charge (OIC) for several years leading to greater engagement and a more consistent approach with the community.

The Cunneen report did not mention any particular efforts by police to work closely with other service providers in Indigenous communities. This may imply that this has been an area of improvement for police in these communities.

In Palm Island, there was insufficient feedback from community organisation stakeholders about relationships with police to form a reliable conclusion about the current situation.

¹⁹ Operation REPAIR also won a Silver award at the 2015 QPS Awards for Excellence in the Fostering Innovation category.

Community stakeholders reported that the police regularly refer matters to the CJG and that the Palm Island Community Company's social worker received electronic referral notifications from police about clients that needed to be followed up for DV support. However, another service provider was concerned that police were not making more of an effort to obtain victims' consent for these referrals, and one service provider felt that the police could work more closely with the women's shelter. Another stakeholder suggested police needed to get more involved in community events.

A Palm Island stakeholder acknowledged that police were making an effort but was concerned that the community needed to work harder too:

"We still do our [service] meetings and police come to that as well and they talk about their role in the community... But I feel like sometimes... nothing's changing on the island. We can't expect the police to do everything – we need to meet them half way. The police are just a minority here unless we help them. It's easy to blame them." (Service provider/ community member)

One area for improvement that was commonly mentioned in all three communities was the use of PLOs. A recurring theme in the community organisation feedback was that police needed to make better use of PLOs to build closer relationships with the community and especially DV victims.

When police were asked about the relationship between police and support services in their communities the majority said that this was working well.

"... We've got some very strong people in those positions. And to the point I actually got invited down to DV week to do a talk about DV and we had a big week long celebration I suppose or festivaland we had a ceremony for our homicide victims of DV and actually got asked to talk at it. I would think that our relationship with both our shelter [name withheld] and also the DV support workers I would say is very good". (OIC)

"Police have a good professional working relationship with the external agencies in [community name withheld]. The women's shelter is available at any time of the day and night. The Department of Housing contacts police for information if there are requests for alternate housing. Probation and Parole are in contact with police on a daily basis in relation to any incident that has occurred". (OIC)

6.4.1 Lack of support services

Police reported that there was a lack of support services in these communities and particularly a permanent full-time presence, as many of the services operate on a fly in fly out basis. This was seen as a significant problem in the area of DV where it is necessary for people in the community to build rapport and trust with support workers in order to share their personal stories.

"We have a really good working relationship with all the support services ... the only negative is that they are sporadic. I think they come in, Child Safety come in here once a fortnight, or once a month, DV connect, once every 3 months if that, RFDS are in once a week. You've got the counsellors and mental health and those sorts of thing. ATODS don't exist I don't think....so they've got no ATODs support and there's no consistency and I've said this to the DATSIMA forums we go to, you don't have consistency and the Aboriginal people community people, go well they're not really trying to help us because the help is intense for two days, nothing for ten. So it becomes a bit of a farce and there's no credibility to those services. Yes. It's very frustrating, I mean we often call ourselves here armed social workers. And I guess in places like this you've got to be flexible to do those sort of things, but not being qualified. Where we can support our other services we do and we work together where we can". (OIC)

All OICs, except for one, did not feel that there were enough support services or that they were functioning adequately. Some police officers suggested that there was quite a lot of duplication of services or different NGOs funded to provide services to similar client groups and that there was a lack of coordination between these services. Two OICs described some occasional issues with the staffing of the women's shelters affecting their ability to seek accommodation for victims. This appeared to be more of a significant issue in the consultations for the Cunneen report.

The Cunneen report argued that the availability of services strongly influences reporting. For example Cunneen identified that "If basic support services are not in place, then the use of domestic violence orders is often not an option. Women will not report violence if there is no reasonable likelihood that they will be protected, have the perpetrator removed or have the opportunity to escape the violence. All of these outcomes depend on the availability of basic support services". (Cunneen page 111).

One of the dominant themes raised by every community stakeholder and by almost half of the police was the need for a much greater focus on DV responses relating to men. A distinct lack of services for males, both as perpetrators and victims was raised in every interview, often unprompted, and by every category of stakeholder, from men's groups to women's groups to legal services and police. This issue was also raised in the Cunneen report (Cunneen page 112).

The nature of DV in Indigenous communities is such that interventions for men need to consider them both as potential victims as well as perpetrators, and likewise women need to be seen as potential perpetrators as well as victims.

Suggestions made by community stakeholders and police to improve the integration of service responses and the potential for new integrated response models are covered in detail in Attachment 1. In brief, suggestions regarding factors that would be critical in any approach of a new model included the need for:

- Community collaboration in development of the model;
- Culturally appropriate integrated support services;
- Community driven and holistic responses to male perpetrators, and
- Interventions focused on couples and family.

In particular, it was suggested that solutions to DV required intensive culturally appropriate interventions with perpetrators and victims and their families to deal with underlying issues such as alcohol abuse, relationships, mental health, cultural loss and other psychological issues. Furthermore, these issues could only be addressed in a holistic manner by looking at the dysfunction in whole family units rather than just individuals. Working with the family unit was seen as a more culturally appropriate approach than a focus on modifying the behaviour of individuals. And an integrated response to a family's needs requires careful coordinated case management of multi-pronged interventions.

Throughout the review feedback from community stakeholders and police has suggested that the problem is not so much with the application or enforcement of DV orders, but the lack of an effective intervention to break the cycle of violence in relationships.

Chapter 6 - Key findings

- Variation of orders to reduce their duration or have non-contact conditions removed was a rare occurrence although both police and other service providers were providing assistance to parties to vary orders when asked.
- Community stakeholders had little awareness of the provisions for courts to extend the duration of DV orders where a person is convicted of a DV offence.
- The extension of orders was a key area of concern for police. A number of police spoke about a lack of consistency and a perceived reluctance by Magistrates to extend orders following conviction of a domestic violence related offence including breaches of an order. Police indicated that where extensions to orders were not granted but the victim still required a protection order, the application process had to be reinitiated with a new order applied for, creating a significant time and resource impost for police. Police were also concerned about the potential for victims to be left vulnerable, where the respondent may reoffend during the period an order has lapsed.
- Community organisations were largely positive about the collaborative approach of police to working with other support services in the communities visited. This was especially apparent in Doomadgee and Pormpuraaw, where long-serving Officers in Charge have built strong relationships with service providers such as women's services, CJGs and wellbeing and family centres.
- Police indicated that there was a lack of support services that operate on a full time basis within communities. The practical and logistical challenges of service delivery to these remote communities remains a challenge and one that is acutely felt by police who are often the only service provider other than teachers or health staff that are based within communities. While local support services may be limited, referral processes seemed to be working relatively smoothly in practice.
- A lack of services for males, both as respondents and victims was consistently raised as an issue by both community stakeholders and police.

7. KEY FINDINGS AND WAY FORWARD

This report has set out to review arrangements regarding the role of police in the enforcement of DV orders in discrete communities by examining three research questions drawn from Recommendation 11.8 of the Child Protection Inquiry Commission of Inquiry Report.

The findings of the review indicate that police are providing adequate assistance to seek and enforce DV orders in discrete communities; however, there are a number of areas where improvements can be made. Some of the issues identified relate not just to the work of police but also other agencies and service providers involved in responding to DV.

This final chapter discusses the key findings and places them in the context of ongoing implementation of the Inquiry recommendations and the substantial broader DV reform work currently being undertaken. It is not the intention of this review to create a suite of recommendations which may duplicate work that is already occurring. Rather, findings in this review have, where relevant, been linked with the current and ongoing implementation work arising from the DV Taskforce Report recommendations.

Where these linkages have been established, the QPS will ensure that these findings are brought to the attention of the relevant DV Taskforce Inter-departmental Working Group and/or the Aboriginal and Torres Strait Islander Child Protection Service Reform Project Committee (shaded in yellow throughout this chapter).

The remaining recommendations (highlighted in blue) relate to actions that the QPS will take to address the key findings. Responsibility for monitoring these actions will be undertaken by the existing internal QPS governance body that has been established to oversee the implementation of DV Taskforce recommendations, the DFV Working Group, chaired by an Assistant Commissioner.

Is police assistance to parties to seek orders adequate?

Are police assisting parties when asked and in the right way?

The number and rate of DV applications in the discrete communities has increased over the decade. While there are multiple and complex factors influencing these statistics, an increase in applications is generally considered to be positive, in that people are reporting incidents and seeking assistance from police. This may demonstrate, on a very simple assessment, that the QPS is continuing to service the needs of the community by facilitating applications for DV orders.

It is noted that staffing numbers in the discrete communities have also increased across the decade. While it is not possible to draw any conclusions regarding staffing levels, because of the complex factors impacting on crime rates and reporting, there were some comments from community stakeholders and police that an increase in police numbers on the ground does increase police activity in response to DV.

In addition to an increase in applications in discrete communities, the review also highlighted some differences in the nature of DV in these communities compared with a more traditional or mainstream understanding of DV. For example, the proportion of females who were

identified as the respondent in a DV application or in a breach of DV offence was higher in the discrete communities than in the general Queensland population. An increase in reported female perpetrated violence within discrete communities was also highlighted as an emerging issue in the interviews with both police and community stakeholders.

There was conflicting information in the interviews as to whether violence by women in the DV context was retaliatory or defensive in nature or reflected higher numbers of female perpetrators in DV relationships. This does not detract from the overall overrepresentation of Indigenous females as victims of DV²⁰ but highlights that this is an area requiring further investigation, as there may be implications in terms of support and assistance for male victims and female respondents.

The review also found the proportion of family relationship type orders compared with spousal or intimate personal relationship type orders was higher in the Indigenous population compared with the general Queensland population. This data has not changed considerably since the Cunneen report (page. 63, Cunneen 2010). The prevalence of DV that occurs across broader familial and kinship relationships in Indigenous communities compared with DV within immediate families or between intimate partners has been discussed in other research.

The complexity of DV in discrete communities including issues of gender, culture and family dynamics has implications in terms of the delivery of effective and culturally appropriate responses to Indigenous people involved in DV.

Action 1

Recommendation 138 of the DV Taskforce report requires the QPS to facilitate an external independent audit of police training, including enhancing officers' understanding of the dynamics of DV as well as cultural awareness and sensitivities. The QPS will monitor implementation of this recommendation to ensure that the complex dynamics of DV and cultural considerations are being appropriately covered in police training.

Lack of private applications for orders

In discrete communities, very few applications for orders are initiated by the aggrieved party, in contrast to the general Queensland population where DV victims make more than half of the applications for DV orders. This has not changed considerably since the Cunneen report, where it was identified that a lack of private orders may indicate a continued disengagement and lack of confidence with the legal protection process by Indigenous victims.

Apart from the impact on police resources associated with police dealing with the majority of applications, it is not possible to conclude that this finding is an indicator of the adequacy of police assistance. Private applications for DV orders are largely dependent on access to

²⁰ Indigenous women are 35 times more likely to be hospitalised due to family violence than any other Australian women (Bryce page 72).

regular legal services, which is often limited in remote communities. It is noted that access to private applications may provide further opportunities for victims who might prefer not to report to police and may increase the availability of support for the aggrieved in the community.

This is balanced, however, by the attitude of both community members and service providers who believe that police as the “authorities” are best placed to initiate orders to avoid any potential repercussions on staff or victims.

Linkage 1

The DV Taskforce Report makes a number of recommendations that are focused on building and trialling integrated service responses designed to improve service delivery to aggrieved clients, including legal services. Implementation of these recommendations is likely to enhance the accessibility of support in communities and the confidence of the community in available services, potentially leading to an increase in private applications.

Lack of “ouster” or non-contact conditions

The majority of DV orders for the State-wide Indigenous population contain only the standard conditions to be of good behaviour and not to commit DV, compared with the non-Indigenous population where more than half of orders had other conditions imposed. The Cunneen report also noted that the majority of DV orders in Indigenous communities included only the two standard conditions (page 88, Cunneen 2010). It could be inferred that a lack of additional conditions may represent a lack of appropriate protections for victims.

Community stakeholders and police both confirmed a number of challenges for police to request, and for Magistrates to impose, ‘no contact’ or ‘ouster’ conditions in small remote communities. There was also a sense amongst both groups of stakeholders that DV orders with the standard conditions were not really making much difference to the parties’ behaviour and served only as a trigger for the police to act on a further incident, which seemed inevitable.

Suggestions were made by community stakeholders about a greater use of “creative” conditions on orders that are tailored to suit the circumstance of the parties and the particular community, although these were seen by some police as difficult to enforce.

Mandating perpetrator programs as part of conditions on orders was also suggested as something that was needed to break the cycle of violence.

This was also acknowledged in the recent coronial findings regarding the death of an Aboriginal woman in Cairns where State Coroner Terry Ryan commented on the overall ineffectiveness of DV protection orders in complex cases where violence is pervasive and ongoing. Coroner Ryan acknowledged that in this particular case there had been a long history of DV orders and breaches of those orders with both standard conditions and non-contact orders imposed. However, the Coroner noted that he accepted that the “*recurrent utilisation of protection orders was a much preferred position to their being under-utilised, or not utilised at all*”. He also noted that “*there were significant issues in monitoring compliance with any orders*” given the transient lifestyles of both the victim and respondent (page 31, *Findings of the inquest into the death of Elsie May Robertson 23/10/15*).

Linkage 2

Recommendation 117 from the DV Taskforce Report, which was implemented by Government in 2015, has made it a requirement that the court, when making a DV order, consider whether a condition excluding the perpetrator from the home should be made, having regard to the wishes of the victim. This may impact on the use of ouster conditions in discrete communities.

Action 2

The QPS has a significant cultural change program underway as part of its response to Recommendation 137 from the DV Taskforce Report which recommended that the QPS appoint a Deputy Commissioner to champion DV first responder best practice. As part of this cultural change work, police will be encouraged to consider the individual and complex circumstances of each DV case and make applications that meet the needs of the aggrieved. This will include police seeking orders that are relevant, practical and tailored to individual circumstances.

Linkage 3

Recommendation 122 from the DV Taskforce Report includes a pilot of a mandatory attendance perpetrator intervention. It is noted that perpetrator programs and intensive case management are also key components of the integrated service response recommendations in the DV Taskforce Report.

Community satisfaction

Community stakeholder satisfaction, including with the timeliness and cultural sensitivity of the police response to DV in the three communities visited, was mostly positive. However, there were still some negative perceptions of police which may indicate that the police response can be inconsistent at times.

Action 3

It is expected that the cultural change programs (noted above) and enhanced training may result in a more consistently positive community experience.

Involvement of PLOs

Community stakeholders suggested that PLOs should be used more effectively in DV response. Greater use of PLOs in DV follow up work was also raised in the Cunneen report (2010).

Many of the OICs interviewed who are responsible for supervising PLOs, described a number of barriers to engaging PLOs in DV work such as safety, potential conflict of family or kinship obligations and/or the necessary skills required. As identified in this review and in previous reports (CMC *Restoring Order 2009* and CMC *Indigenous People in Policing Roles: A follow-up review to the Restoring Order Report 2012*), the skills, experience, workload and abilities of PLOs varies across communities.

However, in some communities, PLO involvement in DV work with both perpetrators and victims is working extremely well.

Action 4

The QPS will ensure that examples of good practice regarding PLOs involved in DV work are shared among OICs in discrete communities and they are encouraged to consider using PLOs in this type of work where it suits the circumstances of each community and where PLOs have received appropriate DV training.

Understanding of orders

Both community stakeholders and police believed that there was a lack of understanding of DV orders and associated conditions, and this situation often led to breaches. Although it was widely agreed that there needed to be better explanation of DV orders to both parties, there was little consensus about who is best placed to do this.

Police and, potentially PLOs do have a role in explaining the order and any associated conditions to both the aggrieved and respondent. However, legal services, the court and other services like the CJG are also involved in providing explanation and assistance to both parties.

The review found that in some discrete communities it appears that both perpetrators and victims are disengaged from the legal process, therefore making it difficult for service providers to interact and provide assistance, particularly where on the ground services may be stretched or lacking.

Linkage 4

The DV Taskforce Report indicates that DJAG is currently reviewing the process of applying for a protection order, including simplification of forms to reduce confusion and the complexity of the process (page 273, Bryce). It is expected that a simpler process will have positive flow on effects for everyone involved in the explanation of orders. These findings will also be brought to the attention of DJAG and other relevant stakeholders for their consideration.

Action 5

The QPS will explore options for enhancing police communication regarding explanation of DV orders, particularly through the service of documents by police.

Action 6

During consultation for this review, an existing training package for delivery by police to external service providers and community members, explaining the process for obtaining a private DV application was identified. The QPS will review this training package and consider making it available to police and other community organisations working in discrete communities.

What is preventing police from assisting more?

A range of issues have been identified that may be preventing police from assisting more victims to seek DV orders.

The strong and consistent feedback of all of the community stakeholders was that women in Indigenous communities tend to be very reluctant to contact police in relation to DV incidents. Many of the police interviewed; however, felt that reporting by female victims of DV had improved over time. In terms of barriers to reporting, DV victims' fear of retribution by the perpetrator and fear of having children removed by child protection authorities were far bigger impediments to reporting than the issue of trust in police.

Male victims were considered even less likely to seek police assistance than women. DV victimisation is a complex issue. While some of the police interviewed acknowledged the stigma surrounding male victims reporting, there is scope for further work to be done to increase awareness of this issue and reduce barriers for men in reporting DV.

The Cunneen report had previously found that police were often reluctant to initiate a DV application because of the amount of paperwork involved (page 69, Cunneen 2010). In this review, approximately half of the police interviewed agreed that the administrative processes and paperwork in relation to DV incidents is less of a burden than it once was. However, for the other half who indicated that paperwork was still an issue, this seemed more about the impact of remoteness on court processes. The service of documents was also an area of particular frustration for police.

Linkage 5

A number of the DV Taskforce Report recommendations are focused on community education and awareness to effect significant social and cultural change regarding DV, including reporting behaviour. The report makes a number of recommendations designed to lead sustained intergenerational change and to encourage appropriate intervention by bystanders.

Action 7

Issues regarding gender, family and cultural dynamics of DV will be considered as part of the audit of police training being undertaken for Recommendation 138 of the DV Taskforce report.

In addition to cultural and DV training for police, the potential for greater utilisation of PLOs and continuation of the community engagement work already undertaken by police may assist in enhancing victim reporting.

Linkage 6

It is understood that the current review of the *Domestic and Family Violence Protection Act 2012* includes a number of matters aimed at addressing inefficiencies, for example, regarding service of documents, enhancing collaboration and providing more comprehensive and streamlined options for police in their response to DV. The QPS will ensure that the findings from this review will be highlighted to the DV legislative review Inter-departmental Working Group for consideration in ongoing legislative reform and implementation work.

Is enforcement adequate?

Are breach offences and any other associated criminal offences being pursued by police?

The number and rate of breach offences in the discrete communities has increased over the decade. As is the case with the increase in DV applications, an increase in breach offences is also generally considered to be positive, in that police are increasingly taking more enforcement action.

Police were perceived by community stakeholders to be doing their job by enforcing DV orders as well as they could in circumstances where breaches seemed to be an inevitable consequence of the cycles of violence in relationships. Victims are often reluctant to report breaches to police for the same reason they are reluctant to seek orders. However, some stakeholders reported that even reluctant victims were often happy with the outcome when perpetrators were incarcerated following a breach of DV offence.

There were mixed views about whether police were sufficiently acting to prosecute Criminal Code offences or were unduly relying on DV breach proceedings. Both community and police stakeholders pointed out that in circumstances where victims are often unwilling to proceed with charges, police use of DV breach proceedings is an effective way of achieving the same outcome of prosecuting and incarcerating perpetrators of violence and protecting victims.

As noted in this review, there are particular complexities in investigation and prosecution of DV matters. The police interviewed suggested that officers often have to make a decision on which offence (breach or Criminal Code) is most likely to result in a successful prosecution.

In 2010, the Cunneen report noted that many assaults in domestic relationships were being taken to court as DV breaches rather than assault charges, due to the lack of complaint from the victim (page 92, Cunneen 2010). However, the prevalence of DV breaches over assault charges did not seem to be affecting the outcomes; courts were taking the violence into account and imposing prison terms for DV breaches where they would otherwise be imprisoning the offender for the assault charge. Consultation for this review suggests that this may still be the case and that DV breaches are proving no less effective than assault charges in having perpetrators imprisoned.

Action 8

Recommendation 131 of the DV Taskforce Report focuses on increasing criminal prosecution of perpetrators by the QPS through enhanced investigative and evidence gathering techniques. It is expected that implementation of this recommendation may address shortcomings in evidence impacting on DV prosecutions.

Linkage 7

A number of legislative amendments recommended in the DV Taskforce Report have been enacted or introduced into parliament that will strengthen perpetrator accountability and increase the protection of DV victims. Specific relevant amendments contained in the *Criminal Law (Domestic Violence) Amendment Act 2015* and in the *Criminal Law (Domestic Violence) Amendment Bill (No.2) 2015* include:

- increasing penalties for breaches of DV orders;
- enabling charges for criminal offences to indicate that they occurred in a DV context; and
- making a provision for DV to be an aggravating factor on sentence.

It would seem that in the future, there may be less concern about a breach offence being preferred, due to a lack of evidence to progress a criminal code offence, given that the legislative amendments noted above are designed to enhance offender accountability and protection of victims.

What is preventing police from enforcing orders?

There remains a number of challenges for police in enforcing DV orders. A lack of evidence and victim and witness statements, high levels of intoxication of parties involved and the standard of proof required to proceed with an investigation were found in this review to be an impediment to enforcing DV orders or successfully prosecuting breach offences.

One of the themes that emerged in the interviews with community stakeholders was a dissatisfaction that more respondents were not arrested by police and taken into custody. Detention of perpetrators is dependent on the availability of evidence to charge an offender.

The arrest and detention of perpetrators may also be problematic in smaller stations in remote locations where staffing of the watchhouse facility, for an extended period of time, is limited or

the costs or logistics for transferring a detained suspect outside of the community are prohibitive. There appears to be a difficult balance for police between perpetrator accountability and protection of the aggrieved with the sensitivity and practical implication of custody of Indigenous offenders in small stations in remote locations.

Police also highlighted difficulties regarding the timing of court processes and remanding and application of bail in remote communities. Police commented that the infrequency of court sittings in remote locations can cause issues in terms of the overall protection of the aggrieved until determinations are made and inefficiencies in administrative processes related to service of documents and Fail to Appear warrants. The use of virtual court or video conferenced facilities was raised as a possible solution to some of these issues.

Action 9

As noted in the previous section, Recommendation 131 from the DV Taskforce focuses on increasing criminal prosecution of perpetrators by the QPS through enhanced investigative and evidence-gathering techniques and the implementation of this recommendation is expected to address shortcomings in evidence.

Action 10

Staffing levels, resource allocation and operational demands (including supervision of watchhouses) is an issue that arises in many of the smaller and more remote communities across Queensland. The QPS will continue to seek long term sustainable solutions to these complex issues.

Linkage 8

The trial of specialised courts for DV and other court reform work contained in the DV Taskforce report recommendations is expected to streamline process issues in remote locations in the longer term.

Is assistance to keep orders in place adequate?

Are police assisting parties to vary or extend orders?

The review found that police and other service providers are providing assistance to parties to vary orders to reduce their duration, or have non-contact conditions removed, although this was seen as a rare occurrence.

Community stakeholders had little awareness of the ability of courts to extend the duration of DV orders where a person is convicted of a DV offence. The extension of orders was a key area of concern for police. Police indicated that, where extensions to orders were not granted but the victim still required a protection order, the application process had to be reinitiated for a new order. This creates a significant time and resource impost for police. Police also spoke

about the potential for victims to be left vulnerable between the lapsing of one order and commencing the next.

Police interviews suggested there may be a preference by Magistrates to have the application process renewed, rather than extending existing orders. However, the reasons for this require further examination.

There were also comments suggesting police processes could be standardised to ensure an automatic flag was set up to alert relevant officers and police prosecutors that an order was about to expire and to determine whether an application to extend the order should be made to the court. This procedure was happening in many places where resources permitted but it did not appear to be a standardised approach in every area.

Linkage 9

It is understood that extension of orders is one of the terms of reference of the *Domestic and Family Violence Protection Act 2012* review and it is expected that the issues identified regarding extension of orders will be addressed through this process. The findings of this report will be shared with the inter-departmental working group for consideration in ongoing implementation.

Action 11

The QPS will examine the issue of alerting prosecutors about expiring orders in more detail to determine if any improvements can be made to standardise the approach across locations.

Are police referring parties to other organisations for assistance?

Community stakeholders were largely positive about the collaborative approach of police to working with other support services in the communities visited. In addition, the electronic referral process used by police appeared to be working well in most places. Effective collaboration was especially apparent in Doomadgee and Pormpuraaw, where long-serving OICs had built strong relationships with service providers such as women's services, CJGs and wellbeing and family centres.

Police indicated that there is a lack of support services that operate on a full time basis within communities. The practical and logistical challenges of service delivery to these remote communities remains an issue and one that is acutely felt by police who are often the only service provider other than teachers or health staff that are based within communities. The complex nature of the social issues underpinning DV and child protection issues requires skilled services that can operate within the unique context of Aboriginal and Torres Strait Islander cultures. While local support services may be limited, referral processes seemed to be working relatively smoothly in practice. Telephone follow up services however, were not seen as successful as face-to-face services.

A lack of services for males, both as respondents and victims was consistently raised as an issue by both community stakeholders and police.

Linkage 10

Both Recommendation 71 from the DV Taskforce Report which recommends an audit of services to ensure adequate resources for specialist DV services and Recommendation 11.2 from the Inquiry which is focused on improving the adequacy of universal, early intervention and family support services in discrete communities are expected to go some way to addressing some of these concerns by police about the lack of available support services.

Linkage 11

The QPS will raise the issue of a lack of services for men as both perpetrators and victims with the Department of Communities, Child Safety and Disability Services for consideration as part of implementation of Recommendation 9 of the DV Taskforce report which recommends a place based culturally integrated response to DV in discrete communities.

Final comments on the effectiveness of DV orders in discrete communities

The issues raised by the community stakeholders and police in this report are long standing issues with substantial complexities. As this review has highlighted, the nature and dynamic of DV and the unique cultural and environmental factors in these communities does present significant barriers to the effectiveness of DV orders.

The views of many of the police and community stakeholders in this review echo findings in previous research that victims often only report violence to police as a last resort, that victims often do not want relationships to end but only the violence to stop and are therefore not concerned with pursuing legal protections or having perpetrators charged with criminal offences.

There appeared to be a sense of resignation that breaches of DV orders were part of an inevitable cycle occurring in violent relationships. Police were mostly perceived to be doing their job in applying for and enforcing orders as well as they could. Although the DV legislation and use of DV orders is not considered to be breaking the cycle of violence by modifying behaviour, it is at least seen as providing police and courts with a legal avenue to protect victims through acting against perpetrators.

Further, the practical and logistical difficulties of delivering services in the more remote discrete communities poses substantial challenges. As the DV Taskforce report explains:

“Traditional responses predicated around the extraction of a victim from a place of danger, the prosecution of a perpetrator and/or the relocation of the victim in a new community, do not work in circumstances where they may be multiple perpetrators, where services are delivered by outreach, where there is no anonymity, no confidentiality and no new community in which a victim can start afresh”. (page 126, 2015).

Much of the intrinsic problem with what does not work in the current DV order system can be explained by these insights and the real solutions to tackling DV in remote communities must heed these realities.

The DV reform occurring as a result of the DV Taskforce Report and the child protection reform following the Inquiry presents a significant opportunity to improve the response to domestic and family violence and child protection in discrete Indigenous communities and it is hoped that the findings in this review will assist with the ongoing collaborative work and innovative responses to this complex and concerning issue.

Attachment 1

SUGGESTIONS FOR A NEW INTEGRATED RESPONSE MODEL

In the course of this review, a number of issues were raised by both community stakeholders and police which did not directly relate to the key research questions. For the information of those readers who may have a further interest in the broader system response to DV in Indigenous communities, this section contains suggestions from both the community stakeholders and police regarding the trialling of new integrated response models in discrete communities in accordance with Recommendation 9 of the DV Taskforce Report (Bryce, 2015).²¹ All stakeholders were supportive of the intent of the recommendation. However, community organisations in the communities consulted had some important feedback about elements of the recommended response. These findings will be shared with the relevant DV Taskforce inter-departmental Working Group for their information.

1.1 Developing the model

Stakeholders reinforced the sentiment in the recommendation that any new model would need to be developed in collaboration with the community, rather than imposed.

“The most important thing is that it is consultative – that it is not forced on them, that they are driving it. If the community is a part of it, the model will work and people will engage with it”. (Legal service provider/ community member)

Other stakeholders highlighted the importance of any new integrated service being delivered in a neutral way that did not exclude any families or sections of the community.

“It will work but you have to have the right people in there. There is the issue that in small communities, the only people that are available are those people in the community, and they have biases towards other members in the community. There are families that the local providers won’t accept. Outside service people need to be available to every family and they need to put themselves out there”. (Legal service provider/ community member)

1.2 Utilising a locally based shelter as a hub

The element of Recommendation 9 that focuses on using a women’s shelter as a hub was understandably supported by women’s service stakeholders.

“Another solution might be to make the women’s shelter bigger and have a more holistic service with education and counselling. A one-stop shop for women and they could stay here for a little bit longer than they are. At the moment, women don’t stay here long enough to be able to think it over. We need more of an incentive for them to stay”. (Women’s service worker)

The Palm Island women’s shelter already operates as a centre for delivering a range of programs for women, including women’s groups twice a week and workshops on parenting and other topics. It also has close relationships with the Family Support Hub, Safe House and

²¹ Recommendation 9: The Queensland Government, in collaboration with local communities, develops a place-based, culturally appropriate integrated response to domestic and family violence in discrete Indigenous communities which includes:

- A trial of integrated service provision in one discrete Indigenous community utilising a locally-based shelter as a hub for the provision of wraparound support services for women and children affected by domestic and family violence
- Considering an expanded role of CJGs in design and implementation of the co-located service response, ensuring that they are properly resourced and supported to undertake this role
- Increasing the funding for, and availability of community-driven and holistic responses to Indigenous male perpetrators.

Child and Family Service, because all these services are under the management of a single organisation, the Palm Island Community Company (PICC). To some extent, this already ensures a level of integration between services for women and children in Palm Island. For example, many activities are delivered jointly and referrals between the various services are more streamlined. There is also a standard intake form across the organisation and PICC has been working to simplify case management across its services.

In Doomadgee, it was noted that the women's shelter was only operating on an as-needed basis for emergency accommodation, whereas it had previously been fully functional as a women's support service. In recent years, several new social services have been established by government in Doomadgee, including a Wellbeing Centre, Child and Family Centre, PCYC and Youth Hub. However, coordination of service delivery between these services, delivered by different NGOs, was reported as being a constant challenge.

In Pormpuraaw, the women's shelter is operated by a community organisation, Pormpur Paanthu Aboriginal Corporation (PPAC), which operates as a hub for delivery of a wide range of services for women and men. As at Palm Island, the existence of a range of services under one organisation makes an integrated response and seamless referrals between services more achievable, and the service also has good relationships with the CJG and the health clinic.

"When we do our case management, a lot of it is right across the board, from the child care to the AODS [Alcohol and Other Drugs Services], to the women's shelter – we see the same people". (Service provider)

1.3 Culturally appropriate integrated support services

The DV Taskforce Report's recognition of the need for developing a new model in remote communities for provision of DV support services that are "culturally appropriate", "integrated" and "wraparound" resonated with the views expressed by many community organisation stakeholders. Many stakeholders took the view that imposing DV orders and enforcing breaches of the orders did not address the underlying causes of DV or effectively prevent DV occurring.

It was suggested that solutions to DV required intensive culturally appropriate interventions with perpetrators and victims and their families to deal with underlying issues such as alcohol abuse, relationships, mental health, cultural loss and other psychological issues. Furthermore, these issues could only be addressed in a holistic manner by looking at the dysfunction in whole family units rather than just individuals. Working with the family unit was seen as a more culturally appropriate approach than a focus on modifying the behaviour of individuals. And an integrated response to a family's needs requires careful coordinated case management of multi-pronged interventions.

"What I would really like to look at is how we resolve each family so there is no DV. If we took a look at one family unit at a time and say 'what does that whole family need?' You know, the kids aren't going to school, DV is happening... and drugs and alcohol... How do you get some sort of healing to stop the fighting. So you need to stop the drinking, the jealousy – because a lot of DV is [caused by] jealousy". (Service provider/ community member)

The above-quoted stakeholder, who worked for a service as well as being a member of a CJG and women's group, emphasised that in particular communities, there tended to be a small

number of families that were experiencing regular DV. This made an integrated case management approach essential, but also achievable.

“And you know that there are ones that call out constantly for DV breaches. We have 7-10 families who get called out every month consistently. So I'm thinking, how do we look at it from the whole family unit in that home? And try to get the police and the other services working together... [It requires] case management and looking after that one family, seeing how that works. And one model is not going to fit every family; it needs to be rejigged for each community”. (Service provider/ community member)

Several community organisation stakeholders spoke about the challenges of coordinating the case management of community members experiencing DV (both victims and perpetrators). It was noted that at Palm Island and Doomadgee, the Australian Government had funded projects to examine how to improve coordinated case management. A perceived obstacle was that services often worked in competition and in isolation, and some were seen as not being accountable.

Given this community stakeholder feedback, a hub that implements an integrated case management approach based on the family unit would also need to address male perpetrators' needs. In this case, a question to be addressed is whether it is appropriate that a women's shelter be the location for a hub for all the integrated services. The women's shelter might be an appropriate hub for interventions to protect women and children, but not for broader interventions aimed at healing the family unit. For example, members of a men's group observed that many programs were being delivered from the women's shelter to the exclusion of men, including parenting programs that should reasonably include fathers. Parenting is a good example of an issue that may underlie domestic and family violence that requires a holistic family-based intervention.

The Cunneen report called for the establishment of more emergency and support services for women in DV relationships (Part 7.1, page 111-114). In the current consultations, no significant concerns were raised about women's access to crisis accommodation, so this situation appears to have improved, although issues were raised about access to crisis accommodation for men and elders experiencing DV.

1.4 Expanding the role of CJGs

The DV Taskforce Report's recommendation to consider an expanded role of CJG in relation to DV responses was also generally supported by community stakeholders. Many stakeholders highlighted the important role that CJGs were playing in conducting mediation in some communities, which was seen as a tool that could be useful in tackling some forms of DV, although not all cases. The Pormpuraaw CJG explained that it conducts mediations for women who have been at the women's shelter.

“A lot of women who go to the women's shelter ask for a mediation with the justice centre so they can try and sort things out and when they go back out into the community they feel a bit [more] comfortable”. (Justice Group member)

CJG mediations are also used to deal with wider sources of family conflict in the community.

“Mediation stops a lot of arguing, a lot of fighting. It's supposed to air out. There is a lot of swearing. We try not to involve the police – let the elders deal with it – but if that doesn't work, then call the police... If it doesn't happen that week, we will wait until it cools off and then try again”. (CJG member)

In addition to conducting mediations to prevent disputes escalating to the point where the justice system is involved, some CJGs conduct mediations as a diversionary measure when matters have already gone to court. For example, at Palm Island and Pormpuraaw, the Magistrate occasionally adjourns matters to enable the CJG to conduct a mediation between a victim and offender and the outcome of the mediation is taken into account when the court finally deals with the matter (for example, a conviction might not be recorded).

One suggestion made was that a condition of a DV order could be the referral of the offender and/or victim to a CJG meeting. This was also a specific recommendation of the Cunneen report (Recommendation 12).

During the interviews, CJG coordinators were also seen as potentially playing an important role in assisting victims and offenders, and in referring people to appropriate services. This was also recommended for further exploration by the Cunneen report (Recommendation 14).

There were, however, some cautions raised by stakeholders in relation to expanding the role of CJGs. Two community stakeholders flagged the issue of neutrality as being important for CJGs, given that they are comprised of local community members. Other service providers cautioned that CJGs should not be overburdened with unrealistic expectations, given that they are staffed by only one coordinator and rely on members who are volunteers.

Many of the police interviewed supported the ethos of the CJG program but recognised that groups were often under-staffed and not sufficiently trained impacting on their effectiveness. These comments reflected some of the community attitudes regarding the impartiality of the groups and their ability to work with all members of the community and what was perceived as a 'lack of respect' for the CJG generally in the community,

Furthermore, it was noted that as they are funded by the DJAG, CJGs' current focus is working with offenders through the court process, and although they are also able to work with victims and pursue early intervention strategies, these are additional functions that would need to be resourced. The community organisation feedback reinforces the DV Taskforce Report recommendation's proviso that CJGs would need to be properly resourced and supported to take on additional roles.

1.5 Community-driven holistic responses to male perpetrators

One of the dominant themes raised by every community stakeholder and by most of the police was the need for a much greater focus on DV responses relating to men. This issue was raised in every interview, often unprompted, and by every category of stakeholder, from men's groups to women's groups to legal services and police. It is no surprise, therefore, that this element of the DV Taskforce Report's recommendation was wholeheartedly supported.

The nature of DV in Indigenous communities is such that interventions for men need to consider them both as potential victims as well as perpetrators, and likewise women need to be seen as potential perpetrators as well as victims. The community feedback in Chapter 4 highlighted the unique gender profile of violence in Indigenous communities, where the level of lateral violence sees large numbers of both men and women as victims. Yet, many stakeholders felt that the government's response to DV was predicated on the understanding of DV as it occurs in mainstream communities.

“Government funding, they only look at that issue for women.” (Female Justice Group member)

“You’ve got billions of dollars being put out for women’s resources, but nowhere near the same for men”. (Service provider – male)

The program and service gaps most commonly identified for men in discrete Indigenous communities fell into the following categories, which people saw as overlapping:

- Counselling programs for male perpetrators;
- Forums for men to talk about DV and other issues i.e. men’s groups or talking circles;
- Places for men to undertake activities i.e. men’s sheds;
- Places for male perpetrators to ‘cool off’;
- Places for male victims to escape violence i.e. men’s shelters;
- Accommodation for male offenders returning to communities.

1.6 Programs for male perpetrators

Most community stakeholders commented on the lack of programs for male perpetrators of DV. It was noted that the only current interventions for offenders were programs run by probation and parole staff, and even these were rare. Where offenders were in court-ordered programs, these were undertaken for compliance purposes and there was no follow-up.

“We have a program [in Mt Isa] for 8 weeks, [but it is] trying to change a lifetime of behaviour. It looks good for them in front of the court but once they are gone it’s so easy for them to fall into bad habits... It would help to have more programs in the community. [They] need something to go back to”. (Service provider)

“More concentration needs to be given to the men – to the perpetrators. We have some great community leaders here, men, who are trying to get more funding for men’s health programs... not men’s sheds, but more around our culture, and around healing, to address the generations of trauma... but no government will touch it. The only one is the Men Talk program here, and for men to attend that, it has to be after the orders... My understanding is that there is no specific program that has been offered on Palm Island for male perpetrators”. (Legal service provider/ community member)

Some stakeholders argued that the gap was not just the number of programs, but the type of programs targeted at men. Men who were interviewed believed that current programs did not address the underlying issues behind DV.

“It’s about strengthening you as a Murri fella, because there is white law and Murri law. You keep the Murri law and that is where you got the respect, which needs to be taught. The women get help all the time and when I see programs come to this community, it’s always for women and kids – where are the men? Nothing. And it’s good that you want to come here to talk to us because we don’t get heard. And the statistics show it is against us, but how do you educate a person to stop doing it [DV]? You can’t just keep arresting them”. (Men’s group member)

“The respondent is always the one left out. Because they are the bad guy at times..the only one (service) we have here is the Diversionary Service, or the Men’s Gathering... well-meaning but they aren’t properly resourced, they aren’t properly trained”. (OIC)

Two stakeholders felt that attendance at these programs should be mandatory, and could be a condition of a DV order. On the other hand, some stakeholders felt that many programs were only being attended for compliance reasons and were not having their desired effect.

The Cunneen report noted that the need for treatment and counselling for perpetrators had been raised in a number of contexts and received widespread support from stakeholders (Part 8.5 page 135). It recommended that courts look at ordering respondents to attend programs at the time that DV orders are made (Recommendation 13).

1.7 Forums for men to talk about DV – men’s groups

Some stakeholders emphasised the importance of men’s groups or similar forums for men to talk about DV and other issues affecting them.

“[At the men’s group] it’s just a conversation that they’ll manage to strike up. We had a few of them who were in relationships and walked out of them because they were fearful of the DV. And talking to these other mobs who are still in relationships helps a bit... If they’re not gathering and talking about it, it’s not preventing it”. (Former men’s group coordinator)

“We had the men’s group [but] it was a closed group only for men in their 40’s and 50’s who are already involved and are compliant. But it is very rewarding to see that they are concerned about their teenage sons and they ask how to deal with them”. (Men’s group coordinator)

A men’s group in Palm Island had been operating around the diversionary service for some years. At Pormpuraaw, a counsellor from a local community organisation was organising a men’s group, but with limited resources. At Doomadgee, a men’s group position was funded, but all stakeholders interviewed felt that the level of coordination and impetus on the part of the current provider was lacking.

“The local OIC here has started up a Men’s Group here in [community name withheld] which I want to continue. They have started liaising with the men who traditionally are perpetrators of DV helping them deal with what they are going through and why things happen. There is a mural in our watch-house depicting DV isn’t an Indigenous way, it has to stop and dealing with it, talking. Activities with the Men’s Group, a fishing comp, getting out and things like that, we would like to extend on a few other things and it’s still in its infancy..... I’m not sure if there are any aggrieved men in there at all. I would like to think that there are that would be an aspect that while they are talking about it they can put their side across as the aggrieved and you can say that their actions do hurt and it’s not right and put the other side of the story across. That’s one thing I’ll be looking into whether or not there are respondents and aggrieved because it is a Men’s Group to deal with DV. Is it just the one side or is it both”. (OIC)

The Cunneen report did not comment on stakeholders’ views about the merits of men’s groups.

1.8 Men’s sheds

Many stakeholders highlighted that the key to successful men’s groups and their therapeutic benefits was to organise them around meaningful activities for socialising and working. The Palm Island men’s group has a shed and some equipment where they are renovating outdoor furniture for public parks. People at Doomadgee spoke of the positive impacts of work that men had previously done in the community around leatherwork. At Pormpuraaw, some men were participating in art activities as a means of taking time out from domestic pressures. Community stakeholders felt that there needed to be more structured programs for these activities as part of a community response to DV prevention.

“... they haven't got the facilities to keep them occupied when they get out of jail so they turn back to alcohol... When we went to Lotus Glen [prison], we thought it's a shame that they have to go to jail to get those facilities. The men who went to Stuart Creek [prison] have made cigarette lighter holders, wallets and more. And they come out and tell us about that sort of thing. But they have nothing here [in the community] to keep them occupied.” (FRC member – female)

“And only women can go [to the shelter], not men. We need to get this men's group going because the men come back from jail and get back on the booze again and there's nothing for them to do. So, instead of just reporting [to probation and parole], [they should] go to the men's group and do art, so the men's group can report back to whoever – to the probation people, to the justice group...” (FRC member – female)

Apart from arts and crafts, some stakeholders saw men's sheds and men's groups organising camping trips or sporting teams. In addition, community stakeholders spoke about men's sheds being a place not just for diversionary activities, but also for delivering counselling programs, workshops and interventions for men, as highlighted above.

1.9 Facility for male perpetrators and victims

One of the highest priorities stakeholders identified regarding prevention of DV in remote communities was the establishment of men's shelters/cooling off places. Such facilities were generally discussed as serving the function of both a place for male perpetrators to cool down and also a safe shelter for men to escape violence, similar to women's shelters. Stakeholder feedback emphasised that the nature of conflict within families in Indigenous communities means that it is an indistinct line between when a man is a DV perpetrator or victim.

Mt Isa stakeholders spoke about the men's group and safe place that was functioning effectively in that town.

“[The Mt Isa men's group] was started by an Indigenous man years ago because one of the things was that men didn't have a safe place to go for a variety of reasons – to either blow off steam or to remove themselves from the situation or talk amongst other men... Jealousy is a major issue that contributes to DV. Having that particular forum... if you have just a bunch of men together, the idea is that the woman wouldn't be jealous and he could go there without retribution or incrimination and use that as a therapeutic thing for his purposes. There is a men's group in Doomadgee. If you have an identified, recognised place to go... that'd be awesome because they could remove themselves from the situation and ideally then they wouldn't have that whole jealousy issue with the partner...” (Service provider)

A former men's group coordinator suggested that a men's shelter could work in conjunction with a night patrol that could pick up men and bring them to the shelter for cooling off. This had previously operated at Doomadgee. Community stakeholders at Palm Island and Pormpuraaw also reported that a men's shelter had been discussed regularly.

“We keep asking for a men's shelter... some place for the men to be or even a time out shelter – just the same as for the woman. Just to get their head together. It's always been in the pipeline, it's just never happened”. (Pormpuraaw justice group member – female)

“People [the local DV service] are in the process of trying to get together a Men's Group and are talking positively about getting some sort of similar thing to a DV shelter for men, because a lot of times you'll suggest to the men to go away and cool down, there's no place for them, they go down to the beach or go for a walk and then come back.... They suggest if there is a Men's shelter they can go there and cool down, talk to somebody, have a cup of tea, sober up, something around those lines” (OIC).

A potential limitation raised by two stakeholders is that it would be difficult to accommodate someone at a men's shelter who was highly intoxicated. In these cases, one stakeholder suggested that the watchhouse might be a better option. The function of a men's shelter as a place for men to escape domestic or family violence was seen as equally important as its function and as a cooling off place for male perpetrators.

"Well, they haven't got an appropriate place here like they do for women. They've got the men's shed but it's not to cater to anyone who needs a safe place. I think the real need here is a men's shelter. They feel powerless to escape, but at least they know they've got a bit of protection if they're constantly receiving the wrong end of the stick... Because a lot of the men do get beat up badly by their woman" (Former men's group coordinator)

The idea of a men's shelter was the main suggestion that emerged from a men's DV discussion group at Doomadgee. The participants suggested that it might be located out of the community, on an outstation. However, another stakeholder thought that it would be better located in the community, so that access to alcohol could be better controlled and so that other service providers would be able to deliver services and programs at the facility.

One of the possible functions of a men's shelter would be to accommodate male offenders returning to the community who are unable to return home due to DV related conditions of court orders. The need for facilities for men to cool off or escape DV was not raised in the Cunneen report.

1.10 The need for a focus on couples and families

An issue raised by community organisation stakeholders that is not canvassed by the DV Taskforce Report recommendation is interventions focused on couples. The recommendation refers to protection for women and children and programs for male perpetrators but not interventions to address relationships. Many stakeholders felt this was a key gap in current responses to DV in discrete Indigenous communities.

"You get women coming in there and someone says 'why should I do counselling when so and so isn't doing it?' A lot of men will do it, the women won't do it... It's not working. If they're doing it together then at least it's got a family thing going – the same thing they're teaching one person, they're teaching the other". (FRC member)

"To lead a family you need the man and woman to talk, and be educated, and the programs they run today are not for couples, they are for that individual because he has done the wrong, but I think if you want to address the whole problem, you need the couple". (Men's group member)

At Pormpuraaw, the local community organisation had previously been funded to run a program with dysfunctional families at a community outstation, known as Baa's Yard. Opinions were mixed about the success of this intervention, which involved up to 4 families residing on the outstation for 3-4 months to receive intensive counselling and support. Some Pormpuraaw stakeholders were disappointed that it had not had the desired impact on all the families who participated.

"The sad thing is they fell back into old habits [when they returned to community]. But the service was always there for follow-uppage And one family turned their lives around". (Service provider)

“And the facility is still out there, doing nothing. And God knows how much it cost. And I think there may have been one family who have used it and are still off the grog. But I suppose one is better than nothing. But \$3 million is quite a lot of money to save a few... And the communities can ask for that sort of thing, but that won't solve the problem. That's just assistance, but they can't stop the root cause”. (Service provider)

However some community stakeholders expressed caution about the use of counselling programs with couples, due to cultural considerations and the possible power imbalance in relationships. The Cunneen report also noted that stakeholders had suggested more programs for counselling couples (Part 8.5 page 135).

1.11 Changing community attitudes to violence

A final area raised in the community organisation feedback that is not specifically canvassed in the DV Taskforce Report recommendations is the fundamental challenge of changing attitudes towards DV in discrete Indigenous communities. Many interviewees expressed the view that all of the responses to DV in terms of DV orders and shelters and programs were ‘band-aid’ solutions that did not tackle the core issue of how to change attitudes and behaviours. This was suggested as a key element of any community based response to DV.

“I really do see early intervention could work... you have to start early. That education around violence... that kind of early intervention stuff – not waiting until something is ready to boil over. People talk to me about [breaking the cycle] and say we need to band together and protest. But we'll go down and only I will be there. Not enough people get involved”. (Service provider/ community member)

Stakeholders emphasised that to tackle attitudes to DV, it was necessary to focus on young people.

“A more effective response] would have to go back to the root cause, really. It would be about educating kids. There are families around here who are fantastic... they should be the leaders or role models. And maybe the community should chastise the ones who are doing DV more than they do, rather than accepting it... We have kids in the Safe House and kids where child safety comes in and we go through the notes, asking whether they've been drunk this month, whether there's been any violence and all that. So we go through things like that, but it still continues and the poor kid's probably 8 now but they're on a hiding to nothing because by the time they have kids they'll probably do the same thing”. (Service provider)

“Younger women] don't even know that they are victims of domestic violence. They have grown up with it. Early intervention is needed, starting at Kindergarten, going through primary school and high school. Your boyfriend calling you a bitch 24/7, that's not OK. We are strong advocates for early intervention. Getting out to the schools and working with kids”. (Legal service provider/ community member)

One stakeholder cautioned that running DV awareness only with younger people was not sufficient, because the whole community needs to be involved.

“They tried to do a DV awareness march for the school. Again, the children... the school... did the march, and then you hardly saw any parents. And [the women's service] set up the candlelight vigil and you had the whole community bypass it down to the canteen. So they waited a couple of weeks, and moved it down to the canteen, but we had to pretty much push the candles into people's hands”. (Service provider)

Some stakeholders saw a role for police in providing DV education and awareness in schools and the wider community. The emphasis placed by community organisation stakeholders on community wide DV awareness and education suggests that this should be a central element

of a “place-based, culturally appropriate integrated response to domestic and family violence in discrete Indigenous communities”, as recommended by the DV Taskforce Report.

The Cunneen report also highlighted comments made by stakeholders regarding the need for more community education and awareness about domestic and family violence (Part 7.2, page. 118). The report recommended whole-of-government strategies to provide community education in Indigenous communities. The feedback of community organisations in the 2015 consultations suggest that this remains a key gap in the response to DV. As highlighted earlier, a section of the DV Taskforce Report and a number of associated recommendations are focused on enhanced community education and awareness campaigns.

1.12 The role of police in a new integrated response

While community stakeholders did not have many specific suggestions about the role that police should play in a new integrated response along the lines suggested by the Bryce report, it was implicit in their feedback that police need to be key partners in tackling DV in remote Indigenous communities. Community stakeholders emphasised that the community’s core expectation of police is to provide the initial emergency response to protect victims of domestic and family violence, but that they are further expected to work with other services in providing follow-up assistance to victims and to work to address the behaviour of perpetrators.

Police were also asked generally how they might see a new integrated or hub model working in their community and whether they had any suggestions for development of such a model. A number of police raised a lack of a permanent workforce as a potential issue which would affect the successful delivery of services on the ground in these communities (as identified in Chapter 6, section 6.4.1 ‘Lack of support services’, pages 71-72). While police were pragmatic about the difficulties recruitment and retention of service workers in these communities presented, they reiterated that without permanent staff located in communities, victims and respondents were unlikely to develop a rapport with staff and feel comfortable in using their services. Many OICs suggested that while outside workers provided a degree of independence which could counteract cultural family and clan issues, they also needed to be embedded in communities so that they became trusted.

“... I think we need more, or the external agencies have to be better promoted in town and actually have to be here. And they have to be here long enough to gain the respect of the community. Because obviously while the community will see them as an independent party there’ll be a lot of people initially who will be reluctant to talk to them until the time they gain their respect.” (OIC)

One OIC suggested that co-location or involvement of police in a hub type model could lead to competing or conflicting interests; where police are concerned with offender accountability while the service provider is focused on offender counselling. Information sharing was also seen as a potential barrier to a truly holistic model. Police also spoke about the competitive funding arrangements for non-government organisations operating in these remote communities that often meant there was duplication of services, a lack of coordination of service delivery and lack of transparency of outcomes or value for money.

Another police officer suggested that many of the complex underlying social issues in communities such as overcrowded housing, poverty, alcoholism and unemployment needed to be addressed in order to have any significant impact on domestic and family violence rates.

Attachment 2

Community Interview Questions

The overall objective underpinning the Community consultations was to identify and review any potential gaps in discrete Indigenous communities in relation to adequacy of enforcement of orders, adequacy of assistance to parties to seek orders, and adequacy of support for parties to keep orders in place. On the basis of this overall question, the following focus questions were developed to guide the qualitative data collection:

1. Explaining data trends

Focus question: Can community organisations provide insights that help interpret the data trends in terms of domestic violence orders and breaches in particular communities?

2. Expectations of police role

Focus question: What role do community organisation stakeholders expect police to play in addressing domestic and family violence in discrete Indigenous communities?

3. Assistance to seek orders

Focus question: Do community organisation stakeholders believe that police provide adequate assistance to parties to seek domestic violence orders?

4. Enforcement of orders

Focus question: Do community organisation stakeholders believe that police adequately enforce domestic violence orders?

5. Assistance to keep orders in place

Focus question: Do community organisation stakeholders believe that police provide adequate assistance to aggrieved persons to keep domestic orders in place?

6. Police role in integrated service delivery model

Focus question: What do community organisation stakeholders think about a recommendation for a new integrated service delivery model to respond to domestic and family violence in discrete Indigenous communities, and what should police's role be in this model?

Attachment 3

Police Phone Interview Questions

Expectations of police role

- 1 In general, what do you think the community expects of police in responding to domestic violence incidents?

Explaining data trends

- 2 The trend in the number of applications for DV orders and breaches in your community over the past 10 years has increased. Why do you think that is?
- 3 In relation to DV generally in your community, what improvements, if any have you noticed? Why?

Reporting to police

- 4 Who usually reports domestic violence incidents to police? Why do you think that is?
- 5 What if any, issues may be impacting on reporting to police?
- 6 What are police response times like generally for a DV incident?

Assistance to seek orders

- 7 Does the aggrieved generally want assistance when police are called?
- 8 Does the behaviour of the aggrieved impact on the police response? How?
- 9 Is paperwork an issue when applying for DV orders?
- 10 Do both parties involved generally understand the DV order and process? If not, why is that?
- 11 What role if any do PLOs play in the DV order process in this community?

- 12 Can you please explain any issues with regards to using non-standard conditions on orders in this particular community?

Enforcement of orders

- 13 What are the main challenges, if any, when investigating a breach of an order?
- 14 How common are criminal offences attached to the domestic violence incident at hand?
- 15 Are there external factors influencing use of police powers to arrest and detain the respondent?

Assistance to keep orders in place

- 16 What assistance do police provide to vary or extend orders?

Police role in integrated service delivery

- 17 What is the relationship between police and support services in this community?
- 18 Are there enough support services for both parties (aggrieved & respondent)?
- 19 How do you think police should work with other services to tackle domestic violence in this community?
- 20 Any other final comments or suggestions?

Attachment 4

Community organisations and groups consulted

The following breakdown indicates the types of community organisations and groups consulted through the interviews and focus groups:

- Indigenous-specific legal services: 3 interviews involving 4 individuals;
- Women's shelters: 2 interviews with coordinators;
- Women's groups: 2 interviews with women's group coordinators, 1 focus group; with 5 individuals;
- Family Responsibilities Commission: 1 focus group with 5 individuals;
- Community Justice Groups: 2 interviews with coordinators; 1 focus group with 6 members; 1 interview with CJG support officer;
- Men's groups: 2 interviews with coordinators, 1 focus group with 6 individuals;
- Safe Houses: 2 interviews with coordinators;
- Health clinics – 1 : interview with manager; 1 focus group involving 4 staff;
- Family support service providers (Wellbeing Centres, Child and Family Centres, counselling services etc.): 3 interviews with coordinators/staff;
- Councils: 1 interview with Community Services Manager;
- Domestic violence resource services (regional centres): 1 interview with coordinator;

Attachment 5

Police response to a DFV incident

Call is received and incident is logged

- A telephone call is made to 000 or 131444 (Policelink call centre) reporting an incident in which domestic and family violence is suspected to be occurring.
- The call centre operator logs an incident code 312 (domestic violence) into the police dispatch system (QCAD or IMS²² dependent upon location), and checks QPS systems (QPRIME²³ and QCAD) to identify any previous calls for service to the nominated address, any current domestic violence orders relevant to the involved persons, and any records of weapons or weapons licences relevant to the involved parties or address.

Police respond to the incident and begin an investigation

- Available police respond to the incident, attending the incident location and taking up with involved parties to commence an investigation as to whether domestic violence has occurred.
- The officers' investigation of the reported incident should include the following²⁴:
 - entering the place using reasonably necessary force and remaining at the place for the time reasonably necessary to establish whether domestic violence is occurring, or has occurred before the officer's arrival, at the place;
 - separating the involved parties, if both present;
 - inquiring from all parties who are present whether any weapons are present at the place, have been used, or have been threatened to be used;
 - interviewing the parties with the view of identifying the person most in need of protection, who would become the aggrieved in any police proceeding;
 - when interviewing the aggrieved:
 - a) ensuring a written record of the aggrieved oral testimony is obtained. Where practicable, the aggrieved should be requested to sign the written record; and
 - b) conducting a protective assessment (see Attachment 6) to determine the risk of increased severity and/or frequency of domestic violence;
 - interviewing the respondent. Any statement or affidavit taken from the respondent should include whether they agree with the allegations, wish to contest the matter or consent to the application for a protection order. Action should not be stopped or delayed due to the inability to locate or interview the respondent where there is sufficient evidence to achieve the legal sufficiency required to issue a protection order;
 - interviewing any witnesses;
 - when justified, it may be appropriate to make a cross application to prevent or reduce domestic violence. The commencement of a cross application is to be approved by a shift supervisor.

²² Queensland Police Service maintains the following dispatch systems: Queensland Computer Aided Dispatch (QCAD) and the Incident Management System (IMS).

²³ QPRIME is the Queensland Police Records and Information Management Exchange system.

²⁴ Process paraphrased from s. 9.6.2 of the QPS Operational Procedures Manual.

- if it is necessary to prevent a danger of personal injury to another person or to prevent damage to property, taking the respondent into custody;
- ascertaining whether any children (including unborn children) are in need of protection and taking appropriate action;
- gathering sufficient evidence to enable determination of the application for a protection order by a court. Sufficient evidence may include, but is not limited to:
 - a) medical evidence;
 - b) statements/affidavits, e.g. aggrieved, witnesses, neighbours;
 - c) prior contact by the aggrieved with domestic violence support agencies, if any;
 - d) photographic evidence of the aggrieved or the premises; and/or
 - e) a statement or affidavit from the investigating officer concerned;
- determining if any other domestic violence orders are in existence;
- determining if any Family Law Court orders are in existence;
- complying with the relevant procedure where statutory offences are identified, in particular:
 - a) offences against the Criminal Code;
 - b) offences against Part 4, ss. 49A to 129: 'Possession and use of weapons' of the *Weapons Act*;
 - c) offences against Part 7, ss. 177 to 179: 'Contravention of orders, notices or conditions of release' of the *DFVPA*; and
- issuing a QPB32A: 'Field Property Receipt' for any thing seized.

Police decide what action should be initiated

- If, in the course of investigating the DFV incident, officers detect that a criminal offence/s has been committed, relevant action is taken to prosecute the offence. Prosecution may not proceed if there is insufficient evidence or prosecution is not deemed to be in the public interest.
- From the results of the initial investigation, officers will determine which of the following options is the most appropriate course of action:
 - 1 – sufficient evidence of domestic violence can be identified, and no current domestic violence order is in place:
 - a) issue a Police Protection Notice;
 - b) apply for a Temporary Protection Order;
 - c) apply for a Protection Order; or
 - d) detain the respondent and apply for a Protection Order;
 - 2 – sufficient evidence of domestic violence can be identified, and a current domestic violence order is in place:
 - a) apply for a variation of an existing Protection Order; and/or

b) process a Breach of Domestic Violence Order.

3 – insufficient evidence of domestic violence can be identified, and the incident is finalised.

Police initiate a course of action

- As detailed above, a number of options are available to police when responding to a suspected incident of domestic violence. Descriptions are provided in Attachment 6.

Police complete and serve relevant paperwork, update electronic information management systems and finalise incident

- Dependent upon the course of action taken by police in response to an incident, a series of documents, forms and activities will need to be completed before the incident can be considered finalised. Specific documents, forms and activities relevant to each type of police action are included in the information pertaining to each action type, presented in the following pages.
- Incidents of domestic violence are entered into the QPRIME system as 'occurrences'. QPS policy states that:

An officer:

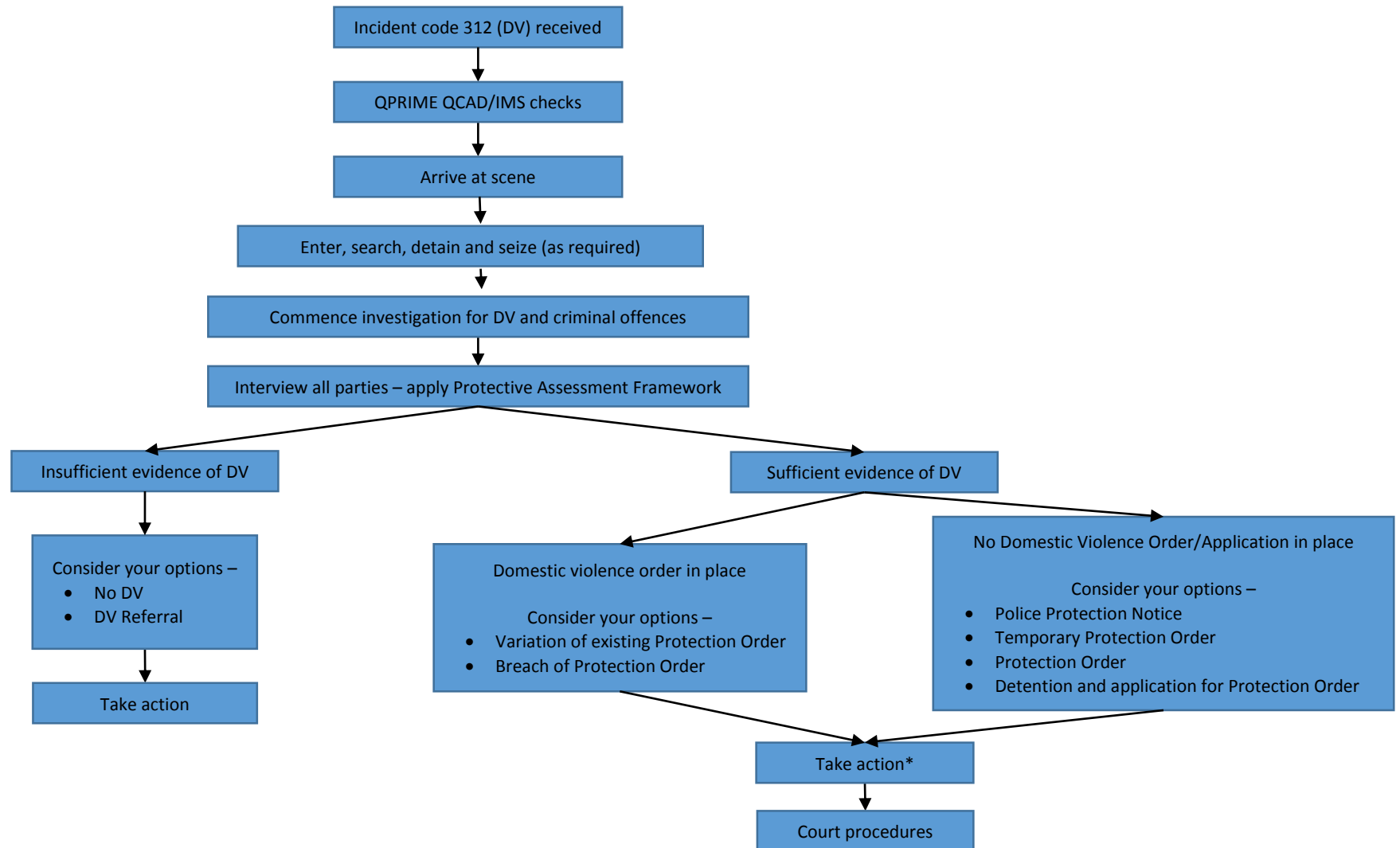
- i) attending an incident reported as domestic violence; or
- ii) making an application for a domestic violence order

is to enter or cause to be entered particulars of the reported domestic violence incident and any application on QPRIME prior to terminating duty that day.

Court proceedings

- Once an application for a temporary protection order, a protection order, a variation of an existing order or a breach of an order comes before a court, the QPS Prosecution Corp assumes responsibility for making the police case to have an order granted or varied, or prosecuting the breach. If a private application is made, a police prosecutor may be available to assist the applicant in court.

Attachment 6: Flowchart of police response to a DFV incident



*Note – Officers should, as part of this action, refer all parties involved in domestic violence to an appropriate support provider, where consent has been obtained.

Attachment 7

Actions available to police

When sufficient evidence of DFV exists

Police will consider relevant action in regard to prosecution of any criminal offences detected during their investigation of the DFV incident in consultation with the aggrieved and any named persons, as required.

Police Protection Notices (QP 0899)

A police protection notice (PPN) gives police the power to issue short-term notices to protect victims from further domestic violence that may occur before a matter is heard by a court. Service of a PPN provides immediate protection for the aggrieved and holds the respondent accountable for his or her actions. Further, the notice is intended to allow the officers to resolve a domestic violence incident without needing to leave the incident location to complete an 'Application for a Protection Order'.

To issue a PPN, a police officer must:

- 1 – be at the same location as the respondent;
- 2 – reasonably believe the respondent has committed domestic violence;
- 3 – reasonably believe there is not a current domestic violence order or police protection notice that:
 - i) names the respondent at the current incident as the respondent, and the other person involved in the domestic violence as the aggrieved;
 - ii) names the respondent at the current incident as an aggrieved, and the other person included in the domestic violence as a respondent (that is cross-notices are not permitted);
- 4 – reasonably believe a police protection notice is necessary or desirable to protect the aggrieved from domestic violence;
- 5 – reasonably believe the respondent need not be taken into custody;
- 6 – obtain approval of a supervising officer who is not involved in the investigation of the domestic violence incident; and
- 7 – have not terminated the shift on which the report of domestic violence was received.

A PPN lasts until the court considers the application for the protection order and has provision to include a cool-down condition, requiring the perpetrator to remain away from a stated premises and to have no contact with the aggrieved for up to 24-hours.

Where a cool-down condition is issued, the respondent may be prevented from doing any or all of the following:

- (i) entering, attempting to enter, remaining at or approaching within a stated distance of the stated premises:
 - (a) where the respondent and aggrieved live together, or previously lived together; or
 - (b) where the aggrieved lives;
- (ii) approaching, or attempting to approach within a stated distance of the aggrieved; or
- (iii) contacting, attempting to contact, or asking someone else to contact the aggrieved, for the period of the cool-down condition.

Police officers will consider the accommodation needs of the respondent and take any reasonable steps necessary to ensure respondents have access to temporary accommodation in these circumstances. In the case that the respondent is a child and the PPN includes a cool-down condition, the police officer must arrange temporary accommodation for the child and transport them to the accommodation.

In discrete Indigenous communities, cool-down conditions may impose additional challenges for police where alternative accommodation for the perpetrator is unavailable.

When completing a PPN, an officer must:

- 1 – obtain approval from a supervising officer to issue the PPN;
- 2 – record the grounds to support the making of a domestic violence order;
- 3 – select a court date for the matter to be heard. If the magistrate court sits:
 - i) at least once a week, within the next five working days;
 - ii) within the next 28 days, at the next available court date; or
 - iii) if the next sitting date is more than 28 days after the notice is issued, the respondent is to be advised that another magistrates court will notify him or her of a mention date prior to the hearing at the next local magistrates court sitting date.
- 4 – determine whether a cool-down condition is necessary;
- 5 – serve a copy of the notice on the respondent;
- 6 – complete the Affidavit of Service contained within the notice;
- 7 – give a copy of the notice to the aggrieved and explain details including any cool-down condition;
- 8 – ensure a signed copy of the PPN is filed with the clerk of the court where the person is to appear within three days of service of the notice and in any case before the date set for the respondent's date of appearance on the notice; and
- 9 – distribute documentation in accordance with instructions on the notice.

The police officer issuing the PPN is to explain the following to the respondent, the aggrieved, or the parent of a child who is a respondent or an aggrieved:

- i) the purpose of the PPN;
- ii) the duration of the PPN;
- iii) the conditions of the PPN;
- iv) the consequences of the respondent contravening the PPN;
- v) that the aggrieved cannot consent to the respondent contravening the PPN;
- vi) that the PPN is an application for a protection order by a police officer;
- vii) the date, time and location where the hearing of the application will be heard; and
- viii) the right of the respondent or aggrieved to obtain legal advice before attending court.

Temporary Protection Order

A temporary protection order is issued for a short period until a court decides whether or not to grant a full protection order. The respondent to a temporary protection order does not need to have been served with an application, nor do they have to appear in court for a temporary protection order to be made.

A police officer:

- i) may apply for a temporary protection order against a person if the police officer reasonably believes:
 - a) the application for a protection order will not be decided sufficiently quickly to protect the aggrieved from domestic violence;
 - b) a temporary protection order is necessary or desirable to protect the aggrieved from domestic violence;
- ii) must apply for a temporary protection order if the respondent has been released from custody under release conditions and the date for the hearing is more than five business days after the date of release.

A police officer may apply for a temporary protection order via telephone, fax, radio, email or other similar means. To be granted a temporary protection order, the police officer completes an Application for a Protection Order form then makes contact with a magistrate who will decide whether a temporary protection order will be issued. If a temporary protection order is made, the police officer completes a Temporary Protection Order form, and must personally serve a copy of both the Temporary Protection Order and the Application for a Protection Order on the respondent and on the aggrieved as soon as possible.

Protection Order

A protection Order is issued by a Magistrate's Court against a respondent if the court is satisfied that all of the three following circumstances exist:

- 1 – a relevant relationship exists between the respondent and the aggrieved;
- 2 – the respondent has committed an act of domestic violence against the aggrieved; and
- 3 – the protection order is necessary or desirable to protect the aggrieved from domestic violence.

Persons who can be protected by a domestic violence order include the aggrieved; a child of the aggrieved; a child who usually lives with the aggrieved; a relative of the aggrieved; and an associate of the aggrieved.

An application for a protection order may be made by an aggrieved; an authorised person for an aggrieved; a police officer; or a person acting for an aggrieved.

A protection order may be made for a period of up to two years, however if there are special circumstances it can be issued for a shorter period.

Where multiple respondents have been involved in the same or substantially the same acts of domestic violence against an aggrieved, the applications should be collated and presented to the court for hearing together. A single QPRIME occurrence is to be created with additional QPS DFV reports where more than one respondent is involved.

Detention and application for a Protection Order

Detention under the *PPRA*

When initially responding to a report of domestic violence officers may exercise the power to detain anyone at the relevant place for the time reasonably necessary to establish whether domestic violence is occurring, or has occurred before the officer's arrival at the place. Once an officer is reasonably satisfied domestic violence is occurring, or has occurred before the officer's arrival at the place, the officer may detain a person:

- i) to prevent acts of violence or damage to property; and/or
- ii) to search the person for anything that may be, or has been used to cause injury or damage or for an act of domestic violence.

Detention under s. 609 of the *PPRA* is not the same as taking a person into custody under s. 116 of the *DFVPA*.

When it is appropriate to take a person into custody, the officer must first 'undetain' the person under the *PPRA* prior to taking the person into custody under the *DFVPA*. Detention under the *PPRA* is to be recorded as a separate enforcement act in QPRIME to the person's custody under the *DFVPA*.

Custody under the *DFVPA*

When an officer receives a report of domestic violence and on investigation there are reasonable grounds for suspecting a person has committed domestic violence and:

- i) another person is in danger of personal injury; or
- ii) property is in danger of being damaged,

by a respondent, the officer is to take the respondent into custody whilst conducting an investigation into the report of domestic violence and make an application for a domestic violence order.

When the respondent is taken into custody, the investigating officer should inform the aggrieved and any named persons at the earliest opportunity of action to be taken by police including the result of any inquiries/applications where appropriate. The investigating officer is to consult with the aggrieved in relation to any safety concerns if the respondent returns to the premises.

Where the respondent has committed criminal offences, officers may consider detaining or arresting the person under the *PPRA* in place of detention under the *DFVPA*. Such detention or arrest for an offence stemming from a domestic violence incident under the *PPRA* is not an alternative to investigating and taking appropriate action in relation to the domestic violence.

The investigating officer is to arrange for the respondent to be released on conditions which address all the issues, including the safety concerns of the aggrieved and whether or not the respondent should be excluded from any premises.

Where an officer receives a report of domestic violence and on investigation there is no evidence to justify taking the respondent into custody, the officer is to, where sufficient evidence is available, make an application for a domestic violence order.

A respondent taken into custody must be taken to a:

- i) holding cell at a police station or establishment and delivered into the custody of the most senior officer present; or

ii) watchhouse and delivered into the custody of the watchhouse manager, as soon as reasonably practicable by an officer.

Where a respondent has been taken into custody for the making of a domestic violence order application a copy of the:

i) DV01: 'Application for a Protection Order' and QP 0937: 'Release from custody conditions';

ii) Temporary Protection Order; or

iii) Protection Order,

is to be served and explained to the respondent.

The respondent is to be informed by the officer serving the documents, that release conditions under the *DFVPA* continue in force until:

i) where the court:

- makes a domestic violence order; or
- makes a temporary protection order with the same conditions as the release conditions; when the order is served on the respondent or otherwise becomes enforceable; or

ii) the court adjourns the application and a domestic violence order is not issued or the court dismisses the application, prior to their release from custody.

At the time the respondent is to be released from custody, the above documents will be served and explained to them by either the applicant officer or, if they are unavailable, the most senior releasing police officer on duty, where practicable.

Where the applicant officer serves the:

i) DV01: 'Application for a Protection Order' and QP 0937: 'Release from custody conditions'; or

ii) Temporary Protection Order,

on the respondent, the officer is to ensure the DV21A: 'Statement of Police Service' is completed.

The service of documents under the *DFVPA* is to be recorded within the relevant QPRIME occurrence prior to the reporting officer terminating duty.

Custody of a child as a respondent

Where a child is taken into custody as a respondent, the officer is to:

i) take the child into custody only as a last resort and for the least time justified in the circumstances;

ii) hold the child in custody separately from any adults; and

iii) notify:

a) a parent of the child, unless a parent can not be found after making all reasonable inquiries; and

b) the Chief Executive (Child Safety) if the child is in the custody or under the guardianship of the DCCSDS.

Detention period

A respondent may be detained under the *DFVPA* until the later of the following occurs, but for no more than four hours:

- i) if it is reasonably practicable to bring the person before a court whilst in custody, to appear and be held until:
 - a) a domestic violence order is made by the court and served on the respondent;
 - b) the hearing of a domestic violence order application is adjourned; or
 - c) the application is dismissed;
- ii) an application for a domestic violence order is completed and release conditions are served on the respondent; or
- iii) a temporary protection order is obtained after application by an officer and served on the respondent.

When a respondent is in custody and:

- i) a domestic violence order is made by a court;
- ii) a temporary protection order is issued on police officer's application; or
- iii) an application for a protection order is made,

the detention period may extend to a maximum of:

- i) eight hours from when the person is first taken into custody if an officer reasonably believes the person is intoxicated to the extent they are incapable of understanding the nature and effect of an application, order or release conditions; or
- ii) four hours initially from when a person is taken into custody if an officer reasonably believes:
 - a) it is necessary to make arrangements to provide for the safety of the aggrieved or a child. The respondent may be held until the arrangements have been completed; or
 - b) the respondent's behaviour is so aggressive or threatening that it presents a continuing danger of personal injury or property damage. The respondent may be held until the danger of injury or damage has ceased.

In the case of (ii) above, an officer may seek to extend the detention period for a maximum of a further four hours upon application to a magistrate. Prior to making the application to the magistrate, the officer applying for an extension of the detention period must:

- i) complete a DV06: 'Application to extend detention period' including the grounds to support the further detention;
- ii) advise the respondent or the respondent's lawyer of the application and provide a copy of the application to the respondent;
- iii) ask the respondent, or the respondent's lawyer, whether:
 - a) the application is supported or opposed by the respondent; and
 - b) the respondent or the lawyer wish to make a submission to the magistrate in respect to the detention period extension application.

An application for an extension of the detention period may be made at the same time a domestic violence order or temporary domestic violence order is made.

Release of respondent to receive treatment or recover from intoxication

A respondent may be released from custody to receive treatment or recover safely from intoxication. In such circumstances, procedures are place regarding the service of relevant protection order documents.

Standard conditions

There are standard conditions included in all domestic violence orders, namely:

that the respondent–

- a) be of good behaviour towards the aggrieved and not commit domestic violence against the aggrieved; and
- b) if the order includes a named person who is an adult-
 - i) be of good behaviour towards the named person; and
 - ii) not commit associated domestic violence against the named person; and
- c) if the order includes a named person who is a child-
 - i) be of good behaviour towards the child; and
 - ii) not commit associated domestic violence against the child; and
 - iii) not expose the child to domestic violence.

If the court issuing the order fails to include the standard conditions, they are taken to be included on the order.

Breach of a Domestic Violence Order

Contravening a domestic violence order (or a police protection notice) constitutes a criminal offence, and, as such, police must gather the evidence to support prosecution of the offence. Specific documents are required to be produced for prosecution of this offence, including:

- a copy of the bench charge sheet, complaint and summons or notice to appear; and
- a fully completed Court Brief (QP9) including the criminal history of the defendant and a copy of the order or conditions breached or a computer print-out of the relevant entry from the police information management system.

Recording of a Domestic Violence Offence

Where an officer commences a proceeding for a criminal offence against another Act that is also a domestic violence offence, they are to include as ancillary wording in the charge that the offence is also a domestic violence offence.

When commencing a prosecution against a person for a domestic violence offence officers should assess whether the offender's previous criminal history has been reviewed to identify any other offences which may be defined as a domestic violence offence. Where a person's criminal history has not previously been reviewed, officers commencing a proceeding against a person for a domestic violence offence should review the person's criminal history and identify any previous convictions that may also be defined as a domestic violence offence

Upon identifying a previous conviction for an offence that may also be a domestic violence offence, officers should complete documentation to apply for the conviction to be recorded as a domestic violence offence

Where a defendant is found guilty, regardless of whether the conviction is recorded or not, if the court is satisfied that the offence is also a domestic violence offence, the court will order the matter be recorded on the person's history as a domestic violence offence.

Where a court orders a matter be recorded on the person's criminal history as a domestic violence offence, or convicts an offender of a Breach of a Domestic Violence Order, prosecutors may apply to the court for an order that any previous offences identified as a domestic violence offence to be recorded as a domestic violence offence on the person's history

Variation of an existing Domestic Violence Order

Officers responding to an incident of domestic violence where an existing protection order is in place should provide any necessary assistance to the aggrieved regarding an application for variation of a domestic violence order. QPS policy states however that:

Officers should be aware that a request by an aggrieved for the variation of a domestic violence order may be due to threats, intimidation or other acts by a respondent.

Following investigation of an incident of domestic violence, an officer should make an application for variation of an existing protection order on behalf of the aggrieved or named person if:

- i) the change will benefit the aggrieved or named person; and
- ii) there is sufficient reason for doing so.

In order to make an application for variation of an existing order, an officer must:

- i) subject to the responsibility of the investigating officer to present sufficient evidence to the court, record the grounds to support an application, including, whenever possible, a statement or affidavit from the aggrieved;
- ii) open the relevant QPRIME occurrence and complete a DV04: *Application to Vary a Domestic Violence Order*;
- iii) select a suitable date, time and place for the hearing of the application;
- iv) ensure the documents are filed with the clerk of the court where the application is to be determined;
- v) complete any other relevant statement/s outlining the circumstances which necessitate the variation of the order;
- vi) complete the first page of a *Domestic Violence Application Information Sheet* (QP0931);
- vii) give or cause the aggrieved and any affected named persons to be given a copy of the DV04: *Application to Vary a Domestic Violence Order*;
- viii) personally serve, or cause to be served, a copy of the application and notification of hearing on the respondent; and
- ix) complete a DV21A: *Statement of Police Service* on the respondent.

When an order is made by a court in response to an application to vary a domestic violence order, the relevant QPRIME occurrence must be updated to reflect this fact.

When insufficient evidence of DFV exists

No Domestic Violence

Where an incident has been reported to police as domestic violence and, at the conclusion of the investigation, an officer determines that domestic violence has not occurred due to:

- i) a relevant relationship not existing between the involved persons (for example, two housemates arguing); or
- ii) where a relevant relationship exists but where no act of domestic violence has occurred or been alleged to have occurred (for example, a couple in a relevant relationship shouting at a television program or arguing with their neighbours)

the officer contacts their supervising officer to seek approval to finalise the occurrence as Domestic Violence – No DV. The occurrence must be recorded on QPRIME as *Domestic Violence – No DV*.

Domestic Violence Referral

Following conclusion of an investigation, if there is insufficient evidence to support an application for a domestic violence order the investigating officer is to:

- 1 – advise all parties of the processes for making a private application for a domestic violence order;
- 2 – advise the parties of support agencies, and consider offering a referral via SupportLink to a local domestic violence support agency;
- 3 – tell all parties that if a private application is made, a police prosecutor may be available to assist the applicant in court, if requested;
- 4 – arrange contact with a supervising officer for approval to finalise the occurrence as *Domestic Violence – Other Action*; and
- 5 – create a domestic violence occurrence on QPRIME.

If an officer determines that there is insufficient evidence to make an application for a domestic violence order, he or she must provide their authorising supervisor with all relevant information and reasons why no further action is desired and obtain authorisation prior to finalising the investigation.

Prior to terminating duty it is the investigating officer's responsibility to enter, or cause to be entered, the particulars of the domestic violence incident on QPRIME as a *Domestic Violence – Other Action*. The officer must include sufficient information in the domestic violence occurrence to explain why a domestic violence application was not made.

Attachment 8

DV Applications by Gender of Aggrieved and Respondent, for selected discrete communities

This data represents a person count. A person can file multiple DV Applications. It represents Applications by gender of the aggrieved and the respondent involved in the Application. It enables the identification of DV gender trends in each of the communities for the period 2012/13 to 2014/15 only. Some data discrepancies are identified between the totals in Aggrieved and Respondent compared with the total number of Applications by discrete communities in Table 3, page 27 due to counting and extraction variance in QPRIME.

Community	2012/13		2013/14		2014/15		TOTALS	
	Aggrieved	Respondent	Aggrieved	Respondent	Aggrieved	Respondent	Aggrieved	Respondent
Aurukun								
Female	37	10	51	13	38	5	126	28
Male	7	34	10	48	4	37	21	119
Cherbourg								
Female	56	30	81	25	39	10	176	65
Male	20	46	22	77	10	39	52	162
Doomadgee								
Female	70	28	79	27	47	15	196	70
Male	17	60	27	81	13	44	57	185
Hope Vale								
Female	33	12	25	3	20	5	78	20
Male	7	28	3	25	9	26	19	79
Kowanyama								
Female	77	35	60	22	87	26	224	83
Male	29	70	15	53	14	74	58	197
Lockhart River								
Female	20	4	21	9	13	3	54	16
Male	4	18	9	22	2	11	15	51
Mornington Island								
Female	50	25	35	10	45	12	130	47
Male	25	50	8	32	8	41	41	123
Palm Island								
Female	86	25	118	43	87	30	291	98
Male	19	82	39	115	30	88	88	285
Pormpuraaw								
Female	22	5	19	4	40	7	81	16
Male	4	21	3	18	6	39	13	78
Woorabinda								
Female	69	27	58	26	23	10	150	63
Male	17	57	15	47	5	18	37	122
Yarrabah								
Female	137	54	99	36	64	25	300	115
Male	47	133	44	107	26	65	117	305
Northern Peninsula (2)								
Female	47	10	41	8	33	6	121	24
Male	6	40	13	46	5	32	24	118
Total Female	704	265	687	226	536	154	1,927	645
Total Male	202	639	208	671	132	514	542	1,824

Source: Unpublished QPS ZAP Data (24 March 2015)

Note 1: Data by Gender of the Aggrieved and Respondent not available for Mapoon, Mossman Gorge, Napranum and Wujal Wujal

Note 2: Northern Peninsula includes Bamaga, Seisia, Umagico, Injinoo and New Mapoon

Attachment 9

Number of DV Order Breaches by gender in selected discrete communities (1)

The data included in the tables below represents the period 2004/05 to 2013/14.

Discrete Community	2004/05			2005/06			2006/07			2007/08			2008/09		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Aurukun	30	1	31	49	-	49	42	9	51	23	3	26	26	2	28
Cherbourg	48	2	50	61	6	67	60	9	69	50	8	58	45	8	53
Doomadgee	20	1	21	32	5	37	27	6	33	26	5	31	15	1	16
Hope Vale	42	4	46	42	-	42	28	8	36	22	-	22	20	2	22
Kowanyama	46	10	56	52	4	56	57	12	69	41	12	53	34	7	41
Lockhart River	14	-	14	22	1	23	25	-	25	38	9	47	14	2	16
Mapoon	1	-	1	3	-	3	-	-	-	1	-	1	2	-	2
Mornington Island	56	4	60	19	1	20	53	7	60	40	4	44	39	4	43
Napranum	17	5	22	29	-	29	25	10	35	24	5	29	17	7	24
Palm Island	52	-	52	108	10	118	81	18	99	108	10	118	149	17	166
Pormpuraaw	32	8	40	41	7	48	22	3	25	16	4	20	10	-	10
Woorabinda	67	6	73	50	3	53	54	9	63	61	8	69	69	7	76
Wujal Wujal	11	3	14	8	1	9	9	-	9	14	-	14	6	3	9
Yarrabah	81	9	90	82	11	93	81	13	94	74	10	84	72	9	81
Northern Peninsula	29	1	30	39	8	47	31	2	33	22	3	25	32	-	32
Total	546	54	600	637	57	694	595	106	701	560	81	641	550	69	619

Discrete Community	2009/10			2010/11			2011/12			2012/13			2013/14		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Aurukun	38	6	44	56	6	62	24	2	26	25	2	27	39	2	41
Cherbourg	82	4	86	74	22	96	96	21	117	82	8	90	64	17	81
Doomadgee	29	3	32	33	6	39	63	5	68	72	10	82	64	16	80
Hope Vale	46	4	50	40	-	40	38	2	40	74	-	74	64	-	64
Kowanyama	36	11	47	16	9	25	29	5	34	78	4	82	85	19	104
Lockhart River	30	5	35	7	3	10	12	-	12	14	-	14	14	-	14
Mapoon	2	-	2	4	1	5	8	2	10	9	-	9	12	-	12
Mornington Island	44	2	46	27	1	28	28	1	29	47	7	54	53	4	57
Napranum	21	4	25	19	3	22	19	3	22	31	4	35	50	3	53
Palm Island	169	22	191	132	15	147	185	26	211	147	5	152	181	22	203
Pormpuraaw	18	4	22	12	1	13	11	3	14	14	2	16	16	5	21
Woorabinda	53	4	57	65	5	70	64	9	73	77	17	94	86	15	101
Wujal Wujal	7	4	11	4	2	6	8	1	9	9	1	10	11	-	11
Yarrabah	82	14	96	96	19	115	139	9	148	151	22	173	136	30	166
Northern Peninsula	19	3	22	32	6	38	32	4	36	53	6	59	53	5	58
Total	676	90	766	617	99	716	756	93	849	883	88	971	928	138	1,066

Source: Published QPS Data (QPRIME) [24 March 2015]

Note 1: The Statistics provided do not represent a unique person count, as a person may be the victim of more than one offence within the reference period.

Attachment 10

Population levels state wide and discrete communities

Years	Statewide Population	Statewide Growth	Discrete Communities Population	Discrete communities Growth
04/05	3,918,494		17,146	
05/06	4,007,992		17,094	
06/07	4,111,018		17,597	
07/08	4,219,505		18,042	
08/09	4,328,771		18,378	
09/10	4,404,744		18,926	
10/11	4,476,778		19,327	
11/12	4,568,205		19,544	
12/13	4,651,912		19,689	
13/14	4,722,447	21%	19,850	16%

Source:

- Discrete communities' population: Australian Bureau of Statistics, Regional Population Growth Cat. No. 3218.0, unpublished data (derived by the Queensland Government Statistician's Office), accessed March 2015;
- State population: Australian Bureau of Statistics Cat. No. 3101.0 Australian Demographic Statistics, December 2014;

Attachment 11

Police Strength by discrete community (1)

The data included in the table below represents the period 2004/05 to 2013/14²⁵.

	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	Per Cent growth
Community	Approved Police Strength	Approved Police Strength	Approved Police Strength	Approved Police Strength	Approved Police Strength	Approved Police Strength	Approved Police Strength	Approved Police Strength	Approved Police Strength	Approved Police Strength	
Aurukun	7	8	8	8	10	10	10	10	10	10	43%
Cherbourg	6	6	7	7	7	7	7	7	7	7	17%
Doomadgee	9	9	9	10	10	10	10	10	10	10	11%
Hope Vale (3)		2	2	4	4	4	4	4	4	4	100%
Kowanyama	6	8	8	8	9	9	9	9	10	10	67%
Lockhart River	2	2	2	4	4	4	4	4	4	4	100%
Mapoon/Napranum (2)	6	9	9	9	9	9	9	9	9	9	50%
Mornington Island	6	6	6	10	10	10	10	10	10	10	67%
Northern Peninsula (5)	5	6	6	6	6	8	8	9	10	10	100%
Palm Island	7	16	16	16	16	16	16	16	16	16	129%
Pormpuraaw	2	2	2	2	4	4	4	4	4	4	100%
Woorabinda	4	5	5	10	10	10	10	10	10	10	150%
Wujal Wujal (4)			2	2	2	2	2	2	2	2	0%
Yarrabah	6	8	8	10	10	10	10	10	10	10	67%
Total	66	87	90	106	111	113	113	114	116	116	76%

Notes:

1. These figures provided are based on police strengths for each division at the specified point in time. Other resources that are attached to District, Regional and Central Function org. units that may provide support to these Communities have not been included
2. Mapoon and Napranum Communities are both policed by Weipa Division
3. Policing of Hope Vale occurred from Cooktown until the station was constructed and opened in late 2005
4. Policing of Wujal Wujal occurred from Hope Vale and Cooktown until the station was constructed and then opened in August 2008
5. Northern Peninsula includes Bamaga, Injinoo, New Mapoon, Seisia and Umagico

²⁵ The data was provided by Planning & Analysis, Workforce Strategy, HR PSBA, and it reflects the budgeted positions.