



University of
South Australia

Powerful Interventions

Improving the use and enforcement of
Intervention Orders as a tool to address
family and domestic violence in South
Australia

A collaborative Research Project between UniSA and Uniting
Communities

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Australia

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POWERFUL INTERVENTIONS: Improving the use and enforcement of Intervention Orders as a tool to address family and domestic violence in South Australia

Report prepared for: Law Foundation of South Australia

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Acknowledgement of Country

We acknowledge the Traditional Custodians of the lands on which we work and live, and recognise their continuing connection to land, water, and community. We pay our respects to Elders past, present, and emerging. We acknowledge the stories, traditions, and living cultures of Aboriginal and Torres Strait Islander peoples on this land and commit to building a brighter future together.

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Executive Summary

The Powerful Interventions: Improving the use and enforcement of Intervention Orders as a tool to address family and domestic violence in South Australia Report has been prepared following collaborative research between Uniting Communities and UniSA, funded by the Law Foundation of South Australia's Brian Withers Grant. The aim of this research is to improve the quality of South Australia's response to family and domestic violence by identifying practical reform options to increase access to and enforcement of Intervention Orders in South Australia. This aim aligns with the strong demand within the South Australian community to see the Intervention Orders regime improved.

Central to this research is the ability to engage with and learn from those with lived experience accessing, drafting, implementing and enforcing Intervention Orders and responding to the breaches. It is through this lived experience voice that the specific problems and challenges facing the current system can be identified and sustainable options for future improvement become clear.

As part of this Research, 63 anonymous survey responses were received, 48 from service providers and 15 from people with lived experience. Twenty individual interviews were conducted (ten with persons with lived experience and ten with service providers) along with four focus groups. When taken together, the data analysed in this Report reveals a system under acute pressure, that is failing to meet the needs of those it is designed to protect. We learnt that there are many hard-working police officers, public servants, court officials and specialist lawyers, social workers and other support services dedicated to ensuring the Intervention Order system provides meaningful protection for those experiencing, or at risk of, family and domestic violence. However, we also heard loud and clear that these positive initiatives and genuine individual efforts are not enough to address the structural problems and cultural deficits evident within both the legal framework governing Intervention Orders and the practical implementation of these legal tools.

Publicly available Courts Administration Authority data told us that the number of Intervention Orders issued is increasing over time, and so are the number of breaches of these Orders. Those with lived experience *accessing or engaging* with the Intervention Orders system told us that they want the following changes to be made:

- 1. Call out gender inequality in every aspect of our society. Respect Women.**
- 2. Put victim survivors at the centre. Protect her. Believe her. Empower her. Invest in her. Give her options.**
- 3. Get the first response right.**
- 4. Respond quickly. Make him leave. Help her stay safe on her terms. Victim-survivor-designed Orders.**
- 5. Give victim survivors control over the variation process.**
- 6. Actively monitor whether the perpetrator is complying with the order and prosecute all breaches quickly.**
- 7. Design penalties that respond to the needs of the victim survivor first.**
- 8. Empower victim survivors to recover and rebuild.**

Those with experience *providing services* within the Intervention Orders system told us that they want to see the following priorities be implemented by government and by leaders within the South Australian community:

1. Improve awareness and understanding of the complex causes and serious impacts of family and domestic violence within the community, and the role Intervention Orders can play in responding to family and domestic violence. Ensure that everyone understands that all forms of family and domestic violence - including coercive control - are unlawful.

2. Improve the quality and consistency of ‘first responses’ to incidents or reports of family and domestic violence and requests for Intervention Orders - including by mandating trauma-informed, family and domestic violence sensitive training for police, lawyers, court officials and other service providers.

3. Clearly identify and streamline the different pathways for obtaining an Intervention Order and empower and support applicants to exercise control over the conditions of the Intervention Order, the process of collating and presenting evidence, and the service and duration of Intervention Orders and the process of variation.

4. Proactively promote compliance with Intervention Orders by: streamlining processes for varying the conditions of Intervention Orders; empowering protected persons to report breaches of Intervention Orders; improving the quality and consistency of police responses to reports of breaches and tailoring penalties to address recidivism and promote behavioural change.

These priorities are unpacked in further detail in the Key Findings and Recommendations contained in this Report, which aim to equip lawmakers and policy makers with the best available information as they seek to give effect to a shared commitment to reduce the prevalence of family and domestic violence in our community to guard against any unintended consequences that can flow from well-intentioned but under-researched reforms.

Research Aims and Questions

An Intervention Order is a justice response mechanism used to protect the safety of adults and children who are at risk of family and domestic violence. These Orders are designed to physically separate perpetrators and potential perpetrators from victims and potential victims, and to provide legal mechanisms to enable victims and protected persons to enforce these protective orders through criminal sanctions. However, given the prevalence of non-compliance and breaches of Intervention Orders by family and domestic violence perpetrators,¹ and the barriers faced by victims and survivors seeking to enforce these orders, the Intervention Order regime has been described as a weak form of protection, with the potential to undermine other elements of family and domestic violence policy.²

¹ See e.g. Department of Social Services, Australian Government, ‘Preventing and addressing violence against women and children: consulting on the next National Plan’ available at <<https://engage.dss.gov.au/wp-content/uploads/2021/04/slide-deck-updated-13-april-2021.pdf>> (accessed 5 May 2022); South Australian Police, *Annual Report 2019-2020*, (2021) South Australian Government, available at <<https://www.police.sa.gov.au/about-us/annual-reporting/annual-report-2019-20/agency-performance#agency-specific>> (accessed 5 May 2022).

² See e.g. Douglas, Heather & Fitzgerald, Robin, ‘The Domestic Violence Protection Order System as Entry to the Criminal Justice System for Aboriginal and Torres Strait Islander People’ (2018) 7(3) *International Journal for Crime, Justice and Social Democracy* 41–57; Fitzgerald, Robin, Douglas, Heather & Heybroek, Lachlan, ‘Sentencing, Domestic Violence, and

High quality, evidence-based and locally oriented research is urgently needed to enable the South Australian community and the legal profession to interact meaningfully with this reform landscape. Central research questions explored in this Project include:

- How do service providers and individuals experiencing or at risk of family and domestic violence interact with the Intervention Orders system?
- How do service providers and individuals experiencing or at risk of family and domestic violence access or information and/or provide support to those seeking to access the Intervention Orders system?
- How do service providers and individuals experiencing or at risk of family and domestic violence interact with Police and Courts in South Australia?
- What processes and criteria apply when considering and granting Intervention Orders in South Australia?
- What processes and criteria apply when dealing with breaches of orders and penalties?
- What options for improvement and reform have been identified by those with lived experience of engaging with the current Intervention Orders system in South Australia?
- What options for improvement and reform have been identified through comparative analysis of similar laws in other Australian jurisdictions and comparable overseas jurisdictions?

Overview of Methods

This project used a mixed methods design, informed by a feminist intersectional approach, to explore and investigate the operation of the Intervention Orders system in South Australia. The research design, data collection and analysis, and key findings were underpinned by principles of integrated knowledge translation,³ which included input from an Advisory Group and research participants with lived experience interacting with the Intervention Order system. In line with this approach, the *Powerful Interventions* project:

- Analyses the existing data relating to the use and enforcement of Intervention Orders in South Australia;
- Analyses the existing data relating to compliance and breach of Intervention Orders in South Australia;
- Identifies the key legal, social, cultural and other barriers to the effective enforcement of Intervention Orders in South Australia;
- Analyses qualitative data obtained through ethics-approved surveys and interviews undertaken with South Australian participants with lived experience accessing, drafting, implementing and enforcing Intervention Orders and responding to the breaches;⁴ and

the Overrepresentation of Indigenous Australians: Does Court Location Matter?' (2019) *Journal of Interpersonal Violence* 88626051988591–886260519885916.

³ Doane, GH, Reimer-Kirkham, S, Antifeau, E & Stajduhar, K, '(Re)theorizing Integrated Knowledge Translation: A Heuristic for Knowledge-As-Action' (2015) 38(3) *Advances in Nursing Science* 175–186.

⁴ As part of the qualitative component of this Research, 63 survey responses were received, 48 from service providers and 15 from people with lived experience. Twenty individual interviews were conducted (ten with persons with lived experience and ten with service providers) along with four focus groups.

- Identifies practical reform options to address or remove these barriers and increase access to and the effectiveness of enforcement of Intervention Orders in South Australia.

Further details about the Project's methodology and theoretical framework is set out below.

Lived Experience Voice

The Researchers and Advisory Group recognise and value the lived experience of victim survivors, police officers, lawyers, court officials, social workers and others within the Intervention Orders system who are committed to ensuring Intervention Orders provide meaningful protection for South Australians experiencing family and domestic violence in South Australia. We have heard how the work of dedicated police officers, court officials and other service providers has saved lives and promoted the rights of women, children and others experiencing family and domestic violence. For example, one research participant recalled the deep relief she felt after obtaining an Intervention Order from Police.

There's going to be a barrier between me and my husband. There's going to be something to stop him from going near me.⁵

We have also heard about the problems in the system. We interviewed people with lived experience of engaging with the Intervention Orders system. They told us that:

The Intervention Orders regime is not working for Aboriginal women.⁶

The system is really bad. I have had decades of domestic violence.⁷

The system that is being built to protect women from this type of abuse can be turned into a weapon in the hands of those men that are seeking to perpetuate control against their partner or their family.⁸

Fighting and dealing with failing systems is exhausting let alone when you are traumatised and dealing with children after fleeing [domestic violence].⁹

Those with lived experience in the system said they want the following changes to be made:

1. Call out gender inequality in every aspect of our society. Respect Women.

Stereotypes and beliefs about the roles men and women should play in families and in the community are hurting people and killing women. They are crippling the systems that are supposed to protect women and children from harm. They are stopping us from stamping out violence. They are holding women back from the economic and educational opportunities they deserve.

Gender inequality starts at birth. The minute they are born we tell young females that you are a 'little girl' and males that they are a 'little man'. We are telling males they are more important, superior to females. From birth

⁵ Lived Experience interviewee LE5.

⁶ Service Provider interviewee A13.

⁷ Lived Experience interviewee LE9.

⁸ Lived Experience interviewee LE6.

⁹ Lived Experience REDCAP Survey Respondent.

we are telling males that they are superior. And they hear this message all their life. We are also telling little girls that they are inferior. Our culture is wrong. It's not just Intervention Orders which are just a band aid. Until you start fixing it from birth, the rest of it is a waste of time.¹⁰

2. Put victim survivors at the centre. Protect her. Believe her. Empower her. Invest in her. Give her options.

Currently the system is designed with the perpetrator at the centre. His behaviour and responses dictate what happens and when. Victim survivors feel sidelined, ignored, asked to bear the burden of all the work needed to substantiate and enforce an Intervention Order. Some victim survivors need alternative options that will enable them to rebuild and repair relationships. Some victim survivors need police-enforced containment strategies.

I just felt so alone and ashamed and lost. I used to have a good life, an independent life. He's taken it all away from me. I'm in safety housing miles away from everything, with no friends or support. Everyone expects me to rebuild my life from scratch, from here, where I am on Job Seeker payments. D is still going to work each day, still sleeping in his own bed. I've got to sort all this out from here. There's been no repercussions for him. I shouldn't be here.¹¹

No legislation is good enough until people with lived experience have been consulted. I don't want the peak bodies being the only ones having a say. All of these people with lived experience are not being heard. They are the ones that have the knowledge. If you need to get 1000 people together you should. It's so important. It needs to be loud and clear in this report, and every review. Don't just speak to the peak bodies, every time you don't go to the coal face you miss the point.¹²

3. Get the first response right.

Some police officers, lawyers, court officials and other service providers are responding with care and knowledge, empowering women. But not everyone gets the first response right. Invest in training that unpacks what 'trauma informed' care really means in practice so that every front-line worker (police officer, registrar, lawyer, social worker) can respond safely, thoughtful and effectively every time.

It's a lotto to see whether you are interacting with a police officer who understands domestic violence or not.¹³

I was told to come back Monday to apply for [an Intervention Order], despite displaying bruises ... at front desk of police station. I insisted that I at least get a card to say I had been there, then left dumbfounded and scared for my children. I was unheard.¹⁴

¹⁰ Lived Experience interviewee LE9.

¹¹ Lived Experience interviewee LE1.

¹² Lived Experience interviewee LE9.

¹³ Lived Experience interviewee LE6.

¹⁴ Lived Experience REDCAP Survey Respondent.

*I didn't feel like I was taken seriously or believed. [I was] made to feel like I was being judged as hysterical, ridiculous and time wasting. This made me feel unsafe to approach police again which was fairly scary, because they were the place I was supposed to be able to count on to help, and I wasn't sure where else I could go.*¹⁵

4. Respond quickly. Make him leave. Help her stay safe on her terms. Victim-survivor-designed Orders.

Use interim Intervention Orders to separate the perpetrator from the victim survivor and provide immediate protection. Make him leave. Help her stay. Then empower victim survivors to design ongoing orders that *work for them*.

*Why are women being told to leave their homes with their children when perpetrators are able to continue to live at home attend work and be part of the community? Women have to wake up their children leave their homes to escape violence. They should be the ones to stay. He should be the one to leave.*¹⁶

*I wish, instead of all these people saying, why don't you leave. I want them to say, 'why did he do it?', 'why didn't he stop'. It's victim blaming. It should be about dealing with the perpetrator's aggression.*¹⁷

*When you are in that moment you are not in charge of anything. You are beholden to the process. You don't want to do anything yourself. You are experiencing the coercive control. You want a person in authority to step up. You want the authorities to confront the defendant about the abuse that's being perpetrated.*¹⁸

5. Give victim survivors control over the variation process.

Use risk assessments to empower victim survivors to work with the courts to design or redesign Intervention Orders that work for them. *Never* change orders without input from victim survivors.

*The Magistrate has a responsibility to the protected person to involve them in all the stages. How can they possibly make a decision without having all the information?*¹⁹

*There is no lineage in the system and no consistency of service, provision and support from police and other service providers. This leads to victim survivors, constantly having to recap, recount, retell re-prove experiences of abuse and violence. And when this occurs at the junction of a crisis, then the victim has to take on this whole process again and again.*²⁰

6. Actively monitor whether the perpetrator is complying with the order and prosecute all breaches quickly.

¹⁵ Lived Experience REDCAP Survey Respondent.

¹⁶ Service Provider interviewee A13.

¹⁷ Lived Experience interviewee LE9.

¹⁸ Lived Experience interviewee LE6.

¹⁹ Lived Experience interviewee LE9.

²⁰ Service Provider interviewee A13.

The victim's behaviour can *never* justify a breach or lessen its seriousness. Every breach violates the victim's safety and demands a legal response.

*Any behaviour that tries to control, manipulate or intimidate another person, either physically or emotionally, should be taken seriously.*²¹

*It is awful, as a survivor of domestic violence and having dealt with in excess of 40 plus breaches only ever resulting in one arrest no charges. I have had to relocate my family seven times since I left domestic violence and we now live remotely to try and keep safe. The system fails. Police won't act. I always get told they don't want to escalate the situation or that they can't act because technically the wording on the order doesn't cover what he has done as a breach it's ridiculous. It is also terrible that perpetrators are allowed to contest orders and drag it out so they can intimidate you in court and instil ongoing fear when they drag you through the process.*²²

*He's dangerous. There's a history of his violent and abusive conduct on the file and reported threats to kill on the file. The big thing is the arson that he's been convicted for and served time for. I'm being dragged through this system. I'm a victim survivor, and it's costing me out of my own pocket to get legal advice because the prosecution do not fulfil their duties.*²³

7. Design penalties that respond to the needs of the victim survivor first.

Ensure justice responses respond to the psychological profile of the perpetrator and prioritise the safety of the victim survivor. This means sharing data across agencies to better identify repeat offenders and use evidence-based models to address re-offending.

*At the heart of the issue is why isn't the man being held accountable? They wouldn't need so much money spent to domestic violence if the man was held to account.*²⁴

*The jails are full of young Aboriginal people. There is a lost generation of Aboriginal people.*²⁵

*The fighters for justice, us black women, are physically tired and sick. We need others to step up and fight.*²⁶

8. Empower victim survivors to recover and rebuild.

Invest in strategies that recognise the long term impact of all forms of gendered violence, including financial and psychological violence. Make it easier for victim survivors to: get meaningful and stable work or training/education, access long term quality housing, achieve financial security and to rebuild friendships and support networks.

²¹ Lived Experience REDCAP Survey Respondent.

²² Lived Experience REDCAP Survey Respondent.

²³ Lived Experience interviewee LE8.

²⁴ Lived Experience interviewee LE1.

²⁵ Service Provider interviewee A13.

²⁶ Service Provider interviewee A13.

I think there needs to be a group for people to talk about what they have been through, with people who have been through the same thing, perhaps with social workers there for support.²⁷

I'd really like to see some kind of focal point, resources for [domestic violence] survivors. To support people to rebuild their lives. Getting the universities and tertiary institutions to help with retraining and teaching, employment. Somewhere where people can break back in. Including social life, as well as financial security and employment.²⁸

These priorities for change have directly informed the Recommendations made in this Report. Further information about the experiences of the research participants with Lived Experience of the Intervention Orders system can be found in the Data Analysis section of this Report, along with the perspective of Service Providers who work within the system.

²⁷ Lived Experience interviewee LE3.

²⁸ Lived Experience interviewee LE9.

Lived Experience Voice: Case Studies

The following Stories are drawn from the accounts shared by research participants with lived experience interacting with the Intervention Orders system in South Australia. Key details have been changed to preserve the identity of all parties. It should be noted that some of these accounts refer to interactions with police and courts that took place some years ago. They may not reflect current police or court practice.

Mae-Li's Story

Mae-Li's Story

Mae-Li was experiencing domestic violence and abuse at the hands of her former husband (referred to as H). She sought assistance from a specialist case worker who told Mae-Li that domestic violence and abuse was unlawful and that she had rights under the law to make this stop happening. The case worker explained that Mae-Li could get an Intervention Order issued against H and that would offer some protection against the abuse and violence.

When Mae-Li went to the police station, the police explained what her legal rights were and explained what an Intervention Order was all about. The police explained how an Intervention Order could help stop Mae-Li's husband from going near her or contacting her in any way. At this time, Mae-Li felt very happy. She said: *"There's going to be a barrier between me and my husband. There's going to be something to stop him from going near me."*

Mae-Li was smiling so much at the police station. It was like she couldn't believe that there would be a law that would help protect her from this. She felt like this law could offer her justice. And she felt that this is how she was going to be protected. She felt that someone out there is bigger than her husband.

It was the Family and Domestic Violence section of the police that were providing her with assistance. And it was this section of the police that applied for an Intervention Order on Mae-Li's behalf. These police officers also went with Mae-Li to the Court to have the Intervention Order confirmed.

At the start of the Intervention Order process Mae-Li had a feeling of being protected and safe. But later on, she felt it really made no difference. Without substantial evidence that can be confirmed by other people H is able to manipulate the system. He knows the law around Intervention Orders and he is able to engage in conduct that doesn't result in an evidence trail for what he's doing.

Mae-Li is scared because she knows H has breached the Intervention Order before and there's been no police action, and now H thinks he can work around it. Mae-Li feels like she's not safe and not protected.

"How can I actually show evidence? How can I show what he could do to me?"

H also employs others within Mae-Li's particular migrant community in Adelaide. This gives H considerable influence and control over those other members of the community.

Other cultural factors are in play, particularly when it comes to women leaving men in Mae-Li's particular migrant community. Mae-Li wants to exercise her legal rights and draw attention to H's breaches of the law, but she's scared of the ramifications.

Mae-Li worries whether she's safe, or whether it would be better not to report this because she feels that the police might not believe her side of the story.

Mae-Li considers that the way power and influence is exercised in her particular migrant community is a significant factor impacting the effectiveness of the Intervention Orders regime. In Mae-Li's experience, the unequal gender roles within her community added to her experiences of isolation and impeded her ability to seek protection against abuse and violence.

"You have to have a man to be there for you. And if you don't have a male figure in everything that you do, you are not respected and you have no status in the community. And if you attempt to leave your husband you are ridiculed and humiliated"

Mae-Li considers that it should be possible for the police or the courts to go out to the community where the perpetrator is based and explain what an Intervention Order means for that community, not just the individual. This should include an explanation of the rights of the woman protected by the Order, and the restrictions on the man's conduct. This should be explained to the head of the community, then this could assist in the community understanding Intervention Orders.²⁹

Lillian's Story

Lillian's Story

Lillian has been dealing with domestic abuse for her whole life. Childhood abuse with an alcoholic father, and abuse with a violent partner.

"Far too many men are predators. So many men think that women are only good for the bedroom and the kitchen. There are similarities with predators who groom children for sex. You get baited in and fall in their trap. They take your freedom."

"I didn't know what it was until I was out of it."

"And I didn't know I was being abused until after it stopped. It was my normal."

Serious domestic abuse continued within Lillian's relationship with the perpetrator (referred to as D) after they relocated from the city to a regional area.

"This is often the case, and something that needs to be noted. Domestic abuse can be more common in regional areas because men relocate their families – usually under some kind of pretence or excuse – so that their abusive behaviour is out of view and so that their partner is isolated from her friends and family. After a while, you get brainwashed, and no longer capable of making your own decisions. Even really intelligent strong people can be subject to brainwashing."

Lillian relocated with D to a farm. Lillian had a really good job with a high salary. D was jealous and derogatory of Lillian including in front of other people. But no one said anything, so Lillian began to think that this type of behaviour was normal. Lillian wished someone would have said that it was not ok. Most of Lillian's friends stayed away. Some said they would not be responsible for their actions if they saw him.

Lillian experienced verbal abuse, physical abuse, property damage, surveillance, and identity theft, including D impersonating Lillian via her emails.

"I was hurled to the ground, there was shoving, I remember the yelling, the gaslighting, the controlling behaviour. ... Sometimes I was shaken so hard and for so long that my clothes ripped. I still have a piece of ripped clothing that I showed to the Police. It is still in an evidence bag."

Lillian recorded some of this abuse on her iPad and in a notebook, and this was shared with the police. But the police did not take it seriously enough. There was nothing they could charge him with.

"I had no control over my life. When that job ended, I ended up working as a slave on the farm. Modern slavery, it actually occurs. It's very common on farms. I worked all day, everyday. When you have livestock you can't leave them, you can't stop. I was trapped. I was in this great big trap and I didn't even know it. I had no say in the buying of the property. I was edged out of every decision. I was given no respect and no consideration. My life was going backward."

Sometimes Lillian would be able to travel to catch up with a friend for lunch. One of her friends provided support. But some people, including a Police Detective, said "well, you've got the keys, why don't you leave?"

In one incident D shoved Lillian violently against the outside toilet.

"I remember seeing the basin flying up the wall relative to me. That was the only way I knew where I was. I was falling down fast, I was being pushed so hard."

"That feeling when you are falling when someone's pushed you, just in a spin, being off balance, being overpowered by a big man ... It's frightening."

D had a small arsenal of guns in the house, including a loaded gun by the back door and a cabinet of weapons in the bedroom. D had made death threats against Lillian.

Following the violent bathroom incident, Lillian barricaded herself in the house and rang her friend, who told her to call the police. Lillian asked the friend to call the police for her and she did.

Three police attended Lillian's house. An ambulance was also dispatched due to the reports of firearms in the house but was later turned around. D was arrested and put in jail for a week. The Police applied for an interim Intervention Order and this was granted. D's guns were confiscated.

D agreed to consent to the Intervention Order in exchange for the Police dropping the firearm charges.

Sometime later, despite Lillian's best efforts, and without her knowledge or consent, a variation to the Intervention Order was made. The variation was to enable D access to firearms. The process of varying the Intervention Order to enable D to access his firearms was particularly devastating to Lillian, as she explains:

"I moved to Adelaide I went into a police station to make sure the Intervention Order was still all in place. The Police said "Yep, the guns are still confiscated, you'll be told if anything changes". But [then] I checked again and at that time the police said "Oh no, he's got he's guns back. He applied ... and he got his guns back." I said "How dare you! You are supposed to protect me! What's the point of the Intervention Order then? I haven't been able to sleep, I suffer anxiety thinking about D. It's like a big ogre hanging over me. I've lost my freedom and my enjoyment of life because the system let me down."

"I thought the reason for the Intervention Order was to protect me, but apparently that is not so. D got his guns back. I thought 'Why bother'? What's the point of the Intervention Order now? What is the point?"

"I received some correspondence from the court, that led me to believe that if there was to be a change in the conditions on the order I would be notified. But they failed to notify me about the variation that led to D getting his guns back."

"I feel like the police have no regard for people like me who are the victim. They felt like they had no responsibility towards me."

"How can a Magistrate make a variation to an Intervention Order returning guns ... without telling the protected person or even asking the victim for input on the decision? It's extremely one sided and irresponsible. The Magistrate has a responsibility to the protected person to involve them in all the stages. How can they possibly make a decision without having all the information? I think what would have happened is that he would have dressed up and put on an act and told a big story. It should not be just 'Here's the bloke and he's all dressed up and telling this big story about how he needs the guns'. Perpetrators are really good at conning Magistrates and doctors and anyone they need to. They are really good at putting on a show to anyone they need to convince."

Rebecca's Story

Rebecca's Story

Rebecca's never had a domestic violence experience herself. Her experience with the Intervention Orders system has been through the lens of domestic violence and abuse perpetrated by her former partner (referred to as P) against her children.

Rebecca's experiences with the system began when she received a phone call from police following a Child Abuse Report Line report. Rebecca was contacted by police who referred her to a specialist support service who talked to her about the possibility of getting an intervention order out against P in order to provide protection for her children.

Rebecca lodged an application for an interim Intervention Order at a Court and it went straight through to the Magistrate for an initial hearing. This happened within half an hour of Rebecca launching the application. This was a surprising result, but welcome in the sense that the matter was heard so quickly.

Before the interim Intervention Order was in place Rebecca had restricted P's access to their children. It was only after the interim Intervention Order was in place that she made arrangements for P to visit and see the children. P complied with the interim Intervention Order for a little while, however, an incident occurred where P acted in an abusive way towards Rebecca children, in breach of the interim Intervention Order.

Rebecca contacted police to report the breach. The first person she contacted was supportive and said they would forward her email to the investigations unit and that she would hear something shortly.

She contacted the police again, but this time was shut down and told that the matter would not be taken any further. There would be no action. Rebecca was also told that P's actions towards Rebecca's son constituted reasonable chastisement and did not warrant any further action from the police.

Rebecca then went back to the Magistrate's Court to seek a change in the conditions on the interim Intervention Order. Pre-trial proceedings relating to the interim Intervention Order were already underway, including unsuccessful mediation proceedings and other proceedings wherein the Magistrate had asked P to obtain legal representation.

When Rebecca reported breach to the Magistrate, he agreed to vary the conditions of the interim Intervention Order to add two new conditions relating to no physical contact or hitting of the children. The Magistrate also investigated the police response, their lack of action in response to Rebecca's report of the violence towards her son.

In addition to the physical abuse experienced by Rebecca's children, there were lots of other instances of non-physical breaches of the order, but Rebecca felt that there was no point reporting these breaches given her past experiences with police and the difficulties associated with proving nonphysical forms of abuse.

Catherine's Story

Catherine's Story

Catherine has had experience dealing with police and the Intervention Orders system for many decades.

Catherine's husband (referred to as D) inflicted property damage in the family home, engaged in verbal abuse, and psychological abuse. Many reports to police were made and police attended the home often. Catherine supported D through this period with mental health issues visiting psychiatrists and other medical professionals.

D set fire to the family home where Catherine still lived. Nobody was physically hurt. Catherine was away at work at the time of arson. Police were present when Catherine arrived home. This was distressing and frightening for Catherine as well as neighbours and the children. Initially D denied that he was responsible for the arson and no further action was taken at that time. However, a few days later D confessed and was sentenced to a term of imprisonment. The police then issued an Intervention Order against D.

Some years later D was released from prison and has since applied to the court twice to have the Intervention Order revoked.

Catherine felt like she was kept in the dark as these proceedings for revocation went forward. When Catherine went to a court hearing, she was not feeling very positive or trusting about the prosecution and their approach to D's application to revoke Intervention Order. She was later "told off" by the police about being in court, implying it showed that she was "not scared enough". After this, Catherine didn't go to any of the other court matters but did express to Police the reason why she felt she needed to represent herself and she was fearful of the Intervention Order being revoked.

D issued a second application to revoke the Intervention Order. Catherine now has had to engage her own lawyer. Catherine has felt very dissatisfied by the Prosecution and Court and really let down.

In Catherine's view, there's serious problems in the system that are impacting the police and the courts and the lawyers in relation to Intervention Orders in the domestic violent space.

Catherine knows how the courts work. She can see that the whole area is in a real crisis.

Catherine notes that while D shows signs of being crazy and unstable, he can come across as okay. D can be very convincing before a magistrate or a police officer. Of particular concern is Catherine's experience of being subjected to really long delays in the court in dealing with this application to revoke an intervention order and the evidential issues. Catherine feels very stressed. She has tried multiple times to engage in discussions with police and prosecutors about the case. She has collected and presented evidence of breaches of the order but is not taken seriously.

This leaves Catherine thinking '*What's missing. What do I need to stop this?*'

Jennifer's Story

In South Australia, when I contacted the police about a domestic violence incident the police were very abrupt, very judgemental. Two police officers attended. The female police officer spoke with me outside the premises. The male police officer spoke to [my partner, referred to as D] inside, interviewing him in the lounge chair. After a few minutes, the male police officer came out and said: "That's it, heard enough, we're leaving." He didn't allow the female police officer to complete her communications with me. She was being reprimanded by her partner.

As soon as the police left, the violence started again. D started throwing furniture around, towards me. Then D called his daughter and alleged that it was me that was causing the violence. I have extensive evidence of the violence perpetrated against me, including photographic and video evidence. This was not sought by the police. I ask "What did D say to the police to gain their trust? What reason did he give them to turn their back on me? How did he get them to believe him in a few minutes, and make them disbelieve me." It is connected to the concept of narcissism which is not a concept understood by the police.

Now I find myself in safety accommodation with no job and no support, dependent on Job Seeker. I had to leave. He got to stay. This is the injustice of the system.

On one occasion D was pinning me down and punching me, I was in fear of my life. D was very drunk. He lost his balance easily. I was able to land some defensive blows to him and get myself free. I had severe bruising and other injuries. I was in a very bad state. D locked himself in the bedroom. I called the police. When the police arrived I was in such a state of trauma that was not very good at answering questions.

When the police turned up I assumed they were the Domestic Violence Police come to support me, but they were police with D to help him to gather his belongings. D started to say to the police that he didn't want to leave. The police said that they couldn't make him leave, that his name was on the title. I had no choice but to leave myself, even though I had nowhere to go and no support. He had somewhere to go. I had nowhere. They all watched me to leave to nowhere.

I was told by police to make a report at the police station, but they weren't prepared to take the statement. I was ready. The police refused to acknowledge the abuse. The police just let him back into the house the next day. They could see how distressed I was. I left in front of them. They still didn't acknowledge the abuse.

When I started to talk to the police about Intervention Orders I was told I was not eligible for one. [A service provider] explained that I would have to prove that the abuse took place to get the Intervention Order. But if all the initial responses by the police were recorded accurately then they would have the evidence base there for an Intervention Order.

Summary of Key Findings

The above priorities for reform identified by those with lived experience of engaging with the Intervention Orders system reflect the Key Findings of this research. These Key Findings are set out in detail below, but can be summarised as follows:

Interactions with the Intervention Orders System

1. The Intervention Orders system overlaps with the Child Protection system and the Family Law System in complex ways. This can reduce the effectiveness of the Intervention Orders system as a tool for addressing family and domestic violence and can prevent people from seeking an Intervention Order.
2. There is a need to undertake additional research into the State/Federal complexities associated with Intervention Orders, particularly in the context of Family Law orders and related Family Law proceedings. This includes further consideration of the Family Dispute Resolution process under the *Family Law Regulations 1984* (Cth) 25(B) and the extent to which this process interacts with the Intervention Orders system.
3. When considering the experiences of Aboriginal people interacting with the Intervention Orders system, consideration must be given to the ongoing trauma caused by colonisation and the historical injustices and neglect perpetrated by State authorities against Aboriginal people. The Royal Commission into Deaths in Custody³⁰ is a powerful document that recounts some of that history.

Accessing or Providing Information and Support

1. A range of high-quality specialist services – engaging a broad range of professionals with expertise and experience in trauma informed care, legal advice, health care, mediation services and social services – are available to people experiencing family and domestic violence in South Australia.
2. Many respondents have identified these services as providing high quality, personalised and effective responses to their needs. Others have expressed the view that while initially without access to support, once they connected with one of the specialist family and domestic violence services in SA, their experience with the Intervention Orders system significantly improved. However, not all victim survivors are aware of and/or able to access support and many experience family and domestic violence for years before connecting with or being referred to specialist services.
3. Good quality information about Intervention Orders has been produced but is not always available to victim survivors. In addition, not all information accurately explains the realities of the process of applying for an Intervention Order, and the consequences for the protected persons if an Intervention Order is issued and potentially breached.
4. Many people only learn about the Intervention Orders system in the context of experiencing trauma, violence or abuse which can limit their ability to absorb and understand key information. Often Intervention Orders are discussed or

³⁰ Royal Commission into Aboriginal Deaths in Custody, *Royal Commission into Aboriginal Deaths in Custody: National Report*, (1991) Australian Government Publishing Service, Volume 1, Chapter 1, [1.2]-[1.6].

considered in the context of other legal proceedings, including child protection proceedings, Family Court proceedings or criminal law proceedings, leading to potential confusion about how the different systems intersect.

5. Many Aboriginal and culturally and linguistically diverse (CALD) people are not able to access culturally appropriate support or information in their first language, despite the best efforts of specialist services.
6. First responders (including police, lawyers, health care providers, and other service providers) vary in the quality of support and information they provide to victim survivors and in their understanding of family and domestic violence and the Intervention Orders system. Not all first responders are displaying evidence of clearly understanding the existing Intervention Orders laws or the complex causes and consequences of family and domestic violence.
7. The experience a victim survivor has when she seeks the assistance of a first responder can define her subsequent participation and experience within the Intervention Orders system.

Interacting with Police and Courts

1. Many research participants noted with respect the important and often extremely challenging role police officers play in the system and the South Australian response to family and domestic violence. There was an acknowledgement of the many individuals within the system who are working tirelessly to protect women, children and others from harm often in the context of limited resources and threats to personal safety.
2. For most respondents, police play *the* central role in the Intervention Orders system. Their response to incidents or reports of family and domestic violence, requests for information about Intervention Orders or requests for Intervention Orders to be issued often defines people's experiences of the Intervention Orders system.
3. An overwhelming number of research participants described substandard police responses to family and domestic violence and a lack of understanding of the Intervention Order laws and of family and domestic violence by police officers. Some of these accounts were particularly traumatising. However, some respondents have said that police officers provide high quality responses and treat applicants and protected persons with respect and care. For example, many research participants said that they had more positive experiences with police officers from within the Family and Domestic Violence Unit. Others suggested that female police officers provided a more culturally appropriate response. Many research participants pointed to the need for all first responders to undergo mandatory and specific training to understand the full range of manifestations of family and domestic violence, and the varied ways in which victim survivors may interact with police officers and other authorities. This includes having regard to the cultural identity and cultural needs of Aboriginal women, and women from Culturally and Linguistically Diverse (CALD) backgrounds, and the complexities associated with providing independent advice and support to women at risk in these environments.

4. Some court staff provide high quality services and demonstrate understanding of family and domestic violence, but in-court experiences for victim survivors and protected persons are variable and can sometimes be traumatic, particularly if the protected person does not have access to specialist legal advice or other support.
5. Some in-court experiences for victim survivors and protected persons are positive and the court process for issuing or confirming Intervention Orders is generally valued as a forum to confront the perpetrator with the impact of their behaviour.
6. Court mediation services, such as those provided by Centacare, are important forums to help clients interpret and understand and to help facilitate conversations between parties about their children, who may also be protected under the orders.
7. The collection and presentation of evidence to support Intervention Order applications can be problematic particularly for victim survivors who have or are still experiencing trauma, are not represented by specialist legal practitioners and/or when the family and domestic violence is non-physical.
8. The family and domestic violence Specialist Courts can provide a positive experience for victim survivors, particularly when it comes to providing evidence and understanding the process. These courts tend to utilise the full range of provisions contained in the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) that are designed to facilitate Intervention Orders hearings that respect and support the rights and interests of protected persons. However, not all Magistrates demonstrate an awareness or willingness to utilise these provisions in Intervention Orders related matters. In addition, not all Aboriginal and CALD people are provided with appropriate access to professional, independent and accessible interpreter services for all stages of the Intervention Order court process.
9. Complex family and community relationships within Aboriginal and CALD communities can influence the extent to which individual experiences of family and domestic violence are able to access support services, report abuse to police and apply for Intervention Orders. Some individuals may have had negative experiences with child protection authorities and/or with police or may face isolation from their communities if they seek to engage with the Intervention Orders system. However, when specialist, culturally appropriate support is provided, individuals within these communities have been able to speak out against family and domestic violence and access legal protections for themselves and their children.

Process and Criteria Applied when Granting and Approving Intervention Orders

1. The current legal test for granting an Intervention Order is generally seen as appropriate, however the pathways for accessing an interim Intervention Orders are very different and give rise to different experiences for victim survivors and protected persons.
 - a) Police-issued Intervention Orders can lead to a lack of control for the victim survivor and can demand a higher threshold of evidence of abuse or violence.

- b) Private Intervention Orders can facilitate more victim survivor control over the process and a more positive experience if high quality, specialist legal advice can be accessed. Although filing fees have now been waived, cost issues may still arise when applicants require private legal representation in circumstances where specialist legal services are limited. This can be exacerbated where proceedings relating to Intervention Orders intersect or overlap with Family Court proceedings.
- 2. Withdrawal of Intervention Order applications can be a sign of success – the victim survivor or protected person may have found another way to achieve safety (such as a Family Law settlement or alternative housing or independent income). However, withdrawals of Intervention Order applications can also be a sign of protected persons experiencing difficulties collecting and presenting evidence, especially in the context of police issued Intervention Orders.
- 3. The issue of what counts as admissible evidence of family and domestic violence should be reconsidered to ensure it is victim-focused and trauma informed.
- 4. There are also underlying issues surrounding the role of Intervention Orders in the context of family or relationship breakdowns. For example, the ability of the parties to the order to negotiate or develop meaningful, targeted conditions can vary greatly with flow-on implications for compliance and utility of the order. Often what the applicant is looking for is immediate protection from harm, but as the immediate threat subsides, there can be a need to reconsider the nature of the conditions imposed and the impact they may have on repairing family relationships.

Breaches of Orders and Penalties

- 1. There is a general lack of awareness among research respondents as to the current maximum penalties for breaching an Intervention Order. However, almost all respondents indicated that current approaches to enforcing Intervention Orders and promoting compliance with Intervention Orders are ineffective.
- 2. While some police officers and other first responders provide high quality responses to reports of breaches, many research participants have explained that reporting breaches to police can be problematic due to the high threshold generally applied by police to establishing patterns of abusive behaviour and the need to establish evidence of non-physical violence and/or coercive control.
- 3. Police and prosecution responses to reports of breaches are inconsistent and often inadequate, with some exceptions where police and prosecution officers have received specialist family and domestic violence training.
- 4. There appears to be an 'unwritten policy' being applied by some police when it comes to breaches of Intervention Orders, where instances of non-physical violence abuse are not considered as violence and/or taken seriously and/or perpetrators are given warnings for 'minor' breaches instead of being referred to court.
- 5. A number of research participants described how community co-designed responses to family and domestic violence – that focus on identifying and responding to the impact of all forms of violence on all individuals involved,

including the defendant – could be employed to help improve the capacity of the Intervention Order system to meet its objectives.

6. While custodial penalties are considered to be an important optional component of an effective response to breaches of Intervention Orders, particularly in the case of repeat offenders, there is a need to ensure the court retains discretion to tailor penalties and consequences to meet the needs of protected persons, prioritising short term and long term safety of protected persons.
7. There is also a lack of evidence that maximum penalties are being/have been imposed by courts or sought by the Director of Public Prosecutions.
8. Often sentencing for breach of Intervention Orders occurs concurrently with sentencing for other criminal matters including criminal offences like assault and/or breaches of parole or bail or home detention conditions. This makes it difficult to isolate and evaluate the impact on any Intervention Order related component of the total sentence.
9. Court issued behavioural change programs and other perpetrator intervention programs are highly valued in theory, but their practical utility and effectiveness can be undermined when there is a lack of detailed feedback provided to or sought by the court about the quality of the participant's engagement with the program and the likelihood that the participant will cease offending in the future.
10. Existing behavioural change programs and other perpetrator intervention programs require regular, independent evaluation to determine their effectiveness at meeting the needs of participants, having regard to best practice.

Summary of Key Recommendations

A detailed list of Key Recommendations is contained at the end of this Report.

These Key Recommendations can be summarised in the following four Priority Actions:

1. Improve awareness and understanding of the complex causes and serious impacts of family and domestic violence within the community, and the role Intervention Orders can play in responding to family and domestic violence. Ensure that everyone understands that all forms of family and domestic violence - including coercive control - are unlawful.

2. Improve the quality and consistency of 'first responses' to incidents or reports of family and domestic violence and requests for Intervention Orders - including by police, lawyers, court officials and other service providers

3. Clearly identify and streamline the different pathways for obtaining an Intervention Order and empower and support applicants to exercise control over the conditions of the Intervention Order, the process of collating and presenting evidence, and the service of Intervention Orders and the duration of Intervention Orders.

4. Proactively promote compliance with Intervention Orders by: streamlining processes for varying the conditions of Intervention Orders; empowering protected persons to report breaches of Intervention Orders; improving the quality and consistency of police responses to reports of breaches and tailoring penalties to address recidivism and promote behavioural change.

These Priority Actions can be unpacked as follows:

Recommended Actions for Legislators and Government

1. Criminalise coercive control and clarify that Intervention Orders can be issued in response to experiences of coercive control.
2. Amend the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to:
 - a. include key principles that: centre the needs and rights of victim survivors; recognise the gendered nature of family and domestic violence; acknowledge the seriousness of non-physical forms of abuse and coercive control; and describe the broader impacts of family and domestic violence on the community.
 - b. make it clear that it is everyone's responsibility to prevent and respond to family and domestic violence, not just victim survivors. This could take the form of a legal duty to report family and domestic violence to police in certain circumstances, such as that contained in *Family and Domestic Violence Act 2007* (NT) s124A.
 - c. make it clear that when determining Intervention Order applications the safety of affected person and any children is paramount (as per *Family Violence Act 2016* (ACT) s36) and the Magistrates Court may inform itself in any way it considers appropriate (as per *Family Violence Act 2016* (ACT) s 65).
 - d. ensure that victims' accounts of violence and abuse, and the risks they face, are considered carefully and taken seriously by police and courts, having

regard to the impact of trauma. As noted below, this includes ensuring that Magistrate's are lawfully required – and practically trained – to inform themselves of the full impact of family and domestic violence on all parties involved in Intervention Order proceedings without risking the safety of victim survivors or other protected persons.

- e. include a presumption in favour of ensuring that the protected person is able to remain in the family home. Such a provision could be based on *Family and Domestic Violence Act 2007* (NT) (s20).
 - f. enable police to issue Family Safety Notices in response to family and domestic violence incidents to provide temporary protection for victims and those at risk of harm, but permit longer term conditions of orders to be negotiated at a later date.
 - g. enable the court to indicate that a specific condition in a family violence order may have effect for a period shorter than the period of the rest of the order, based on *Family Violence Act 2016* (ACT) s42.
 - h. put in place a system of mandatory preliminary conferences conducted by the Registrar prior to Intervention Orders hearings by the Magistrate, (with discretion for the Registrar to terminate the conference if needed to promote safety of protected persons) having regard to the *Family Violence Act 2016* (ACT) Division 4.2.
 - i. require the Magistrate (or the victim if they elect) to read out the Victim Impact Statements in all proceedings relating to breaches of Intervention Orders, to hear the impact of the violence or the abuse on the victim and/or any other protected persons. This material should help inform the content, scope and evaluation of any behaviour change programs developed for the defendant.
 - j. include a presumption in favour of referring perpetrators who breach Intervention Orders to participate in behavioural change programs and other perpetrator intervention programs (in addition to other penalties that may be considered appropriate in the circumstances).
 - k. clarify that when imposing a penalty for breach of an Intervention Order, the court has the discretion to: design a rehabilitation package that would include qualitative reports from behaviour change program providers about the nature of the defendant's participation in those programs, as well as attendance and make changes to a person's parole or home detention requirements following positive engagement with a behaviour change program.
- 3. Undertake an audit of existing Intervention Orders to ensure that victim-survivors have been informed about any variations that might have been made without their knowledge and consent, and provide any relevant victim-survivors with the opportunity to contest the varied terms of the Order.
 - 4. Commit to resourcing regular, proactive risk assessments to identify existing and potential family and domestic violence in vulnerable communities in consultation with community leaders and established service providers, including health care providers and police.

5. Mandate family and domestic violence and trauma-informed response training for all first responders, including all police and all Magistrates Court staff, and require regular public reporting on compliance. Focusing training on the Family Violence Investigation Section within the South Australian Police or family and domestic violence court is important but insufficient.
6. Mandate training for Magistrates and prosecutors to:
 - a. encourage use of witness protection/victim protection provisions in Intervention Orders hearings currently contained in sections 28A and 29 of the *Intervention Orders (Prevention of Abuse) Act 2009* (SA).
 - b. consider the use of expert psychological assessments of defendants, particularly in cases where non-physical violence or coercive control is alleged.
 - c. raise awareness of the recently changed maximum penalties for breaches of Intervention Orders.
 - d. share evidence about the court's general reluctance to impose custodial or other serious penalties for breaches of Intervention Orders and the impact this has on victim survivors.
 - e. reflect on the nature and effectiveness of behavioural change programs and other perpetrator intervention programs.
7. Allocate additional funding to existing specialist service providers, including Uniting Communities and the Women's Legal Service, to establish and maintain support groups for individuals with lived experience of family and domestic violence that could also be used as a source of information for others about where to go to get help, about legal advice, where to go to get food.³¹
8. Recognise the complexities of needs presented by protected persons, applicants and defendants and increase funding to counselling and mediation services to support parties who wish to rebuild relationships to negotiate variations of Intervention Orders with appropriate safeguards.
9. Undertake an independent evaluation of the effectiveness of existing behavioural change programs and other perpetrator intervention programs and make this information available to prosecutors and Magistrates.
10. Make more de-identified information about the Intervention Orders system publicly available in order to be able to monitor the success and effectiveness of different components of the system.
11. Facilitate the co-design and evaluation of a pilot program that would provide holistic, trauma informed services to potential/existing Intervention Order applicants, protected persons and defendants in a health care setting at the time of first report of family and domestic violence and/or at the time of breach.³² Such

³¹ It is noted that during the 2022-23 Federal Budget the Morrison Government allocated \$52.4 million over four years to Legal Aid Commissions to meet expected demand for support under the Family Violence and Cross Examination of Parties Scheme, and \$7 million over two years for nine Women's and Community Legal Services nationally, to help women access legal assistance and migration support.

³² During the 2022-23 Federal Budget the Morrison Government also allocated \$25 million for Australia-first domestic violence trauma recovery centre in NSW. See also 'Federal Budget Funds Illawarra Women's Health Centre', *ABC News*

a program could be based on successful models developed and implemented by First Nations and CALD peoples and in other Australian and overseas jurisdictions (as documented in further detail in Detailed Recommendations). It could also include a 24 hour a day 'call out' option for Aboriginal women to access anytime they are interviewed by police in the context of a domestic or family violence offence, that would ensure Aboriginal women have access to culturally appropriate support.

12. Invest in increased service provision for victim survivors and defendants to access at times of crisis, but also following the issue of an Intervention Order. This should include specialist legal services; court services; health services (including mental health services); short term and longer term housing services; short term and longer term financial assistance; employment assistance and supported social networking and leadership. This should include a particular focus on investing in co-designed, culturally appropriate services for Aboriginal and CALD victim survivors and defendants, that should be regularly evaluated by those with lived experience of family and domestic violence.
13. Continue to fund and support a family and domestic violence duty solicitor to provide support for unrepresented Intervention Order applicants and defendants at Magistrate's court hearings, particularly on the 'special family and domestic violence' listing days regularly scheduled in the Adelaide, Elizabeth and Christies Beach Magistrates Court.
14. Increase the number of family and domestic violence trained interpreters available to police, courts and lawyers particularly in suburban and regional areas.
15. Remove the filing fee for all Intervention Order applications (this has already been progressed).
16. Permit online lodgement of Intervention Order applications.

Recommended Actions for Courts, Police and Other Service Providers

1. Develop and disseminate accurate and clear information to service providers about Intervention Orders and the role these orders play in the broader response to family and domestic violence. This could consolidate and build upon the excellent materials already produced by the South Australian Police, Legal Services Commission and Women's Safety Service and take the form of a "one stop shop" for relevant information, available online and in brochure format to police, lawyers, social workers and other service providers.
2. Ensure that all first responders are able to provide accurate trauma informed information about Intervention Orders (police issued and private) to all applicants and potential applicants, that includes information about their rights, likely outcomes and alternative options – as well as accurate information about the relevant legal tests for assessing risk or threats of harm.
3. Ensure clear information is shared with potential applicants about the range of existing specialist support services and free legal advice services (including those

provided by InDIGO, Uniting Communities, Legal Services Commission, Centacare, Women's Legal Services and Women's Safety Service).

4. Empower and support Aboriginal and CALD communities in regional and remote areas to co-design community-based responses to family and domestic violence issues, in line with the key principles and objectives set out in the *Intervention Orders (Prevention of Abuse) Act 2009* (SA). This type of direct community input should directly inform police responses, court proceedings and the design and implementation of penalties and rehabilitation programs, as well as the support programs available to victim survivors and other protected persons.
5. Require police and court officials to provide immediate referrals to specialist support services for victim survivors and defendants at time of first report of family and domestic violence or request for Intervention Orders.
6. Require police and court officials to provide access to independent, professional and culturally appropriate interpreter services for all parties for whom English is a second language.
7. Require police officers to notify a victim survivor in advance of service of Intervention Orders on a defendant.
8. Invest in trauma informed training for police and other service providers to enable victim survivor accounts to be safely documented and supported with medical and other evidence at the time of report or when applying for an Intervention Order.

Recommendations for Community Leaders and Educators

1. Recognise and value the lived experience of victim survivors, police officers, lawyers, family mediators, social workers and others within the system who are committed to ensuring Intervention Orders provide meaningful protection for South Australians experiencing family and domestic violence in South Australia.
2. Publicly acknowledge and celebrate the work of dedicated police officers, court officials and other service providers that has saved lives and promoted the rights of women, children and others experiencing family and domestic violence.
3. Identify champions and leaders from all walks of life who can develop and disseminate tailored public awareness campaigns that:
 - a. recognise that family and domestic violence is gendered, and that non-physical violence and abuse can be equally and often more harmful than physical violence. Emotional violence, and other forms of coercive control, can have debilitating and severe long term consequences for victim survivors that can erode their quality of life for decades.
 - b. recognise the rights and needs of Aboriginal and CALD communities and explain the role Intervention Orders can play in providing protection from abuse and harm in culturally sensitive ways.
 - c. acknowledge that while effective legal interventions are necessary to ensure safety, many individuals experiencing family and domestic violence want to maintain or repair important relationships and may not wish to commence legal proceedings.

- d. recognise the practical barriers faced by many community members when it comes to interacting with police and/or courts and accessing legal information and legal advice.
 - e. identify practical options for victim survivors to access safe housing, health care and financial support.
 - f. contextualise Intervention Orders within the broader family and domestic violence context – recognising their effectiveness is heavily dependent on addressing the drivers and complex causes of family and domestic violence.
4. Undertake a follow up research project that seeks to engage more directly with the South Australian Police, in line with the South Australian Police's relevant policies and procedures relating to research engagement. This future research could acknowledge the work and lived experiences of dedicated police officers within the Intervention Orders system as a response to family and domestic violence that promote the rights of victim survivors. It could also evaluate the alignment of police or court personnel training currently received with respect to family and domestic violence, having regard to relevant research and lived experiences.
 5. Undertake additional research into the State/ Federal complexities associated with Intervention Orders, particularly in the context of Family Law orders and related Family Law proceedings.
 6. Develop and implement higher education scholarships and other training related opportunities for victim survivors, and integrate lived experience perspectives into current courses relating to legislative and non-legislative responses to family and domestic violence.

Introduction

The Powerful Interventions: Improving the use and enforcement of Intervention Orders as a tool to address family and domestic violence in South Australia Project (the Powerful Interventions Project) is qualitative research project undertaken in collaboration between Uniting Communities and UniSA, funded by the Law Foundation of Australia. It aims to help identify options for practical reform and to enable the South Australian community and the legal profession to interact meaningfully with this reform landscape.

Family and domestic violence, and in particular gender-based abuse against women perpetrated by intimate partners, continues to have significant, complex and long-lasting impacts on the Australian community. According to the Australian Bureau of Statistics, 'one in four women (23% or 2.2 million) and one in six men (16% or 1.4 million) reported experiencing emotional abuse by a current and/or previous partner since the age of 15'³³. In South Australia, there were 17,226 victims of assault recorded in 2020 and half (50%) of the incidents (8,686 victims) were family and domestic abuse related³⁴. During 2020-2021 the South Australian Police reported 9,760 family and domestic abuse-related offences, up 9.4% from the previous year.³⁵

The rate and complexity of family and domestic violence related offending has increased during the COVID-19 pandemic due to the consequences of restrictions and emerging patterns of perpetrator behaviours that have been exacerbated during the pandemic.³⁶ This makes examining the effectiveness of the legal tools designed to protect against and prevent family and domestic violence in South Australia a critical and urgent task. One of those legal tools is the *Intervention Orders (Prevention of Abuse) Act 2009* (SA), which sets out a regime for accessing, issuing, confirming and enforcing legal orders (referred to herein as 'Intervention Orders') to prevent a person from contacting or being within the proximity of protected persons who may be at risk or experiencing violence, harm or abuse.

There is a strong demand within some sections of the South Australian community to see the Intervention Orders regime strengthened, reflected in a number of separate proposals for legislative reform in this area.³⁷ However, in order to be able to evaluate the effectiveness of proposed reforms and identify any potential unintended consequences, the current legal landscape must be understood and the barriers to accessing that landscape clearly articulated. This includes consideration of what the

³³ Australian Bureau of Statistics, 'Crime and Justice: Personal Safety' (2022) Australian Government, <<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>> (accessed 22 April 2022).

³⁴ Ibid.

³⁵ South Australian Police, *Annual Report 2019-2020*, (2021) South Australian Government, available at <<https://www.police.sa.gov.au/about-us/annual-reporting/annual-report-2019-20/agency-specific/#agency-specific>> (accessed 20 April 2022).

³⁶ Stephanie Richards, 'More SA women flee homes during pandemic' *In Daily* (21 July 2020) SA women flee homes during pandemic' *In Daily* (online, 21 July 2020) <<https://indaily.com.au/news/2020/07/21/more-sa-women-flee-homes-during-pandemic/>> (accessed 20 April 2022).

³⁷ See e.g. Statutes Amendment (Intervention Orders and Penalties) Bill 2020 (SA); draft Criminal Law Consolidation (Abusive Behaviour) Amendment Bill 2021 (SA). See also South Australian Government 'YourSAy Website' *Criminalising coercive and controlling behaviours* (2021) available at <<https://yoursay.sa.gov.au/control#:~:text=Sustained%20and%20repeated%20abusive%20behaviour,to%20as%20coercive%20control>> (accessed 22 April 2022).

Australian Law Reform Commission has described as ‘the web of courts in family violence matters.’³⁸

Key Research Questions

The primary aim of the *Powerful Interventions* project is to improve the quality of South Australia’s response to family and domestic violence by identifying practical reform options to increase access to and enforcement of Intervention Orders³⁹ in South Australia. Central research questions explored in this Project include:

- How do service providers and individuals experiencing or at risk of family and domestic violence interact with the Intervention Orders system?
- How do service providers and individuals experiencing or at risk of family and domestic violence access or information and/or provide support to those seeking to access the Intervention Orders system?
- How do service providers and individuals experiencing or at risk of family and domestic violence interact with Police and Courts in South Australia?
- What processes and criteria apply when considering and granting Intervention Orders in South Australia?
- What processes and criteria apply when dealing with breaches of orders and penalties?
- What options for improvement and reform have been identified by those with lived experience of engaging with the current Intervention Orders system in South Australia?
- What options for improvement and reform have been identified through comparative analysis of similar laws in other Australian jurisdictions and comparable overseas jurisdictions?

Scope and Limitations

While this Project focuses on the legal frameworks governing access to, use and enforcement of intervention orders in South Australia, a wide range of studies confirm that legal responses to the complex causes of family and domestic violence are necessarily beset by shortcomings, and must form part of a broader policy response that acknowledges the gendered nature of family and domestic violence and responds to other critical needs including housing, health care, income security and financial independence.⁴⁰ It is precisely because Intervention Orders exist within this context that

³⁸ Australian Law Reform Commission (ALRC) and New South Wales Law Reform Commission (NSWLRC), *Family Violence – A National Legal Response Final Report Family Violence* (Report 114, 2010) 132. See also Jeffries, Samantha, Rachael Field and Christine EW Bond, ‘Protecting Australia’s Children: A Cross-Jurisdictional Review of Domestic Violence Protection Order Legislation’ (2015) 22(6) *Psychiatry, psychology, and law* 800.

³⁹ The term ‘intervention orders’ refers to orders issued pursuant to the *Intervention Orders (Prevention of Abuse) Act 2009* (SA).

⁴⁰ See e.g. Taylor, A., Ibrahim, N., Wakefield, S., & Finn, K. (2015). *Family and domestic violence protection orders in Australia: An investigation of information sharing and enforcement: State of knowledge paper* (ANROWS Landscapes, 16/2015). Sydney, NSW: ANROWS; Nancarrow, H., Thomas, K., Ringland, V., & Modini, T. (2020). *Accurately identifying the “person most in need of protection” in family and domestic violence law* (Research report, 23/2020). Sydney: ANROWS; Kate Fitz-Gibbon and N Pfitzner, ‘Ensuring access to justice for women experiencing family violence beyond the pandemic’ (2021) 46(1) *Alternative Law Journal* 3-4. doi:10.1177/1037969X211007651; L Arai, A Shaw, G Feder, E Howarth, H MacMillan, THM Moore, A Gregory, ‘Hope, Agency, and the Lived Experience of Violence: A Qualitative Systematic Review of Children’s Perspectives on Domestic Violence and Abuse’, (2021) 22(3) *Trauma, Violence, & Abuse*, 427–438; N Ghafournia, and P Eastal, ‘Help-Seeking Experiences of Immigrant Domestic Violence Survivors in Australia: A Snapshot of Muslim Survivors’, (2021) 36 (19-20) *Journal of Interpersonal Violence*, 9008–9034; F Buchanan, and C

an evidenced based approach to legislative reform is essential. This Project attempts to lay the foundations for this type of approach.

This Project draws upon existing data, comparative literature and qualitative interviews with those directly involved in implementing and enforcing the Intervention Orders regime and responding to the breaches, as well as those with lived experience interacting with this regime.

The research participants engaging with the *Powerful Interventions Project* do not constitute a statistically representative sample size of the South Australian population. Instead, the material obtained through qualitative interviews offers a 'snapshot' of perspectives that can be used to help interpret other publicly available data and material relating to the Intervention Orders system in South Australia.

It is important to note that the willingness of research participants to participate in this Project likely reflects their own self-awareness and resilience, and general understanding of the Intervention Orders system. Many accounts provided by research participants reflect experiences with the system that occurred in the past – sometimes many years ago - when key features of the legal framework governing Intervention Orders and their implementation may have been different. Therefore, our findings cannot be generalized to all family and domestic violence survivors as a general category, nor to any other group of participants in the Intervention Orders system. Note too that the study is qualitative, and the sample size is too small to identify patterns. The qualitative material only permits preliminary conclusions to be drawn about the lived experience in this State.

It is also noted that not all voices have been heard directly in this research. In particular, the *Powerful Interventions Project* did not include interviews or focus groups with current serving Police Officers. Instead, the South Australian Police kindly provided researchers with references to existing publicly available information, including information relating to the integrated service responses to violence against women and children in South Australia and the actuarial risk assessment tool used by agencies including police, relevant to application, revocation and modification of Intervention Orders. This material is reflected in the Report below.

Key Terms

Family and Domestic Violence

In this Report, the term 'family and domestic violence' is used to refer to the physical and non-physical harm, abuse and trauma that can give rise to an application for or consideration of an Intervention Order being made under the *Intervention Orders (Preventing Domestic Abuse) Act* (SA). It aligns with the definition employed by Uniting Communities which provides that family and domestic violence is:

Any act that is physically or psychologically violent or dominating towards a partner or children resulting in threat, intimidation or fear, and wariness.⁴¹

Although this term has generally been accepted in the relevant literature and in the legal frameworks governing Intervention Orders in South Australia, not all research

Humphreys, C 'Coercive control during pregnancy, birthing and postpartum: women's experiences and perspectives on health practitioners' responses', (2020) 36(1) *Journal of Family Violence*, 325–335.

⁴¹ Uniting Communities Website, 'Domestic and Family Violence (2022)

<<https://www.unitingcommunities.org/service/counselling/domestic-and-family-violence>> (accessed 16 April 2022).

participants support the use of this term. One Lived Experience participant argued that the choice of language was pivotal.⁴² She explained that the term ‘domestic abuse’ is considered more appropriate than ‘family and domestic violence’ as ‘family violence’ can indicate something less than serious, such as children fighting, whereas the term ‘violence’ or ‘coercive control’ are stronger than the terms that include ‘domestic’ or ‘family’.⁴³ ‘Family violence’ can also be offensive because it eliminates the seriousness of the lived experience. According to this research participant, this term lacks empathy by people who do not have lived experience, but pretend that they do, and can be patronising and disrespectful.⁴⁴

The researchers and the Advisory Group recognise that language plays an important role in recognising and acknowledging the seriousness and long term debilitating impacts of the myriad of forms of violence perpetrated by one person against another, in the context of a domestic or family relationship. For this reason, although the term ‘family and domestic violence’ is used throughout this Report, wherever possible the precise nature of the violence perpetrated is described in full.

In addition, the theoretical frameworks that inform the Key Findings and Recommendations in this Report recognise that:

The conceptual issues pertaining to gender also clearly link to the varied definitions of [domestic violence and abuse] and the diverse use of terminology across disciplines. In particular, there are a range of views on the breadth or limitations of the term ‘violence.’ Legal perspectives tend to be more familiar with the term ‘domestic violence,’ which is used to encompass a range of physical and sexual acts of harm, but now also includes behaviours of harassment, sustained non-physical intimidation psychological and emotional abuse. However, for others it implies a reliance on the more tangible evidence of physical or sexual assault, and terms such as domestic, violence and abuse and intimate partner violence and abuse are used elsewhere to represent a more nuanced understanding of a broader range of victim/survivor experiences. The usefulness of the term ‘victim’ is also contested, with preferences by some for the term ‘survivor,’ while others find this equally problematic in terms of imposing a status, which implies a level of ongoing vulnerability or recovery. ... Arguments may also be made for a greater opportunity for self-determination and definition by those experiencing [domestic violence and abuse], although this approach assumes that victims/survivors are a homogenous group who will reach a consensus.⁴⁵

These conceptualisations of family and domestic violence – and of the idea of ‘victim survivors’ - are considered in further detail below when considering the theoretical framework that informs this Report.

Coercive Control

The term ‘coercive control’ is used in this Report to indicate conduct that is:

intended to dominate and control another person, usually an intimate partner, but it may also occur in the context of familial or carer relationships. It is regarded as being perpetrated predominantly by men against women and may include threats to harm; physical, sexual, verbal and/ or emotional abuse; psychologically controlling acts; financial abuse; social isolation; systems abuse, which involves using systems, including the legal

⁴² Lived Experience interviewee LE9.

⁴³ Lived Experience interviewee LE9.

⁴⁴ Lived Experience interviewee LE9.

⁴⁵ S Hilder, and V Bettinson, ‘Introduction’ in S Hilder and V Bettinson, (eds) *Domestic Violence*, (2016) Palgrave Macmillan UK, London.

system, to harm the woman; stalking; deprivation of liberty; intimidation; technology-facilitated abuse; and harassment.⁴⁶

Trauma-informed

In this Report, the term ‘trauma-informed’ approaches, or ‘trauma-informed care’ broadly refers to an approach to viewing a person’s health and wellbeing from an understanding of the impact of trauma, taking into consideration what has *happened* to that person, rather than what is *wrong* with that person.⁴⁷ This includes approaches that demonstrate an “understanding of trauma and its impact on individuals, families and groups” and an ability to support a client to exercise control and power over his or her own circumstances, and enabling recovery”.⁴⁸ What constitutes ‘trauma-informed’ responses can vary from person to person, depending on their lived experience, gender identity and/or cultural background. For example, as the Healing Foundation has explained:

Trauma-informed care for Aboriginal and Torres Strait Islander clients is predominantly delivered by Aboriginal community-controlled organisations, which are typically staffed and managed by community members who themselves have been impacted by trauma. These community members bring with them a “cultural load” – the accumulation of trauma and stress resulting from a variety of factors including frequent bereavement; incarceration of relatives and community members; and experience of violence, racism and discrimination.⁴⁹

Types of Intervention Orders

Intervention Orders, also described as Domestic Violence Orders or Apprehended Violence Orders, are legal orders issued by the police or the courts to prohibit or prevent a person (the defendant) from contacting, abusing, harming or threatening another person (the protected person). The Legal Service Commission of South Australia describes intervention orders as follows:

An intervention order is a court order against a person who makes you fear for your safety. The person you fear (known as the defendant) must obey the order made by the court. An intervention order prevents the defendant from assaulting, harassing, threatening, stalking, or intimidating you. An order can be made against anyone you fear including a spouse, relative, neighbour or someone with whom you have had an intimate relationship with. If you fear for your children’s safety, you can include them in your application.⁵⁰

In South Australia, ‘Intervention Orders’ are governed by the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) (the Intervention Orders Act).⁵¹ These orders can be obtained by approaching the police and seeking that an interim order be made (police

⁴⁶ R Kaspiew, R Carson, H Rhoades, L Qu, J De Maio, B Horsfall, and E Stevens, *Compliance with and enforcement of family law parenting orders: Views of professionals and judicial officers* (ANROWS Research report, 01/2022) 12.

⁴⁷ A Flynn, A Powell, and S Hindes, *Technology-facilitated abuse: A survey of support services stakeholders* (ANROWS Research report, 02/2021).

⁴⁸ The Healing Foundation, *Our Healing Our Way Leading and Shaping our Future National Youth Healing Forum Report*, (2017) 6–14 available at <https://healingfoundation.org.au/app/uploads/2017/12/HF_National_Youth_Healing_Forum_Report_Nov2017_V7_WEB.pdf>.

⁴⁹ Ibid. One such example is the Sanctuary Model, which has been incorporated into the Residential Care Conceptual and Operational Framework for the Department of Child Protection in Western Australia.

⁵⁰ See Legal Services Commission Website ‘COVID-19 Intervention Orders’ available at <<https://lsc.sa.gov.au/resources/COVID%2019%20Intervention%20Orders%20Final.pdf>> (accessed 3 May 2022)>

⁵¹ On 8 December 2011 the *Domestic Violence Act 1994* (SA) was repealed and partially replaced by the *Intervention Orders (Prevention of Abuse Act 2009* (SA).

issued intervention orders), or a person can apply directly to the Magistrate's Court without going to the police (sometimes called 'private' intervention orders).⁵²

This Project focuses predominantly on police issued Intervention Orders, however there are a range of other legal orders that can be issued or enforced in South Australia. For example, under the *Family Law Act 1975* (Cth), legal orders restraining, prohibiting or preventing a person from contacting, abusing, harming or threatening another person can be issued.⁵³ New criminally enforceable federal family violence orders have also been proposed⁵⁴ that would allow for the Federal Circuit and Family Court of Australia to make a federal family violence order where the Court is satisfied that family and domestic violence has already taken place or there are reasonable grounds to suspect that it is likely that family and domestic violence will take place, or that a child may be exposed to family and domestic violence.⁵⁵

In addition, since November 2021 domestic violence orders issued in other Australian States and Territories have also been recognised and enforced in South Australia as part of the National Recognition of Domestic Violence Order Scheme.⁵⁶

State child protection orders can also be made by the South Australian Youth Court under the *Children and Young People (Safety) Act 2017* (SA),⁵⁷ under the *Criminal Procedure Act 1921* (SA)⁵⁸ the Youth Court can make an order restraining a non-guardian adult who has been living with a child from living with or having any contact with the child. Intervention Orders can also co-exist with or interact with conditions of bail imposed under section 23A of the *Bail Act 1985* (SA).⁵⁹

These orders, and their interactions with the South Australian Intervention Order system are discussed in further detail below.

Overview of Existing South Australian Laws

The primary object of the Intervention Orders Act is to 'assist in preventing domestic and non-domestic abuse, and the exposure of children to the effects of domestic and non-domestic abuse', by setting out a legal framework for issuing and enforcing Intervention Orders and similar orders issued in other jurisdictions.⁶⁰ The Act has been amended

⁵² South Australian Magistrate's Court Form 28AA - Private Application, Form 45 - Affidavit.

⁵³ *Family Law Act 1975* (Cth) s68R.

⁵⁴ Family Law Amendment (Federal Family Violence Orders) Bill 2021 (Cth).

⁵⁵ The court would also be required to take into account other matters in making an order, including as the primary consideration, the safety and welfare of the child or protected person, as well as any additional considerations the court considers relevant, such as the criminal history of the person against whom the order is directed. The order may provide for the personal protection of a child or a person related to a child, such as their parent or a person who has parental responsibility for the child, or a party to a marriage.

⁵⁶ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) Part 3A—National recognition of domestic violence order; see also 'National Domestic Violence Order Scheme', Attorney-General's Department's website, available at <<https://www.ag.gov.au/families-and-marriage/families/family-violence/national-domestic-violence-order-scheme#:~:text=National%20Domestic%20Violence%20Order%20Scheme%20All%20Domestic%20Violence,aims%20to%20better%20protect%20victims%20and%20their%20families.>> (accessed 5 May 2022).

⁵⁷ *Children and Young People (Safety) Act 2017* (SA) s53.

⁵⁸ *Criminal Procedure Act 1921* (SA), s99AAC. Before granting such an order the Court must be satisfied that the child's contact or residence with the adult puts him or her at risk of sexual, physical, psychological or emotional abuse or neglect.

⁵⁹ See *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s9.

⁶⁰ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s5.

multiple times since 2009, reflecting ongoing parliamentary efforts to improve its effectiveness as a tool to prevent and respond to family and domestic violence.

Under the Intervention Orders Act the term 'abuse' is broadly defined.⁶¹ It includes 'physical, sexual, emotional, psychological or economic abuse'⁶² and encompasses those acts that result in (or are intended to result in):

physical injury; emotional or psychological harm; an unreasonable and non-consensual denial of financial, social or personal autonomy; or damage to property in the ownership or possession of the person or used or otherwise enjoyed by the person.⁶³

The abuse will take on the character of 'domestic abuse' if it is committed by a defendant against a person with whom the defendant is or was formerly in a relationship, for example, if they are married to each other or in a domestic partnership or if the other person is a child or stepchild.⁶⁴

Intervention Orders can be issued by the South Australian police (described as 'interim Intervention Orders') or by the South Australian Magistrates Court (described as 'final Intervention Orders'). In some cases, the Court can also issue an interim intervention order.

The person who applies for an intervention order is called an 'applicant'. The person who they want to be subject to the order is called the 'defendant'. The applicant may also be a 'protected person' if they are seeking protection from the defendant.⁶⁵ A protected person can also include a child who might be at risk of abuse, or at risk of witnessing abuse.⁶⁶

Section 6 of the Intervention Orders Act provides that an intervention order can be issued against a defendant if:

- (a) it is reasonable to suspect that the defendant will, without intervention, commit an act of abuse against a person; and
- (b) the issuing of the order is appropriate in the circumstances.

These grounds need to be established on the balance of probabilities. That means that the decision maker will ask whether it is 'more likely than not' that the defendant will commit an act of abuse.⁶⁷

In order to demonstrate that these grounds exist, the applicant and/or the person experiencing the abuse, harm or threats will generally have to provide a written statement (described as an affidavit) outlining a range of relevant circumstances including

- the background of the relationship between the defendant and the protected person/s or applicant;
- details of the defendant's recent behaviour of concern;
- details of any other incidents or threats which happened in the past;

⁶¹ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s8.

⁶² *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s8(1).

⁶³ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s8(2).

⁶⁴ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 8(8).

⁶⁵ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s7.

⁶⁶ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s7.

⁶⁷ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s28.

- details of relevant existing or pending court orders;⁶⁸
- any weapons the defendant has.⁶⁹

Evidence from a protected person can also be provided to the Magistrates' Court via video recording.

Section 10 of the Intervention Orders Act sets out the principles that must be taken into account by the police or the court when deciding whether or not to issue an intervention order, and when setting out the terms of the order. These principles recognise that:

- abuse occurs in all areas of society, regardless of socio-economic status, health, age, culture, gender, sexuality, ability, ethnicity and religion;
- abuse may involve overt or subtle exploitation of power imbalances and may consist of isolated incidents or patterns of behaviour; and
- it is of primary importance to prevent abuse and to prevent children from being exposed to the effects of abuse.

A police officer can issue an interim Intervention Order against a defendant if

- appears that there are grounds for issuing the order (ie that it is reasonable to suspect that the defendant will, without intervention, commit an act of abuse against a person; and the issuing of the order is appropriate in the circumstances) and
- the defendant is present before the police officer or
- in custody.⁷⁰

Once an interim Intervention Order is issued by a police officer, a number of things need to happen. For example, the police officer must

- serve a copy of the intervention on the defendant;
- identify the defendant and the persons protected by the order;
- specify the prohibitions and requirements imposed by the order; and
- require the defendant to appear before the Magistrates Court at a specified time and place (usually within 8 days after the date of the order being made).⁷¹

An interim Intervention Order can also be made by the Magistrates' Court, following an application by the police or a person⁷² who is worried that the defendant might commit an act of abuse against them (or their representative), or a child who may hear, witness or otherwise be exposed to an act of abuse by the defendant.⁷³ If the child is over 14 years old, they can apply to the court for an interim Intervention Order themselves. Applications can be made on behalf of younger children by their parent or guardian, or by a person with whom the child normally lives or another representative that has been approved by the Court.⁷⁴

⁶⁸ For example any Family Law Act orders, agreements, plans, injunctions, undertakings; orders or agreements for division of property; child protection orders; any existing restraining order; any other legal proceedings between the parties.

⁶⁹ South Australian Magistrate's Court Form 28AA - Affidavit.

⁷⁰ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s18.

⁷¹ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s18(3)

⁷² The applicant may use the Application for Intervention Order (Form 28AA) or their representative and the police may use the Application for Intervention Order (Form 28).

⁷³ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s20(2).

⁷⁴ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s20(2).

An Intervention Order will set out a list of things that the defendant cannot do, or must do. These are described as the ‘terms’ of the order and are listed in section 12 of the Act. For example, the terms of the order can prohibit the defendant from

- being at the place at which a protected person resides or works;
- being in a specified place;
- approaching a protected person;
- contacting, harassing, threatening or intimidating a protected person or any other person at a place where the protected person resides or works;
- damaging specified property; or
- possessing specified personal property.

If the application for the Intervention Order proceeds to a hearing, the Magistrates Court can issue an interim Intervention Order against the defendant if the Magistrate considers that the grounds described above exist.⁷⁵ The application can also be dismissed, for example, if it is found to be vexatious or without substance.⁷⁶ The Court will also consider the nature of the abuse, and the relationships between the parties. If the abuse is non-domestic in character, the Court may take into account ‘whether it might be appropriate and practicable for the parties to attempt to resolve the matter through mediation or by some other means’.⁷⁷ Special considerations apply if the applicant is a police officer.⁷⁸

If the Magistrate decides to issue an interim Intervention Order, it will set out in the order the details of the defendant and the persons protected by the order as well as the prohibitions and requirements (terms) imposed by the Order.⁷⁹ The final Intervention Orders must also be served on the defendant. The defendant will also be required to appear before the Court at a specified time and place (usually within 8 days after the date of the order being made).⁸⁰

Family mediation services may also be accessed at this stage⁸¹ and sometimes, the defendant will consent to a final Intervention Order being made. If this occurs, the interim Intervention Order will be finalised by the Magistrates’ Court through a process set out in section 23 of the Intervention Orders Act.

During the hearing for a final intervention order, the defendant is not able to ask questions directly of a person protected under the order and they cannot directly question a child who has allegedly been exposed to abuse committed by the defendant.⁸² If the defendant is not legally represented, the defendant must first give the Court a list of cross-examination questions they wish to have asked and the Court will decide which

⁷⁵ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s21(3)(a).

⁷⁶ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s21(3)(b).

⁷⁷ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s21(4).

⁷⁸ See *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s21 (4a) which provides that “If the applicant is a police officer— (a) the Court is not bound by the rules of evidence but may inform itself as it thinks fit; and (b) the Court must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.”

⁷⁹ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s21(7).

⁸⁰ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s21(7).

⁸¹ See e.g Centacare Family Dispute Resolution Service that is available to eligible families in South Australia, Centre Care, ‘Family and Dispute Resolution Service’, available at <<https://www.centacare.org.au/service/family-dispute-resolution/>> (accessed 5 May 2022).

⁸² If evidence has gone before the Court by way of audio or audio visual record of the protected person, the protected person may still be further examined, cross-examined or re-examined, but only with the permission of the Court, *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 28A(2)(b).

questions are allowable.⁸³ The questions are then asked by the Court or someone the Court nominates.⁸⁴

Under this process, the Court can confirm the interim order (e.g. can impose the same terms or prohibitions on the defendant) or make changes to the terms of the order or dismiss the application and revoke the interim order. Before confirming the Intervention Order, or issuing a substitute order, the Court will check whether there are any relevant Family Law Act orders or State child protection orders in place with respect to any children that might be connected to the order, the applicant, or the defendant.⁸⁵ When making a final Intervention Order the Magistrates' Court can also impose a 'problem gambling order' if the defendant meets the relevant criteria set out in the *Problem Gambling Family Protection Orders Act 2004* (SA).⁸⁶

The Intervention Orders Act also empowers the Magistrate's Court to make a 'tenancy order' which can require the defendant to leave his or her home in order to separate them from the protected person. A tenancy order makes it clear that if the defendant is a party to a tenancy agreement (for example renting a house) they can be stopped from entering the tenancy premises under an Intervention Order. If an Intervention Order in those terms is made, it has the legal effect of assigning the defendant's interest in the tenancy agreement to a specified person or persons with the landlord's consent.⁸⁷ In other words, a defendant can be 'taken off the lease' of a home where a protected person lives if this is needed to give effect to the terms of an Intervention Order.

Once a final Intervention Order has been made by the Magistrates' Court, parties to the order (including the applicant and the defendant and any protected person including a child) or a police officer can apply to the court to vary the order, or to have the order revoked.⁸⁸ If the defendant asks the Court to vary or revoke the order, the Court can dismiss the application without receiving submissions or hearing evidence if the application is frivolous or vexatious, or if there has been no substantial change in the relevant circumstances since the order was issued.⁸⁹ It should be noted that a defendant cannot bring an application to vary or revoke for 12 months after order is made. An applicant can bring the application at any time. If the Court decides to vary or revoke a final Intervention Order, the Court must tell the Commissioner of Police, the defendant and each person protected by the order and give them a reasonable opportunity to make submissions or be heard on the matter.⁹⁰ The Court must also notify other relevant public authorities.⁹¹

It is important to note that unlike other Australian jurisdictions, in South Australia final Intervention Orders have no end date: they continue to operate until they are varied or revoked by the Court. If circumstances change, the defendant or another party can apply

⁸³ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 29(4).

⁸⁴ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 29(4).

⁸⁵ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s23.

⁸⁶ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s24.

⁸⁷ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s25.

⁸⁸ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s26(1).

⁸⁹ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s26(4).

⁹⁰ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s26(5).

⁹¹ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s26(8)-(10).

to the Court to have a final Intervention Order revoked.⁹² If an applicant or a protected person wants to vary an Intervention Order or have the order revoked, they can ask the Court directly or request assistance from the police.

If the defendant does not follow the terms of the Intervention Order, for example if the defendant telephones a protected person or visits their place of work (described as a breach or contravention of the order), then criminal consequences can flow. Critically, the breach of the Intervention Order must be made known to the Magistrates' Court, usually by the police or correctional officers. This in turn requires a protected person or other witness to report the breach to the police, which may not always occur due to the factors discussed below.

If a police officer has reason to suspect that a person has not complied with the terms of an Intervention Order, the police officer can arrest and detain the person and does not need to get a warrant.⁹³ A hearing will then occur before the Magistrates Court to determine whether the defendant has breached the terms of the Intervention Order. The hearing will be held in line with the provisions described above, with protections provided for the collection of evidence from and cross-examination of protected persons and other vulnerable witnesses. For example, if the defendant is not legally represented, the defendant must first give the Court a list of cross-examination questions they wish to have asked and the Court will decide which questions are allowable.⁹⁴ The questions are then asked by the Court or someone the Court nominates.⁹⁵

If the Magistrates' Court finds that the defendant has not complied with the terms of the order criminal penalties can apply. For example, a person who:

- fails to undertake an assessment for an intervention program or fails to comply with a term to attend an intervention program will be guilty of an offence punishable by a maximum penalty of \$1250.⁹⁶
- contravenes any other term of an intervention order will be guilty of an offence punishable by a maximum of \$10 000 or imprisonment for 2 years.⁹⁷

If the defendant breaches the order a second or subsequent time, and the breach involves physical violence or the threat of physical violence, the penalties imposed increase significantly to a maximum fine of \$20 000 or imprisonment for 4 years.⁹⁸

If the defendant is found guilty of breaching an Intervention Order and the breach involved physical violence or a threat of physical violence, the Magistrates' Court is given the discretion to also require the convicted person to make a payment toward the cost of

⁹² Section 15 of the Intervention Orders Act also requires the Court, when issuing a final intervention order, to include a term fixing a date after which the defendant may apply for revocation of vacation of the order, which must be at least 12 months after the date of issue of the final order.

⁹³ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s36.

⁹⁴ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 29(4).

⁹⁵ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 29(4)

⁹⁶ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s31(1).

⁹⁷ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s31(2).

⁹⁸ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s31(2aa). NB *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s31 (2ab) provides that "In determining whether a contravention of an intervention order is a second or subsequent such contravention for the purposes of subsection (2aa), any previous offence against subsection (2) or (2aa) (whether committed before or after the commencement of this subsection) of which the defendant has been found guilty will be taken into account, but only if the previous offence was committed or alleged to have been committed within the period of 5 years immediately preceding the date on which the offence under consideration was allegedly committed."

any intervention program the person is required to undertake in accordance with the Intervention Order or make any other order that the Court thinks fit.⁹⁹

Implementation of Existing Laws in South Australia

South Australia's response to family and domestic violence is multifaceted and involves a collaboration across a range of agencies, including the South Australian Police, Office for Women, Department for Child Protection and other critical government agencies and service providers.

Policy Frameworks and Initiatives to Combat Family and Domestic Violence

In 2018 the incoming Marshall Government introduced the *Committed to Safety: A framework for addressing domestic, family and sexual violence in South Australia* (the 'CTS Framework'), a policy framework with a view to providing a 'clear and considered plan for action in relation to preventing domestic, family and sexual violence'. The Family Safety Framework' features three pillars of response: primary prevention; service and support and 'justice'.¹⁰⁰ The CTS Framework is then underpinned by two 'enablers' described as 'Data and Evidence Base' (referring to measures such as the Information Sharing Guidelines to provide a state-wide approach to information sharing practices wherever there are threats to a person's safety and wellbeing) and 'Evaluation and Monitoring our Impact'.¹⁰¹ The CTS also recognises the need to focus on specific population groups, including children/youth, Aboriginal people, women with disability, CALD people, older women, and regional and remote people).

Specific actions are broken down into short, medium and long-term goals, and include reference to the Intervention Orders regime in the context of:

- recognising the important role played by the Women's Domestic Violence Court Assistance Service (WDCAS) (discussed below) to support women affected by domestic and family violence to apply for Intervention Orders through the court system and/or to apply to vary an intervention order, or report a breach; and
- referring to the amendments to the Intervention Orders Act passed in 2018 that strengthen penalties for breaches and make other changes to the way police provide evidence to the Court including when applying to vary an Intervention Order.¹⁰²

The **Family Safety Framework (FSF)** was developed under the auspice of the South Australian Government's Women's Safety Strategy and Keeping Them Safe - Child Protection Agenda, to drive improved, integrated service responses to violence against women and children in South Australia.

The FSF seeks to ensure that services to families most at risk of violence are provided in a more structured and systematic way, through agencies sharing information about high

⁹⁹ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s31(2a).

¹⁰⁰ Office for Women, *Committed to Safety: A framework for addressing domestic, family and sexual violence in South Australia*, South Australian Government (2018) available at <https://officeforwomen.sa.gov.au/__data/assets/pdf_file/0007/78604/Committed-to-Safety.pdf> (accessed 22 April 2022)

¹⁰¹ This refers to oversight mechanisms such as the Chief Executives Group chaired by the Minister for Human Services, with the Assistant Minister for Domestic and Family Violence Prevention and the Key Partner Network co-chaired by the Office for Women and the Coalition of Women's Domestic and Aboriginal Family Violence Services. See *Committed to Safety*, above n 100.

¹⁰² *Statutes Amendment (Intervention Orders and Penalties) Act 2021* (SA).

risk families and taking responsibility for supporting these families to navigate the system of services to help them.

Information about people at serious risk of violence is shared between agencies in accordance with the Information Sharing Guidelines for promoting safety and wellbeing. The statewide implementation of the Family Safety Framework was completed in November 2013.

The FSF is underpinned by an agreement across Departments and Agencies for a consistent understanding and approach to domestic and family violence that has a focus on women's and children's safety and the accountability of perpetrators.¹⁰³

Family Safety Meetings are held regularly (usually fortnightly) in 17 police local service areas in South Australia.¹⁰⁴

Family Safety Meetings are chaired by South Australia Police, including the South Australian Police Family Violence Investigation Section (FVIS) for those in metropolitan areas.

A Family Safety Framework Practice Manual has been developed.¹⁰⁵ In addition, detailed information and forms are available including a detailed DV Risk Assessment Form [106](#) – that includes a focus on the offender's behaviour, the offender's personal characteristics as well as situational factors and the victim's vulnerability, as well as Positive Action Guidelines and Perpetrator Guidelines for Family Safety Meetings. A 2008 evaluation of the Family Safety Framework trials was conducted by the Office of Crime Statistics and Research (AGD).¹⁰⁷

In addition to the Family Safety Framework, a number of other initiatives have been developed and led by the Women's Safety Service SA, designed to support families and individuals who may be experiencing or at risk of experiencing family and domestic violence. These include:

- **Thriving Families** – which aims to highlight the individual needs of families when domestic and family violence are present, and to build capacity in specialist and community services to meet those needs. Women's Safety Services SA is currently developing a strategic direction for working with children who enter our services with their mother or caregiver. This involves providing the theoretical and evidence-based position that underpins the work we do and then attending to the specific needs of children, which includes working to heal the relationship between mothers and children. WSSSA is currently in partnership with Flinders University's SWIRLS Centre (Social Work Innovation Research Living Space), and funded through the Early Intervention Research Directorate), to explore a shared approach between

¹⁰³ The core agencies involved are: South Australia Police; Department for Child Protection; SA Housing Authority; Department of Human Services; Department for Correctional Services; SA Health (inc community, women's health, Aboriginal health, midwifery, nursing and hospital staff); Adult Mental Health Services; Drug and Alcohol Services SA; Department for Education; Women's Domestic Violence Services (NGO).

¹⁰⁴ These are: Adelaide Hills; APY Lands; Berri [Riverland]; Ceduna; Coober Pedy; Eastern District and Western District; Fleurieu/Kangaroo Island; Gawler Barossa; Limestone Coast; Murray Bridge; Northern District; Port Augusta; Port Lincoln; Port Pirie; Southern District; Whyalla.

¹⁰⁵ NB the Family Safety Framework Practice Manual is currently under review, however, the 2015 manual is available for use in the meantime. Some content may be dated (eg agency names) but such content does not effect the practical delivery of the FSF or the running of FSMs. It should be noted that an updated version will be in place later this year.

¹⁰⁶ This form is available for download via <<https://officeforwomen.sa.gov.au/womens-policy/womens-safety/family-safety-framework>>.

¹⁰⁷ Office of Crime Statistics and Research, *Family Safety Framework Final Evaluation Report*, (2008) South Australian Government available at <https://officeforwomen.sa.gov.au/__data/assets/pdf_file/0012/5142/FSF-Evaluation-Final-Report.pdf> (accessed 5 May 2022).

Department for Child Protection and WSSSA that influence the movement of children into Out Of Home Care.

- **Multi-Agency Hub** - a collaboration and integration of services dedicated to the safety of women and children, as well as the accountability of perpetrators of domestic and family violence. Women's Safety Services SA aims to provide safety to women and their children by ensuring the representation of domestic and family violence is trauma informed, and makes visual the perpetrator of violence and his responsibility to the family's safety.
- **DCS GPS Technology Evaluation Trial** - Women's Safety Services SA is in partnership with the Department for Correctional Services in a federally funded research project evaluating GPS technology bracelets and how they assist in limiting men's current and future offending. The organisation has carried out a qualitative study that analyses women's sense of reality of safety while their ex-partners are on GPS tracking technology. This part of the research is complete and awaits the evaluation conducted by the Department for Correctional Services on men wearing GPS bracelets and their offending.

Accessing Intervention Orders in South Australia: Specialist Police and Court Services

As discussed in the 'Data Analysis' section of this Report, most people who seek to access Intervention Orders in South Australia are women who are experiencing violence, abuse or threats of harm, often perpetrated by their current or former partners.

Women who are experiencing domestic or family violence can seek free legal assistance from the WDVCS¹⁰⁸ or another legal service provider or support service including the Women's Legal Service, the Legal Services Commission, Southern Community Justice Centre, Northern Community Legal Service and WestSide Lawyers, Aboriginal Legal Rights Movement, Uniting Communities Law Centre, Centre Care Family Mediation Services or a private lawyer.

The **Women's Domestic Violence Court Assistance Service** (WDVCAS) is a specialist legal service providing support to women affected by domestic and family violence.

Operated by the Legal Services Commission, WDVCAS provides a range of services primarily relating to helping women apply for intervention orders and ending tenancy agreements. Women can receive free legal assistance to navigate the Magistrates court processes of applying for, varying, or revoking an intervention order. Assistance can also be provided in reporting breaches of an intervention order and in applying for relevant tenancy orders through the South Australian Civil and Administrative Tribunal.

The service assists women throughout all of South Australia with legal practitioners available at multiple locations, allowing for accessible, comprehensive legal advice and assistance to be provided. WDVCAS works closely with other services providing support to women experiencing domestic and family violence, and can refer clients to these services accordingly.

Applications for court issued Intervention Orders can also be made at a local police station when the applicant can point to behaviour which amounts to a criminal offence, or the threat of such an offence. At the police station, an officer will ask the applicant to

¹⁰⁸ Legal Services Commission SA, *Law Handbook*, Chapter 21, available at <<https://lawhandbook.sa.gov.au/ch21s07s02.php>> (accessed 5 May 2022). The WDVCAS is a specialist legal service, operated by the Legal Services Commission, providing support to women affected by family and domestic violence. Women can receive free legal assistance to navigate the Magistrates court processes of applying for, changing, or removing an intervention order. Assistance can also be provided in reporting breaches of an intervention order.

make a statement about the defendant's conduct and why an Intervention Orders is needed.¹⁰⁹ The applicant's statement will then be sent to the police prosecutor who will determine whether there are sufficient grounds to ask the court for an order. If the matter proceeds to a court application, the police prosecutor will present the application on behalf of the applicant.¹¹⁰ The South Australian Police's Website contains a range of useful information packs for potential Intervention Order applicants, including information translated into a number of different languages, as well as a list of referral agencies to assist applicants gain access to special legal advice and other social support.¹¹¹

For many years, the South Australian Police have prioritised combatting family and domestic violence, and contributes positively to multi--agency responses to this complex problem, including through the establishment specialist Family Violence Investigation Sections and the Multi-Agency Protection Service. As the South Australian Police's 2015-16 Annual Report explains:

Domestic violence permeates every level of society and endangers people of all backgrounds and experiences. The South Australian Police continues to address the issue of domestic violence in South Australia and its widespread impact on the community through an integrated, multi-agency approach and by providing support for all victims of domestic violence. The South Australian Police continues to respond strategically to the incidence of domestic violence in the community. In 2015-16, the South Australian Police began rolling out the Domestic Violence Investigators Course for all specialists attached to Family Violence Investigations Sections, and other areas where this specialist skill is required. The Multi Agency Protection Service (MAPS) is an ongoing integrated information sharing model to manage domestic violence and related child protection matters. MAPS currently shares information on all high risk domestic violence matters and a small percentage of medium and standard risk matters between the South Australian Police, the Department for Correctional Services, the Department for Education and Child Development, the Department for Communities and Social Inclusion, and SA Health. By collectively assessing, analysing and responding to emerging domestic violence matters reported to the South Australian Police, MAPS aims to reduce the incidence and impact of domestic violence in the community.¹¹²

Since 2017, applications for Intervention Orders in South Australia are heard by the Family Violence Court, a specialist court in the Magistrates Court that hears criminal matters connected with family and domestic violence and abuse as well as the issuing of intervention orders.¹¹³ Family Violence Courts operate at the Adelaide, Port Adelaide, Elizabeth, Christies Beach, Murray Bridge, Mount Gambier, Port Augusta and Whyalla Magistrates Courts.¹¹⁴ Despite the efforts of court staff, Magistrates and other support services, attending Court to lodge an application, file an affidavit or provide oral evidence can be a challenging, traumatic and sometimes overwhelming experience for many

¹⁰⁹ South Australian Police Website, *Intervention Orders*, available at <<https://www.police.sa.gov.au/your-safety/intervention-orders>> (accessed 5 May 2022).

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² South Australian Police, *Annual Report 2015-2016* (2017) South Australian Government, available at <https://www.police.sa.gov.au/__data/assets/pdf_file/0020/363215/Annual-report-2015-2016.pdf> (accessed 22 April 2022).

¹¹³ This was a recommendation made by the Social Development Committee, Inquiry into Family and Domestic Violence, Parliament of South Australia, (2016).

¹¹⁴ Courts Administration Authority South Australia, Magistrates Court Website, *Intervention Programs*, available at <<http://www.courts.sa.gov.au/OurCourts/MagistratesCourt/InterventionPrograms/Pages/Treatment-Intervention-Court.aspx>> (accessed 5 May 2022).

people who are experiencing or who have witnessed family and domestic violence.¹¹⁵ As discussed below, past research suggests that many potential applicants for Intervention Orders decide not to proceed with the application at this stage.¹¹⁶

Recent Budgetary Allocations

In the 2021-2022 South Australian State Budget, the Marshall Government committed \$134 million over five years to fund family support and safety services, including

- programs for women at risk of domestic violence
- accommodation and support to Aboriginal women at risk of or experiencing homelessness
- programs for young women who are pregnant or have children.¹¹⁷

In the 2022-2023 Federal Budget, the Morrison Government allocated the following funding to programs and service delivery related to preventing or responding to domestic and family violence:

- \$52.4 million over four years to Legal Aid Commissions to meet expected demand for support under the Family Violence and Cross Examination of Parties Scheme.
- \$22 million over five years from 2021-22 to support the placement of state child protection and policing officials in the family law courts across Australia to facilitate information sharing between the family law, child protection and family violence systems.
- \$16.5 million over two years from 2021-22 to support Legal Aid Commissions to meet the cost of legal representation, including independent children lawyers as ordered by the Federal Circuit and Family Court of Australia as part of the Government's enhanced case management arrangements for family law proceedings.
- \$8.4 million over three years for a pilot of a new service delivery model to provide survivors of sexual assault with greater access to dedicated legal services to support their recovery and engagement with the criminal justice system.
- \$7 million over two years for nine Women's and Community Legal Services nationally, to help women access legal assistance and migration support.¹¹⁸

In addition, during the 2022-23 Federal Budget the Morrison Government allocated \$25 million for Australia-first domestic violence trauma recovery centre in New South Wales.¹¹⁹ A trauma- recovery centre of this type for South Australia is featured in the Recommendations contained at the end of this Report.

¹¹⁵ See e.g. T Booth, M Kaye, and J Wangmann, 'Family Violence, Cross-examination and Self-represented Parties in the Courtroom: The Differences, Gaps and Deficiencies' (2019) 42(3) *University of New South Wales Law Journal* 1106–1142; Samantha Jeffries, Rachael Field and Christine EW Bond, 'Protecting Australia's Children: A Cross-Jurisdictional Review of Domestic Violence Protection Order Legislation' (2015) 22(6) *Psychiatry, psychology, and law* 800. Cf recent changes made in light of COVID-19 that have led to the increased use of online means of obtaining evidence from applicants and witnesses in Magistrate's hearings, above n 40.

¹¹⁶ See e.g. J Wangmann, 'Incidents v Context: How Does the NSW Protection Order System Understand Intimate Partner Violence?' (2010) 34(4) *The Sydney Law Review* 695–719; M Jesús Cala, M Eva Trigo, FJ Saavedra, 'Women's Disengagement from Legal Proceedings for Intimate Partner Violence: Sociodemographic and Psychological Variables' (2016) 8(1) *The European Journal of Psychology Applied to Legal Context* 35–42.

¹¹⁷ Department of Treasury, *2021-2022 State Budget – Budget Overview*, (2021) South Australian Government available at <https://www.treasury.sa.gov.au/__data/assets/pdf_file/0005/519071/State-Budget-Overview-2021-22-Final.pdf> (accessed 5 May 2022).

¹¹⁸ Law Council of Australia, Media Release, 'Budget a missed opportunity to invest in justice' (29 March 2022).

¹¹⁹ See e.g. 'Federal Budget Funds Illawarra Women's Health Centre', *ABC News Online* (30 March 2022) <<https://www.abc.net.au/news/2022-03-30/federal-budget-funds-illawarra-womens-health-centre-trauma-help/100950352>>.

These positive efforts to address family and domestic violence in South Australia are considered further in the Data Analysis section of this Report and are acknowledged in the Key Findings. However, as discussed further below, despite these efforts, many research participants have articulated serious and sustained shortcomings in the implementation of the Intervention Orders system in South Australia.

Complex interaction between different types of legal orders

As noted above, this Report focuses predominantly on Intervention Orders, however there are a range of other legal orders that can be issued or enforced to protect against family and domestic violence. These include injunctive orders made under sections 68B and 114 of *Family Law Act 1975* (Cth) (the Family Law Act). These orders can be made by the Family Court for the personal protection of the child or a parent of the child and can restrain another person from entering or residing in a place of residence or education of the child, among other matters. However, these orders are civil in nature and are not criminally enforceable. As the Attorney General's Department has explained:

This means that the onus is on the aggrieved party to bring a private action against the perpetrator for contravention of the injunction in the family law courts. The dynamics of power and control in relationships involving family violence can make this difficult for the victim.¹²⁰

The Family Court is also empowered to make a range of parenting orders under Part VII Division 4 of the Family Law Act that can have significant impact on the relationship between two parties who may be experiencing relationship breakdown and sometimes domestic or family violence. These orders can, for example, prescribe the time a child is to spend with a particular parent or other person, and the communication a child is to have with a parent or other person.¹²¹

Under the South Australian Intervention Orders Act, these parenting orders (and other orders made under the Family Law Act) must be taken into when determining whether it is appropriate to issue an intervention order and when determining its terms.¹²² In addition, an applicant for a Intervention Order must inform the Magistrate's Court of any relevant Family Law Act orders, any pending application for such an order, and any other legal proceedings between a person proposed to be protected by the order and the defendant.¹²³ Then, if the Magistrate's Court determines that it is appropriate to confirm an interim intervention order as a final intervention order, and the defendant is a child or the parent of a child, the Magistrate's Court must check whether there is any relevant Family Law Act order in place and consider how the final intervention order would be likely to affect contact between the protected person or the defendant and any child in their care.¹²⁴ The Magistrate's Court must also take steps necessary to avoid any inconsistency between the Intervention Order and any Family Law Act order.¹²⁵

While technically any South Australian Intervention Order is considered 'invalid to the extent of any inconsistency with a Family Law Act order of a kind referred to in section

¹²⁰ Attorney General's Department Submission (Submission #6) to the Australian Parliament, Senate Legal and Constitutional Affairs Committee, *Inquiry in the Family Law Amendment (Federal Family Violence Orders) Bill 2021* (July 2021).

¹²¹ *Family Law Act 1975* (Cth) s64B(2).

¹²² *Intervention Orders (Prevention of Abuse Act 2009* (SA) s10.

¹²³ *Intervention Orders (Prevention of Abuse Act 2009* (SA) s16.

¹²⁴ *Intervention Orders (Prevention of Abuse Act 2009* (SA) s23.

¹²⁵ *Intervention Orders (Prevention of Abuse Act 2009* (SA) s23.

68R of the *Family Law Act 1975* (Cth)¹²⁶ the South Australian Magistrate's Court is given power under subsection 68R(1) of the Family Law Act to revive, vary, discharge or suspend a relevant Family Law Act order, provided it also makes or varies a family violence order in the proceedings.¹²⁷

In addition, section 69ZK of the Family Law Act provides that state and territory child welfare laws and orders made under those laws take precedence over Family Court orders. This includes orders made by the South Australian Youth Court under the *Children and Young People (Safety) Act 2017* (SA),¹²⁸ and under the *Criminal Procedure Act 1921* (SA)¹²⁹ which can include an order restraining a non-guardian adult who has been living with a child from living with or having any contact with the child. These orders must also be taken into account by the Magistrate's Court when exercising powers under the Intervention Orders Act.¹³⁰

Intervention orders can also co-exist or interact with conditions of bail imposed under section 23A of the *Bail Act 1985* (SA).¹³¹ In addition, since November 2017 domestic violence orders issued in other Australian States and Territories have also been recognised and enforced in South Australia as part of the National Recognition of Domestic Violence Order Scheme.¹³²

New criminally enforceable federal family violence orders have also been proposed¹³³ that would allow for the Family Court to make a criminally-enforceable federal family violence order where the Court is satisfied that family violence has already taken place or there are reasonable grounds to suspect that it is likely that family violence will take place, or that a child may be exposed to family violence.¹³⁴ The Bill would amend the Family Law Act to establish new federal family violence orders which, if breached, can be criminally enforced.¹³⁵

Navigating the complex relationship between these laws can be exceedingly complex for those experiencing domestic and family violence, particularly for those unable to access specialist legal advice and support.¹³⁶ The intersection of these laws can also give rise to opportunities for perpetrators of domestic and family violence to exercise coercive control over victims, for example by using the Intervention Orders regime to restrict

¹²⁶ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s16.

¹²⁷ *Family Law Act 1975* (Cth) s68R(3).

¹²⁸ *Children and Young People (Safety) Act 2017* (SA) s53.

¹²⁹ *Criminal Procedure Act 1921* (SA), s99AAC. Before granting such an order the Court must be satisfied that the child's contact or residence with the adult puts him or her at risk of sexual, physical, psychological or emotional abuse or neglect.

¹³⁰ *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s16.

¹³¹ See *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s9.

¹³² *Intervention Orders (Prevention of Abuse) Act 2009* (SA) Part 3A.

¹³³ Family Law Amendment (Federal Family Violence Orders) Bill 2021 (Cth).

¹³⁴ The court would also be required to take into account other matters in making an order, including as the primary consideration, the safety and welfare of the child or protected person, as well as any additional considerations the court considers relevant, such as the criminal history of the person against whom the order is directed. The order may provide for the personal protection of a child or a person related to a child, such as their parent or a person who has parental responsibility for the child, or a party to a marriage.

¹³⁵ Australian Parliament, Senate Legal and Constitutional Affairs Committee, *Inquiry in the Family Law Amendment (Federal Family Violence Orders) Bill 2021* (July 2021), 2.

¹³⁶ See e.g. Family Law Council, *The Best Interests of the Child? The Interaction of Public and Private Law in Australia—Discussion Paper* (2000), [3.9]; Family Law Council, *Improving Responses to Family Violence in the Family Law System: An Advice on the Intersection of Family Violence and Family Law Issues* (2009), [7.3.5].

parental access to children or initiating court proceedings as a form of coercive control.¹³⁷ As the Domestic Family Violence Bench Book explains:

Where the parties to protection order application proceedings are also engaged, or likely to be engaged, in family law proceedings, tensions or inconsistencies may arise between the purpose and effect of a protection order made by a court of summary jurisdiction and a parenting order made by [the Family Court]. On the one hand, the protection order may direct the perpetrator to keep away from the victim and any protected children. On the other hand, the parenting order may stipulate that the protected children spend time with or live with the perpetrator. In some circumstances it may be appropriate for magistrates to vary existing parenting or other orders under the Family Law Act.

There may also be circumstances where, for example, in the absence of parenting orders, a victim obtains a protection order naming her children as protected people, and the perpetrator (the father of the children) subsequently applies to the Family Court for parenting orders so that he may have contact with his children otherwise disallowed under the protection order. Judicial officers should be aware when making protection orders naming children as protected people in these circumstances that there may be a considerable delay before parenting matters, including contact, can be dealt with by the Family Court, and that the new status quo established by the protection order may impact on the outcome of any subsequent parenting proceedings.¹³⁸

It is also relevant to note that men and women who are involved in family law parenting proceedings pursuant to the Family Law Act usually have to have regular contact with each other, including directly in the form of communications about handover, child illness, major long-term decisions including those relating to the child's education.¹³⁹ Knowing that they will have to be in contact with the other party, and fear of the potential ramifications from the other parent - including an exacerbation of conflict in relation to the Family Court proceedings - can provide very significant barriers for women and others seeking to escape family or domestic violence by seeking an Intervention Order.¹⁴⁰

In this context it is not surprising that past research into the intersection of these laws warns against making legislative changes to one component of this complex legal framework without fully exploring the implications for other components within the system.¹⁴¹ This is consistent with the perspectives shared by those with lived experience of the Intervention Orders system in South Australia.¹⁴² For example, one research participant with experience providing legal advice to women at risk of domestic and family violence said that:

It can be really confusing for women [the intersection between federal family court access orders and state-level intervention orders] and it seems like it's really hard to get children added to an intervention order after it's been issued. Even if they're really highly at risk, it

¹³⁷ See e.g. M McMahon, and P McGorery, *Criminalising Coercive Control*, (2020) Springer Singapore; K Fitz-Gibbon, and S Walklate, 'Improving justice responses for victims of intimate partner violence: examining the merits of the provision of independent legal representation' (2019) *International Journal of Comparative and Applied Criminal Justice* 639.

¹³⁸ Australian Government, *National Domestic and Family Violence Bench Book* (updated as of June 2021) available at <<https://dfvbenchbook.aija.org.au/protection-orders/related-family-law-proceedings/>> (accessed 22 April 2022) 'Protection Orders'.

¹³⁹ This includes interactions with the Family Dispute Resolution process under the *Family Law Regulations 1984* (Cth) 25(B).

¹⁴⁰ P Easteal, J Herbert, and J Kennedy, 'Collaborative practice in family law matters with coercive control-type family violence: preliminary thoughts from the practitioner coalface', (2015) 5(1) *Family Law Review* 13–33; E Stark, and M Hester, 'Coercive Control: Update and Review', (2019) 25(1) *Violence Against Women*, 81–104.

¹⁴¹ See e.g. Walklate, and Fitz-Gibbon, above n 137.

¹⁴² Service Provider interviewee A8.

seems like you get this one opportunity. If the police show up and the woman at the scene appears to be directly impacted, they might issue one. But, later, if it's just the woman who's got the intervention order, we might do a risk assessment that shows that everyone's highly at risk, but it can be very difficult to add the children to the order later. Then there's the family court orders overriding the state-based legislation - it feels like those systems need to be talking to each other so much better and that safety should come first over the idea that a parent should have the right to see the children.¹⁴³

These suggestions are reflected in the key findings and recommendations discussed below.

¹⁴³ Ibid.

Methods

The methodology for this Project has three key components:

1. review existing South Australian law and publicly available de-identified data relating to the use and enforcement of Intervention Orders;
2. comparative law research to articulate best practice in the area of legislative and regulatory responses to family and domestic violence; and
3. qualitative research to learn from those with lived experience of engaging with or providing support services associated with the Intervention Orders system.

Each of these methodological components are informed by the theoretical frameworks discussed below.

Theoretical Frameworks and Criteria for Analysis

Participatory Research and Listening to Those with Lived Experience

Past efforts to improve the effectiveness of legal interventions to address family and domestic violence, including the *Intervention Orders (Prevention of Abuse) Act 2009* (SA), have focused on a relatively narrow set of data produced and published by the courts.¹⁴⁴ However, this data generally fails to identify the legal, social, cultural and other barriers to the effectiveness of this legal framework in South Australia.¹⁴⁵

In contrast, this Project adopts a socio-legal approach¹⁴⁶ to evaluate the effectiveness of Intervention Orders that focuses on engaging with and learning from those with lived experience of family and domestic violence. To do this, this project used a mixed methods design,¹⁴⁷ to explore and investigate the operation of the Intervention Orders system in South Australia. For example the *Powerful Interventions* project:

- Analyses the existing data relating to the use and enforcement of Intervention Orders in South Australia;
- Analyses the existing data relating to compliance and breach of Intervention Orders in South Australia;
- Identifies the key legal, social, cultural and other barriers to the effective enforcement of Intervention Orders in South Australia;
- Analyses qualitative data obtained through ethics-approved surveys and interviews undertaken with South Australian participants with lived experience accessing, drafting, implementing and enforcing Intervention Orders and responding to the breaches;

¹⁴⁴ See e.g. Office of Crime Statistics and Research, *Family Safety Framework Final Evaluation Report*, (2008) South Australian Government available at <https://officeforwomen.sa.gov.au/__data/assets/pdf_file/0012/5142/FSF-Evaluation-Final-Report.pdf> (accessed 5 May 2022).

¹⁴⁵ Such as those barriers identified by the scholars listed above n 40.

¹⁴⁶ Naomi Creutzfeldt, Marc Mason and Kirsten McConnachie, *Routledge handbook of socio-legal theory and methods* (1991) Routledge, Abingdon, Oxon ; New York, NY.

¹⁴⁷ C Marshall and G Rossman, *Designing qualitative research* (2006, 4th ed, Sage); J M Morse, 'Approaches to qualitative-quantitative methodological triangulation' (1991) 40 *Nursing Research*, 120-123; B L Berg, *Qualitative research methods for the social sciences* (2007, Boston, Allyn & Bacon).

- Identifies practical reform options to address or remove these barriers and increase access to and the effectiveness of enforcement of Intervention Orders in South Australia.

The research design, data collection and analysis, and outcomes from the findings were underpinned by principles of integrated knowledge translation,¹⁴⁸ which included input from an Advisory Group and research participants with lived experience interacting with the Intervention Order system. In this way, this research elicits the lived experiences of those who have sought the protection of the Intervention Order system to protect themselves or their family members or dependents from the harm caused by family or domestic violence. Seeking the 'lived experience voice' has the potential to give a deeper, more nuanced understanding of how these legal tools work in practice.¹⁴⁹

This in line with feminist epistemology, which centres the voices of women with lived experiences as 'knowers'.¹⁵⁰ The study also employed a methodology of relational empowerment,¹⁵¹ which includes giving attention to emotional content and encourages relationship building between researcher and participants,¹⁵² with a view to enabling empowerment through honouring participants as holders of knowledge.¹⁵³

This approach enables this research to transcend the conventional 'legal frame' that so often accompanies an examination of a specific legislative framework, and consider social-science approaches to both articulating the problem of family and domestic violence,¹⁵⁴ and to identify potential changes to the Intervention Orders System that may help address this problem. In particular, the socio-legal approach adopted in this research helps to identify the full range of benefits and limitations of legislative responses to family and domestic violence, and to recognise that:

domestic violence frequently manifests as a systematic process of controlling behaviours aimed at disempowering the victim, with physical violence being just one of the tools mobilised by the perpetrator to achieve this.¹⁵⁵

This research also recognised that these considerations have 'yet to fully permeate legal understandings of domestic violence', which continue to:

create and sustain a 'hierarchy of harm', whereby physical violence still dominates in the assessment of both the existence and severity of domestic violence, even in light of broader recognitions that many abusive behaviours do not include physical contact. In the absence of direct physical violence, legal interpretative tendencies remain, which view the impact of the abuse on the victim as less serious, or not 'high-risk' enough to warrant intervention. This then leads to a legal response

¹⁴⁸ GH Doane, S Reimer-Kirkham, E Antifeau, and K Stajduhar, '(Re)theorizing Integrated Knowledge Translation: A Heuristic for Knowledge-As-Action', (2015) 38(3) *Advances in Nursing Science* 175–186.

¹⁴⁹ This is similar to the approach adopted in the studies referred to above n 40.

¹⁵⁰ S N Hesse-Biber, *Feminist research: Exploring the interconnections of epistemology, methodology, and method. Handbook of feminist research: Theory and practice* (2017, Sage Publications) 1-26.

¹⁵¹ P Lather, 'Feminist perspectives on empowering research methodologies' (1988) 11(6) *Women's studies international forum* 569-581).

¹⁵² S L Martin, J McLean, C Brooks, and K Wood, K "'I've been silenced for so long" Relational engagement and empowerment in a digital storytelling project with young women exposed to dating violence' (2019) 18 *International journal of qualitative methods*, 1609406919825932.

¹⁵³ M Van der Plaats, 'Locating the feminist scholar: Relational empowerment and social activism' (1999) 9 *Qualitative Health Research*, 773–785.

¹⁵⁴ K Anderson, 'Gendering coercive control' (2009) 15(12) *Violence Against Women*, 1444–1457; M A Dutton and LA Goodman, 'Coercion in intimate partner violence: Toward a new conceptualization' (2005) 52 *Sex Roles* 743–744; C Hanna, 'The paradox of progress: Translating E. Stark's coercive control into legal doctrine for abused women' (2009) 15(2) *Violence Against Women* 1458–1476.

¹⁵⁵ Charlotte Bishop, 'Domestic Violence: The Limitations of a Legal Response' in S Hilder and V Bettinson (eds) *Domestic Violence*, (2016 Palgrave London) 60-61.

inherently limited in its ability to comprehend and provide redress for all victims of domestic violence. As a result, some victims and certain aspects of victims' experiences continue to fall outside of the law's protection.¹⁵⁶

First Nations Peoples and Colonial Violence in Australia

Many studies confirm that Aboriginal and Torres Strait Islander women experience particularly severe and pervasive forms of discrimination whilst at the same time experiencing disproportionately high rates of family and domestic violence.¹⁵⁷ A 2018 report by the Australian Institute of Health and Welfare, found that family violence occurs at higher rates among Aboriginal and Torres Strait Islander women and children with women over 15 being 34 times more likely to be hospitalised for family violence than non-Indigenous women.¹⁵⁸ As McGlade, and Aboriginal scholar, explains:

sexual violence in Australia is deeply grounded in our colonial history which condoned systemic rape and sexual abuse of Indigenous women. Many policy responses to family and domestic violence employed since colonisation have focused exclusively on the experiences of white women, and many have continued to ascribe to the racist colonial narrative that denigrated Indigenous women as less than human.¹⁵⁹

Racist attitudes towards Aboriginal and Torres Strait Islander people continue within Australian police forces and other government agencies involved in responding to family and domestic violence, further undermining the effectiveness of legal tools such as Intervention Orders within these communities.¹⁶⁰

Even in recent public debates about sexual harassment and gender discrimination in Australia, Aboriginal and Torres Strait Islander perspectives and stories are ignored or sidelined in favour of a narrative centred around white, middle class women.¹⁶¹ These narratives have the potential to distract attention from the urgent need to protect and promote the rights of Aboriginal and Torres Strait Islander women and centre policy response to family and domestic violence around their needs.¹⁶² The compounding impact of these experiences of intersecting discrimination mean that legal tools such as Intervention Orders remain largely out of reach and ineffective to protect Aboriginal women from violence in South Australia.

As the Health Foundation has explained,¹⁶³ there are a range of key factors that must be kept in mind when considering Aboriginal experiences of family and domestic violence,

¹⁵⁶ Charlotte Bishop, 'Domestic Violence: The Limitations of a Legal Response' in Hilder, S & Bettinson, V (ed) 2016, *Domestic Violence*, Palgrave Macmillan UK, London pp. 60-61.

¹⁵⁷ See e.g. Heather Douglas and Robin Fitzgerald, 'The domestic violence protection order system as entry to the criminal justice system for Aboriginal and Torres Strait Islander People', (2018) 7(3) *International Journal for Crime, Justice and Social Democracy*, 41-57; Heather Douglas, Robin Fitzgerald and Lachlan Heybroek, 'Sentencing, Domestic Violence, and the Overrepresentation of Indigenous Australians: Does Court Location Matter?', (2019) *Journal of Interpersonal Violence*, 88626051988591-886260519885916.

¹⁵⁸ Meagan Cahill, Ryan Andrew Brown, Garrett Baker, Dionne Barnes-Proby, and Hannah Sandrini, *Australia's Third Action Plan of the National Plan to Reduce Violence Against Women and Their Children, Priority Area 2: Aboriginal and Torres Strait Islander Women and Their Children — Final Report* (2021).

¹⁵⁹ Hannah McGlade, 'We have to bear witness': Dr Hannah McGlade on the fight for First Nations justice' *NITV* (SBS, 20 March 2021).

¹⁶⁰ Cahill, Brown, Baker, Barnes-Proby, and Sandrini, above n 158.

¹⁶¹ McGlade, above n 159.

¹⁶² See e.g. B Carlson, M Day, and T Farrelly, 'What works? Exploring the literature on Aboriginal and Torres Strait Islander healing programs that respond to family violence (ANROWS Research report, 01/2021); Cahill, Brown, Baker, Barnes-Proby, and Sandrini, above n 158.

¹⁶³ The Healing Foundation, above n 48, 6-14. See also A Flynn, A Powell, and S Hindes, *Technology-facilitated abuse: A survey of support services stakeholders* (ANROWS Research report, 02/2021).

and when evaluating the suitability of legal responses to these experiences. These factors include:

- the cycle of dysfunction and erosion of community harmony that is the “direct result of the violent dispossession of land and the settler policies of extermination, segregation and assimilation intended to eliminate Indigenous people”;
- structural violence and cultural breakdown as a result of government strategies aimed at “eradicating Indigenous law and culture have resulted in a breakdown of the traditional systems and practices that would guide everyday life and expected behaviour”;
- intergenerational trauma caused by “the cumulative impact of dispossession, child removal, cultural breakdown, family breakdown, structural violence, substance misuse and exposure to violence”;
- the breakdown of Aboriginal and Torres Strait Islander men’s cultural status is associated with higher levels of violence .¹⁶⁴

These factors are evident in the responses received from Aboriginal participants in the Powerful Interventions Project, some of whom explain that when considering the experiences of Aboriginal people interacting with the Intervention Orders system, consideration must be given to the ongoing trauma caused by colonisation and the historical injustices and neglect perpetrated by State authorities against Aboriginal people.¹⁶⁵ In line with this reflection, some Aboriginal participants called for:

- a 24 hour a day ‘call out’ option for Aboriginal women to access anytime they are interviewed by police in the context of a domestic or family violence offence, that would ensure Aboriginal women have access to culturally appropriate support; and
- the provision of funding to empower and support Aboriginal communities in regional and remote areas to design community based responses to family and domestic violence issues, in line with the key principles and objectives set out in the *Intervention Orders (Prevention of Abuse) Act 2009* (SA).¹⁶⁶

A number of participants also wanted governments to empower and support Aboriginal and CALD communities in regional and remote areas to co-design community-based responses to family and domestic violence issues, in line with the key principles and objectives set out in the Intervention Orders Act.¹⁶⁷ An example of this model is the Nargneit Birrang Framework: Aboriginal Holistic Healing Framework for Family Violence, which aims to guide the flexible design, funding, implementation and evaluation of Aboriginal-led holistic healing programs for family violence in Victoria.¹⁶⁸ This model constitutes a re-conceptualisation of the provision of family violence funded services and require government to incorporate into core funding flexibility in service design, and funding to enable the Aboriginal evidence knowledge to grow in line with self-determination. It requires Aboriginal organisations to articulate their practice approach, and to show linkages between activities and expected outcomes.¹⁶⁹ Unlike a domestic

¹⁶⁴ Ibid.

¹⁶⁵ See eg Service Provider interviewee A13.

¹⁶⁶ Service Provider interviewee A13.

¹⁶⁷ Service Provider interviewee A13.

¹⁶⁸ See Victorian Aboriginal Child Care Agency, *ThinkPlace*, & *Family Safety Victoria*, (2019) Victorian Government, 29.

¹⁶⁹ Ibid, 17.

violence framework that typically offers pathways to criminal justice, an Aboriginal and Torres Strait Islander family violence framework prefers to avoid such a route, favouring instead pathways to collective and family healing.¹⁷⁰

Feminism and Intersectionality

One of the most significant barriers to the effectiveness and enforcement of Intervention Orders derives not from the law per se, but instead from gender-based discrimination exercised by those responsible for addressing or responding to family and domestic violence.¹⁷¹ These gendered attitudes and assumptions have the potential to infect all aspects of the domestic violence system, including family and friends, Magistrates, police and health care providers. When applied to a victim or survivor of domestic or family violence, they can shape that person's future interaction with the legal system and other public institutions and have a pervasive, negative impact on their recovery, safety and wellbeing.¹⁷²

The predominant characteristic of these attitudinal barriers is a gender bias against women. This can take many forms including a propensity to 'disbelieve' a women who reports family and domestic violence, or an assumption that a victim of family and domestic violence did something to 'deserve' or 'provoke' that treatment or that women 'should' conform to a certain societal expectation of a 'good woman'.¹⁷³

When gender-based discrimination or gender biases are exercised by police or the courts, the impact on the legal frameworks designed to respond to family and domestic violence can be particularly profound.¹⁷⁴ Past research has documented the immense difficulties a victim of family and domestic violence may have to overcome before reporting a matter to police, including risking her own safety and privacy and that of her children.¹⁷⁵ If the police response is inadequate or discriminatory, it can lead to re-traumatisation, disengagement with support services and sometimes to negative physical or mental health outcomes and continued or new forms of violence.¹⁷⁶ This makes police responses to reports of family and domestic violence a particularly critical component of any Intervention Orders regime.

¹⁷⁰ H Blagg, T Tulich, V Hovane, D Raye, T Worrigal, and S May *Understanding the role of Law and Culture in Aboriginal and Torres Strait Islander communities in responding to and preventing family violence* (ANROWS Research report, 19/2020).

¹⁷¹ See e.g. Enrique Gracia, Manuel Martín-Fernández, Miriam Marco, Faraj Santirso, Viviana Vargas, and Marisol Lila, 'The Willingness to Intervene in Cases of Intimate Partner Violence Against Women (WI-IPVAW) Scale: Development and Validation of the Long and Short Versions', (2018) 9 *Frontiers in Psychology*, 1146.

¹⁷² H Nancarrow, K Thomas, V Ringland and T Modini, *Accurately identifying the "person most in need of protection" in family and domestic violence law* (Research report, 23/2020). Sydney: ANROWS.

¹⁷³ See e.g. Tanya Mitchell, 'A dilemma at the heart of the criminal law: The summary jurisdiction, family violence, and the over-incarceration of Aboriginal and Torres Strait Islander peoples', (2019) 45(2) *University of Western Australia Law Review*, 136–165.

¹⁷⁴ Neely Mahapatra and Abha Rai 'Every cloud has a silver lining but... "pathways to seeking formal-help and South-Asian immigrant women survivors of intimate partner violence"', (2019) 40(11) *Health Care for Women International*, 1170-1196, DOI: 10.1080/07399332.2019.1641502.

¹⁷⁵ Nancarrow, Ringland, and Modini, above n 40.

¹⁷⁶ Sarah Wendt, Donna Chung, Alison Elder, Antonia Hendrick, and Angela Hartwi, *Seeking help for family and domestic violence: Exploring regional, rural, and remote women's coping experiences: Key findings and future directions* (ANROWS Compass, 06/2017).

Past research has documented the inadequate way family and domestic violence victims have been treated by some government officials¹⁷⁷, including some magistrates who do not perceive breaches of domestic violence orders as serious matters¹⁷⁸ and some police officers who apply inconsistent responses to domestic violence orders application and contravention¹⁷⁹ depending on the personal characteristics of the perpetrators or victims.¹⁸⁰ Some research suggests that victims are sometimes seen as partly or wholly responsible for the violence that has been perpetrated against them and/or their families.¹⁸¹ These inconsistent and sometimes discriminatory responses by police and court officials have been cited as particularly significant obstacles for those seeking legal interventions to protect them against violence and abuse.¹⁸²

These concerns have given rise to sustained efforts to improve policing practice and responses to family and domestic violence, including in South Australia.¹⁸³ However, past studies reveal that unless these programs and policies are sufficiently entrenched and enforced, discriminatory attitudes towards victims can continue to contribute to inadequate responses in handling family and domestic violence incidents and breaches of domestic violence orders.¹⁸⁴ As Selgrave, Wilson and Fitzgibbon have observed, despite innovations in policy and training, many police officers keep viewing family and domestic violence as a crime that significantly consumes their time and resources in policing, and are becoming frustrated and unsympathetic in providing assistance to the victims.¹⁸⁵

Gender-based discrimination can also have an impact on the way victims and survivors of domestic violence view their legitimate role within legal systems designed to respond to this complex social issue. This can lead women who are protected persons under an Intervention Order to decline to report breaches of the order, withdraw the order or even do something that causes the perpetrator to breach the Intervention Order, such as visiting or contacting the perpetrator.¹⁸⁶

Gender-based discrimination can have particularly acute impacts on women who also experience other forms of discrimination, exclusion or social pressures due to their race,

¹⁷⁷ Victims of Crime South Australia, *Annual Report 2019-2020*, (2021) South Australian Government <<https://www.voc.sa.gov.au/about-us/annual-reports/2019-2020-annual-report>> (accessed 22 April 2022).

¹⁷⁸ COAG Advisory Panel on Reducing Violence against Women and their Children, *Final Report*, (2016) Australian Government.

¹⁷⁹ N Vallins, 'Police responses to family violence: Recasting a duty of care' (2017) 42(1) *Alternative Law Journal*, 29–34. <https://doi.org/10.1177/1037969X17694781>.

¹⁸⁰ C Dowling, A Morgan, S Hulme, M Manning, and G Wong, 'Protection orders for domestic violence: A systematic review' (2018) *Trends & Issues in Crime and Criminal Justice*, 551.

¹⁸¹ S Heward-Belle, C Humphreys, L Healey, C Toivonen, and M Tsantefski, 'Invisible Practices: Interventions With Men Who Use Violence and Control' (2019) 34(3) *Affilia*, 369–382.

¹⁸² Neely Mahapatra and Abha Rai 'Every cloud has a silver lining but... "pathways to seeking formal-help and South-Asian immigrant women survivors of intimate partner violence"', (2019) 40(11) *Health Care for Women International*, 1170–1196, DOI: 10.1080/07399332.2019.1641502.

¹⁸³ See e.g. South Australian Police, *Annual Report 2015-2016* (2017) South Australian Government, available at <https://www.police.sa.gov.au/__data/assets/pdf_file/0020/363215/Annual-report-2015-2016.pdf> (accessed 22 April 2022).

¹⁸⁴ J Goodman-Delahunty, and AC Crehan, 'Enhancing Police Responses to Domestic Violence Incidents: Reports From Client Advocates in New South Wales' (2016) 22(8) *Violence Against Women*, 1007–1026.

¹⁸⁵ M Segrave, D Wilson, and K Fitz-Gibbon, 'Policing intimate partner violence in Victoria (Australia): Examining police attitudes and the potential of specialisation' (2018) 51(1) *Australian & New Zealand Journal of Criminology*, 99–116.

¹⁸⁶ South Australian Police Website, 'Information about Intervention Orders' (2021) South Australian Government, available at <https://www.police.sa.gov.au/__data/assets/pdf_file/0015/2616/Restraining-orders-in-English.pdf> (accessed 22 April 2022).

ethnicity or cultural or social background.¹⁸⁷ These intersecting forms of discrimination can give rise to a range of barriers when it comes to accessing legal frameworks designed to respond to family and domestic violence including Intervention Orders.¹⁸⁸ In 2010 the Australian Law Reform Commission and New South Wales Law Reform Commission identified these barriers as including:

- feelings of shame of being a victim of family and domestic violence victims,
- an expectation that the victim (rather than the perpetrator) will be seen as the responsible person
- fear of not being believed; and
- believing that violence is normal or that family and domestic violence is a private matter.¹⁸⁹

Other studies have found that women from culturally and linguistically diverse (CALD) backgrounds are less likely to report family and domestic violence as they may face considerable practical barriers relating to escaping violence and accessing help and understanding Australia's systems, and are at risk of exclusion from important community events, the practice of cultural norms or exercise of religious beliefs.¹⁹⁰ Other studies have documented the complex range of barriers impacting migrant women's decision to engage with legal processes to protect against family and domestic violence, including cultural understandings of intimate domestic relationships and conflict resolution.¹⁹¹ This was also reflected in this research, where one participant with lived experience, referred to as ML, explained that the way power and influence is exercised in her particular migrant community is a significant factor impacting the effectiveness of the Intervention Orders regime.¹⁹² In ML's experience, the unequal gender roles within her community added to her experiences of isolation and impeded her ability to seek protection against abuse and violence.

You have to have a man to be there for you. And if you don't have a male figure in everything that you do, you are not respected and you have no status in the community. And if you attempt to leave your husband you are ridiculed and humiliated and considered available for sexual intercourse or other sexual activities by other men.¹⁹³

Geographical location can also impact a woman's access to domestic violence services and legal tools including Intervention Orders. Campo and Tayton reported in 2015 that women residing in regional, rural and remote areas may face specific social structures where family and domestic violence is minimised or not to disclose to avoid stigma, shame, and community gossip.¹⁹⁴ Some women in regional and remote communities may also experience a lack of privacy, particularly if law enforcement officers, health professionals and family and domestic violence workers are well known to victims or

¹⁸⁷ A Blatchford, and J Morgan, 'Making Violence Against Women (In)Visible? Restrictions On Media Reporting of Intervention Orders' (2020) 46(1) *Monash University Law Review*, 228.

¹⁸⁸ Lyn Francis, Deborah Loxton and Colin James 'The culture of pretence: a hidden barrier to recognising, disclosing and ending domestic violence' (2017) 26 *Journal of Clinical Nursing*, 2202–2214.

¹⁸⁹ Blatchford and Morgan, above n 187.

¹⁹⁰ Women's Safety Service South Australia, Website, *Information For Workers*, 'Culturally Linguistically Diverse Clients, (2021) <<https://womenssafetyservices.com.au/index.php/information-for-workers/culturally-linguistically-diverse-clients>>.

¹⁹¹ L Satyen, S Piedra, A Ranganathan, and N Golluccio, (2018) 'Intimate Partner Violence and Help-Seeking Behavior among Migrant Women in Australia' (2018) 33(7) *Journal of Family Violence*, 447.

¹⁹² Lived Experience interviewee LE5.

¹⁹³ Ibid.

¹⁹⁴ M Campo, and S Tayton, 'Family and domestic violence in regional, rural and remote communities: An overview of key issues' (2015) *CFCA Practitioner Resource* (online) available at <<https://aifs.gov.au/cfca/publications/domestic-and-family-violence-regional-rural-and-remote-communities>> (accessed 5 May 2022).

perpetrators, or vice versa.¹⁹⁵ There is also evidence to suggest that in more socio-economically disadvantaged areas, family and domestic violence reoffending appears to be higher.¹⁹⁶

Other categories of women also face attitudinal barriers when seeking to access domestic violence laws and programs. For example, for criminalised women, there is often the perception (in society broadly, but also in service provision, social support and interventions) that they somehow are responsible for the violence perpetrated against them, often with the adage used that ‘if you sleep with dogs, you should expect to get fleas’.¹⁹⁷ Those working closely alongside criminalised women suggest that the official statistics of experiences of interpersonal violence are much lower than the lived experience. Organisations such as Seeds of Affinity in SA, Sisters Inside in Qld and Flat Out in Vic estimate that the prevalence of violence against these women is more likely to be in excess of 90%.¹⁹⁸

Women with disabilities also face intersecting forms of discrimination that can be ignored or underestimated when developing effective policy and legislative responses to family and domestic violence.¹⁹⁹ The actual rate of incidents of violence against women with disabilities is believed to be higher than the data demonstrates due to under-reporting and inadequate data collection processes.²⁰⁰ As Dyson, Frawley, and Robinson have reported, women with disabilities who have experienced family and domestic violence may have also experienced abuse related to their disability, including institutional violence and denial of provision of essential care.²⁰¹ This can lead to a lack of appropriately targeted support domestic violence services and responses for women with disabilities.²⁰²

When viewed together, there is a considerable body of scholarship to confirm that gender-based discrimination is a leading (if not most significant) cause of family and domestic violence.²⁰³ This is mirrored in the statistics cited in the introduction to this Report documenting that the overwhelming majority of family and domestic violence

¹⁹⁵ Ibid.

¹⁹⁶ S Hulme, A Morgan, and H Boxall, ‘Domestic violence offenders, prior offending and reoffending in Australia’ (2019) 580 *Trends & Issues in Crime and Criminal Justice*, 1.

¹⁹⁷ See e.g. Heather Douglas, and Robin Fitzgerald ‘Legal processes and gendered violence : cross-applications for domestic violence protection orders’, (2013) 36(1) *University of New South Wales Law Journal* 56–87.

¹⁹⁸ See e.g. Flat Out Inc, Submission to Royal Commission into Family Violence, (29 May 2015) available at <<http://www.flatout.org.au/wp-content/uploads/2012/04/Flat-Out-Submission-RCFV-FINAL.pdf>> (accessed 5 May 2022).

¹⁹⁹ S Dyson, P Frawley, and S Robinson, “Whatever it takes”: *Access for women with disabilities to domestic and domestic violence services: Final report* (ANROWS Horizons, 05/2017); Patsie Frawley, Sue Dyson, Sally Robinson and Jen Dixon: ‘What does it take? Developing informed and effective tertiary responses to violence and abuse of women and girls with disabilities in Australia’ (ANROWS, 2015).

²⁰⁰ L Dowse, K Soldatic, A Didi, C Frohmader, and G van Toorn, ‘Stop the violence: *Addressing violence against women and girls with disabilities in Australia. Background paper* (2013, Hobart: Women With Disabilities Australia).

²⁰¹ Dyson, Frawley and Robinson, above n 199.

²⁰² Ibid.

²⁰³ See e.g. L Arai, A Shaw, G Feder, E Howarth, H MacMillan, THM Moore, A Gregory, ‘Hope, Agency, and the Lived Experience of Violence: A Qualitative Systematic Review of Children’s Perspectives on Domestic Violence and Abuse’, (2021) 22(3) *Trauma, Violence, & Abuse*, 427–438 ; N Ghafournia, and P Easta, ‘Help-Seeking Experiences of Immigrant Domestic Violence Survivors in Australia: A Snapshot of Muslim Survivors’, (2021) 36 (19-20) *Journal of Interpersonal Violence*, 9008–9034; F Buchanan, and C Humphreys, C ‘Coercive control during pregnancy, birthing and postpartum: women’s experiences and perspectives on health practitioners’ responses’, (2020) 36(1) *Journal of Family Violence*, 325–335.

incidents are perpetrated by men against women.²⁰⁴ It is also reflected in the qualitative findings discussed below, with one research participant expressing the view that:

Gender inequality starts at birth. The minute they are born we tell young females that you are a 'little girl' and males that they are a 'little man'. We are telling males they are more important, superior to females. From birth we are telling males that they are superior. And they hear this message all their life. We are also telling little girls that they are inferior. Our culture is wrong. It's not just Intervention Orders which are just a band aid. Until you start fixing it from birth, the rest of it is a waste of time.²⁰⁵

Women as defendants

A common assumption that has the potential to seriously undermine the effectiveness of the current Intervention Orders regime in South Australia and any future legislative reforms is that all applicants for Intervention Orders are *female victims* and all defendants are *male perpetrators* of domestic violence. The experience of women victims of violence defending domestic violence orders has been subject to investigation by Jillard and Mansour in a study conducted in 2014 in NSW that considered the experiences of over 100 women defendant clients of a Women's Legal Service during 2010.²⁰⁶ The study arose out of concern 'at the number of our clients identifying as victims of domestic violence but presenting as defendants to [apprehended violence orders] and criminal charges' and the 'drastic jump' in the percentage of women 'Persons Of Interest' being proceeded against by police for domestic assault.²⁰⁷

The authors 'acknowledge that women can engage in violent and abusive conduct sufficient to warrant the making of [a domestic violence order], and that men can be victims of domestic violence' but found that, on the whole, such orders were being pursued appropriately against women defendants."²⁰⁸ The study also found that two thirds of women clients defending domestic violence orders instructed that they were the primary victim of violence in their relationship with the person seeking the order before the court.²⁰⁹ Further, some clients reported that in their view the other party had 'deliberately initiated domestic violence orders proceedings as a form of legal abuse or as a further mechanism of controlling their behaviour, by giving them the ability to threaten them with reports to police in the future.'²¹⁰ The authors conclude from this evidence that there are a number of ways the domestic violence order system can be:

manipulated by perpetrators of violence as a tool to perpetuate abuse through the legal system. It is therefore of crucial importance that women defendants continue to be considered a discrete group of domestic violence victims as reforms to domestic violence policy and practice are considered.²¹¹

²⁰⁴ Australian Bureau of Statistics, 'Crime and Justice: Personal Safety' (2017) Australian Government, available at <<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>> (accessed 5 May 2022).

²⁰⁵ Lived Experience interviewee LE9.

²⁰⁶ Alicia Jillard and Julia Mansour 'Women Victims of Violence Defending Intervention Orders: The latest developments in policy and practice in NSW' (2014) 39(4) *Alternative Law Journal* 235.

²⁰⁷ *Ibid.*

²⁰⁸ *Ibid.*

²⁰⁹ *Ibid.*

²¹⁰ *Ibid.*, 236-7.

²¹¹ *Ibid.*, 240

Data collection processes

As noted above, the key methodology components for this Project are:

1. a review of existing South Australian law and publicly available court data,
2. comparative law research and
3. qualitative research to engage those with lived experience and service providers.

The stage 3 qualitative research component targeted two participant cohorts: those with lived experience of the Intervention Orders system (including applicants, protected persons, defendants and witnesses) and those who provide services or support for those engaging with the Intervention Orders system (including legal professionals, social workers and/or public officials).

Who engaged with this research?

This Research exceeded expectations in terms of response rates and engagement, particularly when it comes to the lived experience cohort and engaging with Aboriginal people. Sixty-three survey responses were received, 48 from service providers and 15 from people with lived experience. Twenty individual interviews were conducted (ten with persons with lived experience and ten with service providers) along with four focus groups. Despite this, it remained difficult to reach participants in regional and remote locations and people from Aboriginal and CALD backgrounds.

Engagement with Aboriginal participants and CALD participants requires careful, long-term planning and support from Aboriginal cultural advisors and this has been significantly impacted by COVID-19. Because of this, it is proposed that the Report foreshadow a follow up research project that looks specifically at the experiences of Aboriginal communities in regional and remote locations, possibly in partnership with Aboriginal Legal Rights Movement.

Most research participants with lived experience were victim survivors, but their experiences were varied. For example, while the majority of experiences related to intimate partner abuse, there were participants who described accessing Intervention Orders with respect to their children or other family members.

Most participants from the service provider cohort were lawyers or social workers, however their experiences and expertise were diverse. A court official and a retired police officer also formed part of the service provider cohort.

As noted above, the South Australian Police were notified about this research and referred to the researchers to their internal research protocols. It was not possible for the researchers to complete the South Australian Police's research protocols within the required time frames, and as a result, approval was not provided for the South Australian Police to engage with individual interviews or focus groups. Given the central role the South Australian Police plays within the system in South Australia, it is recommended that this Report be supplemented by a follow up research project that seeks to engage more directly with the South Australian Police, in line with the South Australian Police's relevant policies and procedures relating to research engagement.

How Did Participants Engage with this Research?

Separate sets questions were developed for the lived experience cohort and the service providers cohort (see Appendices C and D). Participants were asked to answer the

research questions via an online questionnaire or during an individual interview, either in-person conducted at a venue of the participant's choice or remotely (via Zoom or over the telephone). Participants were also invited to elect to have a support person present.

Participants from the service provider cohort were also eligible to attend a small focus group discussion hosted by Advisory Group organisations subject to specially developed and ethics approved Participant Selection Plans and Safeguards for Advisory Group Recruitment of Participants and Additional Safeguards for Focus Groups.

Qualitative data was analysed using NVIVO software coded to identify themes and trends.

These qualitative interviews were supplemented by regular consultation with volunteer Advisory Group members, who provided oversight of research design and methodology.

Participants were not recruited based on attributes; however, efforts were made to encourage diversity, guided by the Advisory Group. Most participants elected to undertake the online REDCAP questionnaire, and some had one-on-one interviews.

Each cohort was provided with a tailored participant information sheet and consent form. Screening questions were also asked to ensure that all participants were 18 years or older and to help identify potential participants who might be at risk of distress or disadvantage due to mental health issues, post-traumatic stress or ongoing legal proceedings. Potential risks to participants were further mitigated by

- (1) providing two private, confidential ways of participating in this research,
- (2) removing any identifying information from online survey results and interview transcripts and providing participants with the opportunity to review answers and withdraw consent,
- (3) hosting one-on-one interviews via phone or Zoom to promote privacy,
- (4) excluding the lived experience cohort from eligibility to participate in focus groups,
- (5) screening potential participants prior to commencing online surveys or interviews.²¹²

Anonymous Online Questionnaire

An online questionnaire formed the primary basis for collecting qualitative data. There was one set of questions for the lived experience cohort and another set of questions for the service providers cohort. The questionnaire was:

- completed anonymously and voluntarily only with informed consent,
- preceded by screening questions to mitigate any risks,
- followed with the opportunity for participants to review their answers.

The link to the online questionnaire was made available to the public via the UniSA research volunteers website. In addition, organisations within the Advisory Group were invited to distribute information about the questionnaire to any relevant colleagues, members or clients.

²¹² Detailed risk management strategies were also contained in separate Aboriginal Research Ethics Engagement Plan, Covid-19 Management Plan, Distress Protocol, Participant Selection Plan, Safeguards for Advisory Group Recruitment of Participants and Additional Safeguards for Focus Groups, Screening Protocol, Service Provider Consent Form and Service Provider Participant Information Form.

In-depth Interviews with People with Experienced Family and Domestic Violence

The online questionnaires were also used to facilitate one-on-one interviews and focus group discussions. Participants in the lived experience cohort were not offered the option of a focus group discussion. Instead, an alternative private one-on-one phone or Zoom interview was available for those participants who had required support or who had requested this option as an alternative to completing the online questionnaire.

Focus Group Discussions with Service Providers

Participants from the service provider cohort (including retired police officers, legal practitioners, social workers, financial planners and court support officers) were eligible to voluntarily attend small focus group discussions hosted by the Advisory Group. The focus group option was included for this cohort to create an environment where service providers could collectively reflect on experiences and generate potential options for reform. However, this focus group option was not available to any person who indicated that they might encounter risks when answering questions. When there was a concern that a potential participant within the service provider cohort also had lived experience of domestic or family violence, that potential participant was offered a private interview as an alternative to participating in a focus group.

The focus group discussions were not audio or video recorded. Instead, a de-identified overview report was prepared for participants to review and approve prior to it being included in this research. Every effort was made to preserve the privacy and confidentiality of focus group participants during this process.

Aboriginal Research Engagement Plan

A specific Aboriginal Research Engagement Plan was developed having regard to the *National Statement on Ethical Conduct in Human Research* (2007) as updated in 2018. The Aboriginal Legal Rights Movement, an independent Aboriginal community-controlled organisation, was consulted in the development of this Plan. The Aboriginal Legal Rights Movement provided important feedback throughout this Project including with respect to research design, development of materials and findings to ensure that the qualitative research methods are culturally safe for potential Aboriginal participants and communities.

For Aboriginal participants, it was noted that questions relating to interactions with public authorities might trigger traumatic memories or flashbacks of traumatic incidents or experiences related to Australia's violent colonial history and ongoing incidents of institutionalised racism.²¹³ Moreover, the Aboriginal Legal Rights Movement identified that some of their clients faced a number of barriers including low literacy skills and did not have access to a computer. Some clients also required the services of an interpreter to translate questions or participant information. The Aboriginal Legal Rights Movement was consulted as to whether any specific benefits could be developed to meet the needs of any participating Aboriginal people or communities. The Aboriginal Legal Rights Movement has also been consulted as to appropriate dissemination practices for key research findings to ensure any participating Aboriginal people or communities have access to the findings in a culturally safe way.

²¹³ Kelly, Loretta 'Indigenous Women's Stories Speak for Themselves: The Policing of Apprehended Violence Orders' (1999) 4(25) *Indigenous Law Bulletin* 4.

COVID-19 Safety Controls

COVID-19 risks or safety concerns were minimised using an online questionnaire as the primary method for research collection. Advisory Group meetings to supervise the design and implementation of this research were conducted via zoom, unless COVID-19 restrictions permitted face to face meetings in which case meetings complied with any relevant social distancing measures. Small (maximum 5 persons) hosted focus groups occurred with the support of Advisory Group members and subject to strict ethical requirements. Relevant social distancing protocols, including UniSA Screening and Cleaning Protocols, were observed by all participants and, when necessary, focus group discussions were facilitated via Zoom or Teams.

Other Forms of Community Consultation

In addition to the data collection methods described above, the Key Findings and Recommendations contained in this Report were developed having regard to ongoing input provided by Advisory Group members, as well as informal discussions with sitting Magistrates and Ministerial Advisory Staff who share an interest in understanding more about the operation of the Intervention Orders System in South Australia. These discussions do not form part of the data set out below, but rather provided an important reflective basis for the researchers to refine Key Findings and Recommendations.

In addition, on 12 August 2021 Uniting Communities hosted a Community Forum entitled ***Improving Interventions: Uniting Communities Workshop***. This Forum, hosted by Rev Peter McDonald, Executive and Uniting Church of Australia Minister, Uniting Communities, attracted over 100 participants and representation from both the then Attorney General and Shadow Minister for Women. The key themes considered at this Workshop were summarised as follows:

Family and domestic violence is **gendered abuse, gendered exercise of power and control** and cannot be separated from gender inequality that manifests in different ways in our community.

The circumstances that give rise to the need for someone to access an intervention order are **complex and relate to intersecting needs and experiences**. These complex circumstances demand coordinated, holistic policy responses that extend beyond the law.

The effectiveness of legal tools like Intervention Orders necessarily depends on **those within the legal system understanding the underlying causes** and manifestations of gendered violence and abuse.

Key Action items were identified by participants as follows:

Keep talking and keep sharing information! There are many high quality, professional support services and advice services available within the South Australian community that are designed to improve access to Intervention Orders and are aimed at preventing or responding to family and domestic violence. The challenge is to make sure those in need or those at risk are able to access these services quickly and easily. This means sharing information among service providers and those within the legal system. Sharing information and experiences can also help identify training needs and knowledge gaps and support collaboration and joint advocacy.

Collaborate to demand immediate changes to laws and policies to address the following practical barriers to the effectiveness of the Intervention Orders regime:

Removing the requirement to pay filing fees for private Intervention Orders (currently at \$297 with option for hardship waiver).²¹⁴

Enable online lodgement of applications for court issued Intervention Orders, and online lodgement of related documents including affidavits, applications to vary/revoke orders etc (as opposed to self represented applicants having to attend court in person to file documents/make applications).

Undertake an audit of Magistrate's practices to ensure compliance with provisions that enable protected persons or applicants to provide evidence via affidavit and/or video link and/or vulnerable witness room (as opposed to requiring applicants or protected persons to give oral evidence in court where the defendant may be present).

Re-instate previous Counsellor Assessment Service (facilitated by the Magistrates Court) so that applicants and protected persons and defendants can be referred for professional assessment and report and to help ensure Magistrates have access to relevant, accurate information about key individuals when making decisions about Intervention Orders.

Ensure timely access to professional interpreters for applicants, protected persons and defendants from non-English speaking backgrounds - both for court proceedings and for legal advice.

Require police to notify protected persons when a defendant is served with an Intervention Order (or shortly after the defendant has been served) so that the protected person can take steps to ensure their safety, particularly if they continue to live with the defendant.

Gather evidence about the local Intervention Orders system and use this evidence to develop options for law reform/policy change. This must include a strong focus on lived experience of Intervention Orders and family and domestic violence (including perspectives from First Nations Women, CALD women, women with experience of the criminal justice system, women with disabilities) , as well as consideration of academic literature, past qualitative studies, existing South Australian data and proposed new studies such as the *Powerful Interventions Project*.

²¹⁴ It is noted that in response to this recommendation, the Marshall Government removed the filing fee for all Intervention Order applicants.

Data Analysis and Results

Part A – Demographics and Location

The data obtained as part of this Project includes:

- 48 individual responses to the REDCAP - Powerful Interventions Service Provider Questionnaire, (22 complete, 26 partially complete responses). Referred to as the **Service Provider REDCAP Survey** respondents.
- 15 individual responses to the REDCAP – Powerful Interventions Lived Experience Online Questionnaire (6 complete, 9 partial responses). Referred to as the **Lived Experience REDCAP Survey** respondents.
- Four small group focus group discussions with service providers, two of which were with Aboriginal controlled organisations. Referred to as the **focus group** respondents.
- Ten individual interviews with service providers, including one court official and one retired police officer. Referred to as the **service provider interviewees**.
- Ten individual interviews with people with lived experience. Referred to as the **lived experience interviewees**.

It was not compulsory for participants to provide information about their demographic profile or their geographic location, however, the demographic profile of some of the REDCAP survey respondents is set out in the below graphs.

Figure A1: Age of Lived Experience REDCAP Survey respondents

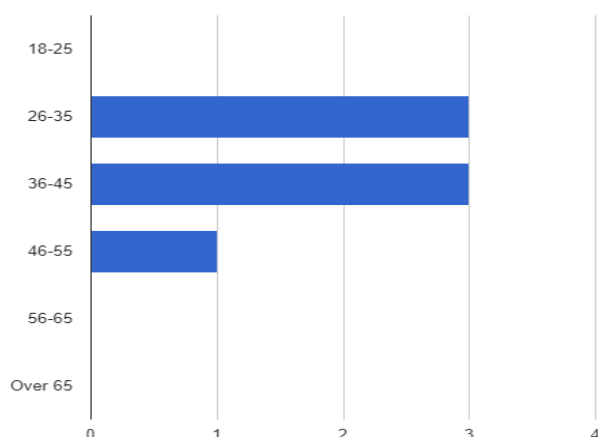


Figure A2: Geographic location of Lived Experience REDCAP Survey respondents.

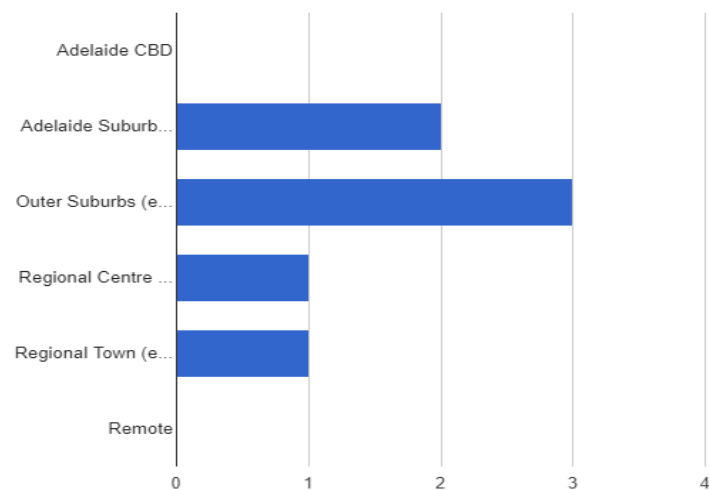
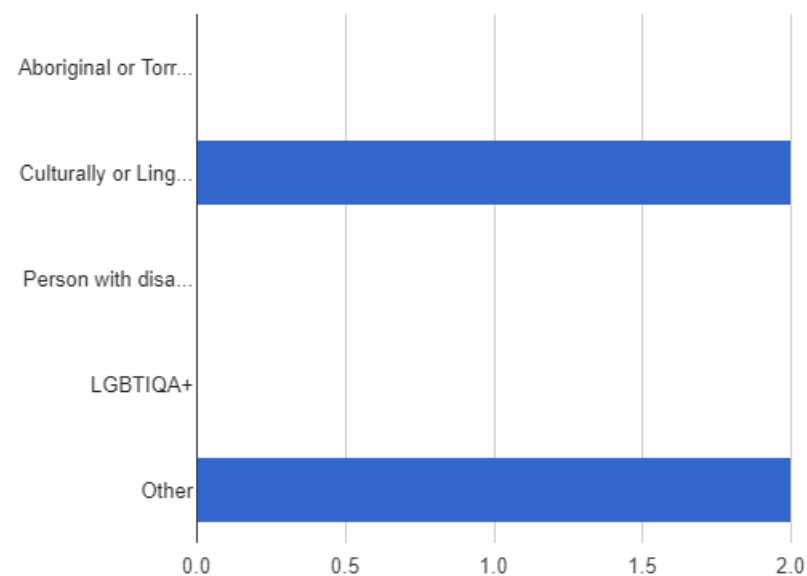


Figure A3: Demographic profile of Lived Experience REDCAP Survey respondents.



It is noted that two of the Lived Experience interviewees identified as Aboriginal or Torres Strait Islander, and one interviewee identified as CALD. None of the participants in the lived experience interviews identified as a person living with disability. This is a clear limitation of this research.

Figure A4: Demographic profile of Service Provider REDCAP Survey respondents:

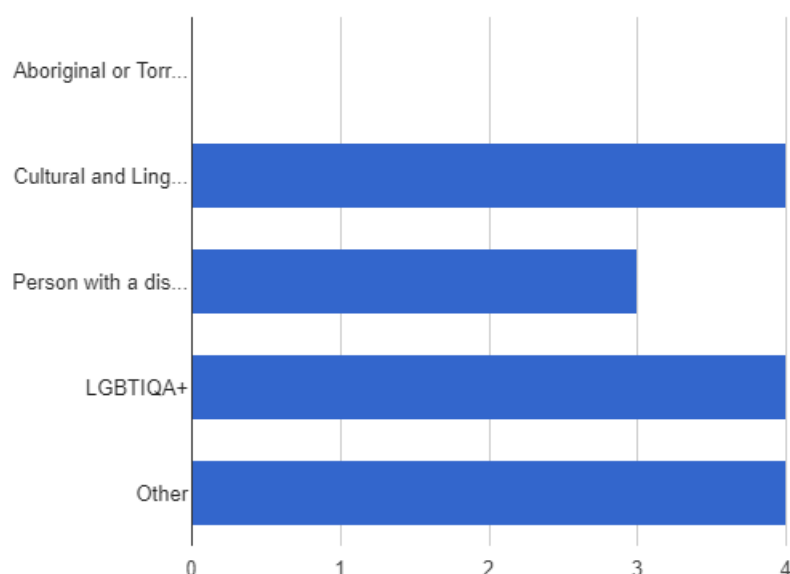
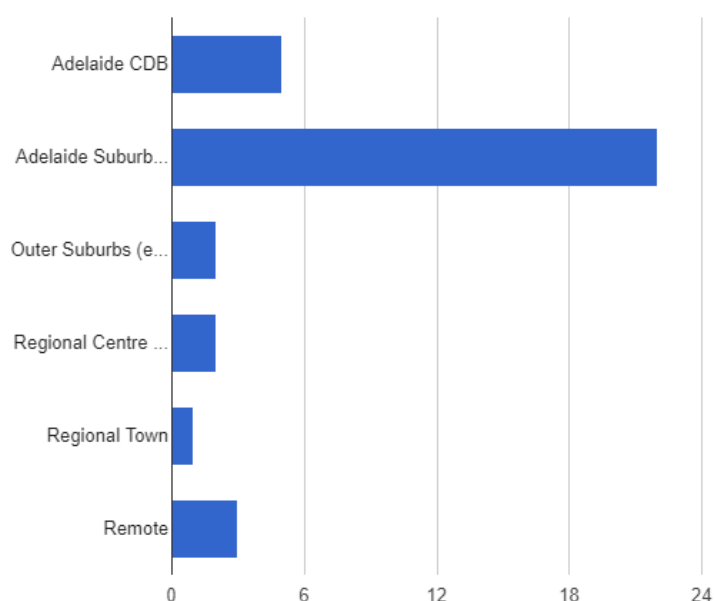


Figure A5: Geographical location of Service Provider REDCAP Survey respondents:



Most research participants with lived experience were victim survivors, but their experiences were varied. For example, while the majority of experiences related to intimate partner abuse, there were participants who described accessing Intervention Orders with respect to their children or other family members. Most participants from the service provider cohort were lawyers or social workers however their experiences and expertise were diverse. Court officials and retired police officers also formed part of the service provider cohort.

When it comes to the focus groups and individual interviews, the majority of respondents were currently located in inner city or suburban locations, however, two Lived Experience interviewees were from regional locations and many service providers also has experience working within regional and remote communities. Two of the Service Provider Focus Groups were with Aboriginal controlled organisations which link to and

interact with regional and remote Aboriginal communities. One Service Provider had experience as a police officer in a regional location as well as inner city locations.

Despite this, it remains difficult to reach participants in regional and remote locations and people from Aboriginal and CALD backgrounds.

Engagement with Aboriginal participants and CALD participants requires culturally safe, empathetic and empowering long-term planning support from Aboriginal and cross-cultural advisors, and this has been significantly impacted by COVID. For this reason, Recommendation 1.viii foreshadows a follow up research project which is community-based that looks specifically at the experiences of Aboriginal and CALD communities in regional and remote locations, possibly in partnership with the Aboriginal Legal Rights Movement and Uniting Communities.

Part B - Interaction with the Intervention Orders System

The questions in Part B of the REDCAP Questionnaire and interview questions related to participant's experiences within the South Australian Intervention Orders system. Participants were invited to describe their experiences or roles within the system.

Lived Experience Participants

When it comes to interacting with the Intervention Orders system in South Australia, respondents to the Lived Experience REDCAP Survey described experiences including:

- finding out information about how Intervention Orders work (2, 28.6%),
- helping someone else find out about or get an Intervention Order (1, 14.3%),
- going to the police to get an Intervention Order (5, 71.4%),
- going to the police because someone has breached (not followed) an Intervention Order (3, 42.9%),
- talking to a lawyer to get an Intervention Order (1, 14.3%),
- going to court to get an Intervention Order (4, 57.1%), and
- being involved in court processes about Intervention Orders (for example as a witness) (2, 28.6%),

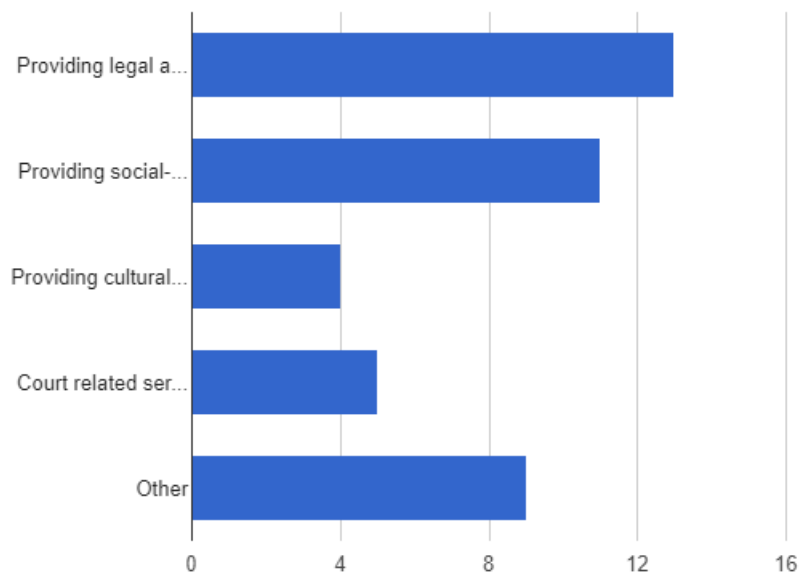
One of these respondents described their experience of the Intervention Order system as follows:

It is awful, as a survivor of [domestic violence] and having dealt with in excess of 40 plus breaches only ever resulting in one arrest no charges. I have had to relocate my family seven times since I left [domestic violence] and we now live remotely to try and keep safe. The system fails. Police won't act. I always get told they don't want to escalate the situation or that they can't act because technically the wording on the order doesn't cover what he has done as a breach it's ridiculous. It is also terrible that perpetrators are allowed to contest orders and drag it out so they can intimidate you in court and instil ongoing fear when they drag you through the process.

Ten people with lived experience of the Intervention Orders system were interviewed as part of this Project. Some of their stories are described in detail in the 'Lived Experience Voices' section of this Report. Many other experiences are documented in the below sections of this Report.

Service Provider Participants

The following graph summarises the role played by Service Provider REDCAP Survey respondents:



Those respondents describing their role as 'other' explained that they had a role:

- providing counselling services to women and children who have experienced family and violence,
- providing support for women and children experiencing family and domestic violence, including safety planning, risk assessments, providing referrals to legal advice, and providing support in connecting with the South Australian Police,
- engaging in advocacy to support these trying to address family and domestic violence,
- supporting staff in family and violence situations,
- undertaking family mediation,
- working with offshore detention refugees and asylum seekers and refugees and asylum seekers onshore,
- working with family and domestic violence victims and victims of childhood sexual assault and childhood abuse through 1800RESPECT national line,
- providing counselling services,
- providing torture and trauma counselling.

Some of the respondent's specific experiences include:

- providing non-legal support to clients engaging with police or attending Family Violence court self represented to apply for a private intervention order,
- assisting women applying for intervention orders through the court or ending tenancies due to domestic and family violence,
- providing free legal advice for women who have experienced or are currently experiencing family and domestic violence,
- supporting parents navigating the child protection system, where the majority of clients are mum where children are removed based on emotional abuse that children have experienced by mums unable to provide protective capacity due to being a victim of family and domestic violence,

- providing expert advice about Intervention Order and training to CALD community members,
- supporting people experiencing homelessness, which often includes people experiencing/ have history with family and domestic violence,
- family and domestic violence support group facilitation for women

Many respondents to the Service Provider REDCAP Survey have direct experience supporting a client to access an Intervention Order. This often involves interacting with the South Australian Police to obtain a police issued order, or assisting a client to apply for a private intervention order themselves. While some positive experiences were noted, many of these respondents described inconsistent or low quality service provision by police officers and other service providers tasked with interacting with clients requesting access to the Intervention Order system. Some of these respondents described their experiences as follows:

[I] have assisted clients to obtain/apply for Intervention Orders through both the South Australian Police and Indigo. Indigo was a better experience. Dealing with the South Australian Police varies between very positive or very negative.

I have noticed that there are vastly different experiences depending on whether it is a private application or police issued Intervention Order. Apart from evidence provided, outcomes largely depend on either the South Australian Police officer/prosecution or magistrate overseeing the matter. There is inconsistency in how the legislation is applied by police, prosecution, and magistrate.

I have contacted police as part of legal service provision to advocate for clients re obtaining IO. Mostly clients come to our service having been refused by police. I have on a number of occasions contacted police to confirm they will not assist. It is our service's experience that unless there are charges [relating to] property damage or assaults then the police will not assist

[The experience can be] traumatising (for the client), time consuming, riddled with delays and difficult. The amount of evidence required is a considerable barrier. The court system is more traumatising for clients.

I have emailed the [Family Violence Investigation Section] of local police stations on behalf of clients and/or courts to obtain copies of orders. To date responses have been provided very efficiently.

It was difficult to establish emotional and psychological abuse

I have assisted clients to make contact with the South Australian Police to seek intervention orders on a few occasions. Some of these experiences have been very positive, while others have been negative, with some police officers being better to deal with. Overall, the experience of seeking an Intervention Order through the court with the assistance of Indigo has been more positive than going through the South Australian Police. Some of the attitudes and opinions expressed by some South Australian Police officers have been highly offensive and upsetting to women that I have worked with.

One service provider respondent also commented on the impact of filing fees associated with lodging an application for a private Intervention Order, commenting:

I am a solicitor that deals directly with assisting women in obtaining intervention orders due to family or domestic violence. We find it difficult as there is a filing fee which is a barrier to many women. The court rarely tells applicants they can apply for a fee waiver and even if they do, the form is very onerous.²¹⁵

It is noted that since commencing this research, the filing fee for lodging an application for an Intervention Order has been removed.

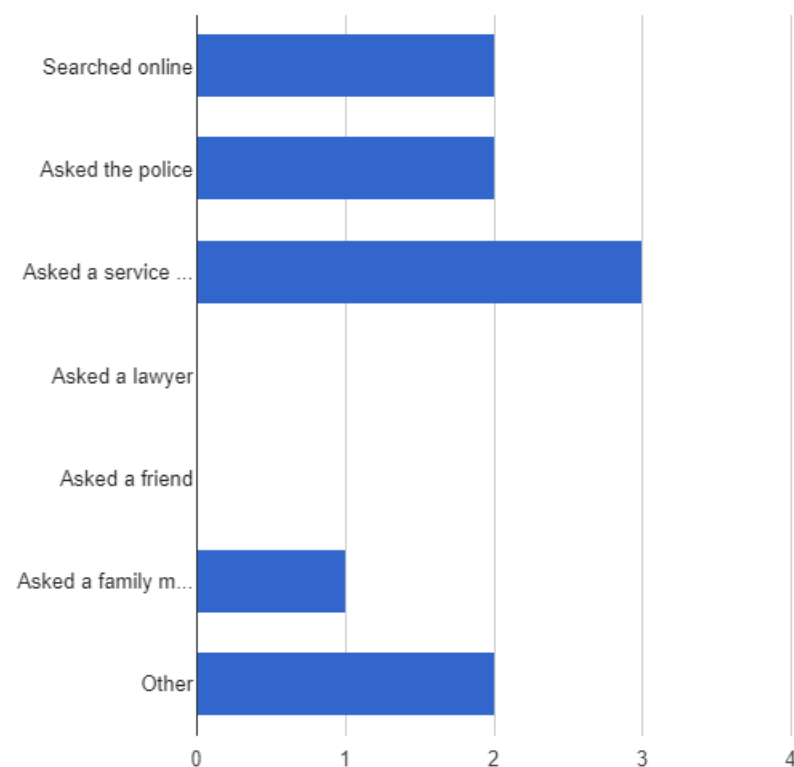
²¹⁵ Service Provider REDCAP Survey Respondent.

Part C- Accessing or Providing Information and Support

The questions in Part C of the REDCAP Questionnaire and interviews related how a person might find out about how to get an Intervention Order from the police or the courts and how that person should be supported to make decisions relating to their interactions with that system. Questions asked participants for their views on access to key information, and the quality of that information.

Lived Experience Participants

The following graph summarises the responses received to the Lived Experience REDCAP Survey in response to the question: how did you find out about the Intervention Orders system?



One respondent, who indicated ‘other’ in response to the above question, explained that they were “advised to get one by the Department for Child Protection and Domestic Violence Service.”²¹⁶ Another respondent explained that:

A police officer who attended for DV before I left my husband had offered to apply for an Intervention Order on my behalf, but at the time I declined, as I didn’t know anything about them and feared that doing so would escalate his behaviour.²¹⁷

When it comes to finding information about the Intervention Orders system in South Australia, lived experience REDCAP survey respondents reported mixed experiences. For example, some respondents said:

²¹⁶ Lived Experience REDCAP Survey Respondent.

²¹⁷ Lived Experience REDCAP Survey Respondent.

No it was easy the Family violence officers acted quickly.

I found it hard because I didn't know where to look in the first place, and found websites such as Legal Services Commission and SA Police websites difficult to navigate, particularly while in a crisis and quite stressed. When I did find the information it was fairly basic, and was somewhat unclear as to how to begin the process.

Yes, because I did not qualify for a criminal intervention order, because all physical violence was to my daughters, not to me, and I was only subjected to emotion violence, which is not sufficient for a police intervention order

Some Lived Experience REDCAP Survey respondents explained that they received help from others when it came to accessing and understanding the Intervention Orders system:

I had family trying to help who had experienced DV some time ago, but their information was outdated. I tried going to the police station and asking for an intervention order. They took a statement but declined to apply for an Intervention Order, without giving me any other information about why or what other options there were. Eventually I had an appointment with a lawyer from Legal Services Commission who encouraged me to go back to the police and report the things I hadn't yet reported, however they declined to take a report from me, claiming it had all been reported in the past and told me to go to Women's Legal Services. Women's Legal Services also declined to apply for an Intervention Order and did tell me that it was because too much time had passed and they didn't believe a judge would deem it current enough to be necessary, but they didn't give me any other information about Intervention Orders or what other options I had for safety aside from the report and try again if the behaviour escalated.

The police gave me information about intervention orders and how they work

The Domestic Violence Service connected me with a solicitor and barrister with the Court Assistance Service. Their help was invaluable.

There were also mixed responses amongst this cohort as to the quality of this information. For example, while some respondents explained that the information they received from service providers such as the Court Assistance Service helped them to “to better understand and navigate through other services and systems, including DCP investigations and the Family Court system”,²¹⁸ others described the information they accessed as ‘minimal’.²¹⁹

When asked for ideas about what might help others find and understand information about Intervention Orders, one respondent to the Lived Experience REDCAP Survey suggested that there be:

one clear place to go for information, where it could be explained face to face, that would be best. It needs to be by someone who is not just focussed on taking a statement and assessing quickly whether or not it's serious enough to warrant action, but can actually take the time to explain it properly to someone and ask questions. Ideally, it would be great if there was someone at the police station permanently where this was part of their role. I found the response from some police officers was curt, and others that I was actually being ridiculed. This meant I not only didn't get the information or response I needed, but also went away feeling small and stupid. Please also make online information easier to navigate to and provide clear, realistic and more detailed information.²²⁰

²¹⁸ Lived Experience REDCAP Survey Respondent.

²¹⁹ Lived Experience REDCAP Survey Respondent.

²²⁰ Lived Experience REDCAP Survey Respondent.

One of the Lived Experience interviewees explained that she was given information about the Intervention Order system and relevant legal tests from Women's Legal Services, but noted that she already had a general understanding of Intervention Orders, and a general understanding of the legal system.

At the time of lodging the application L understood the process, but she wasn't expecting to end up before the Court so quickly.

The process relating to the issue of the interim Intervention Order was fairly smooth, a fairly positive experience before [the] Magistrate who explained the process quite well.

From L's perspective, the legal tests and processes around obtaining an Intervention Order in the first instance were relatively straightforward. The Magistrate was very helpful.

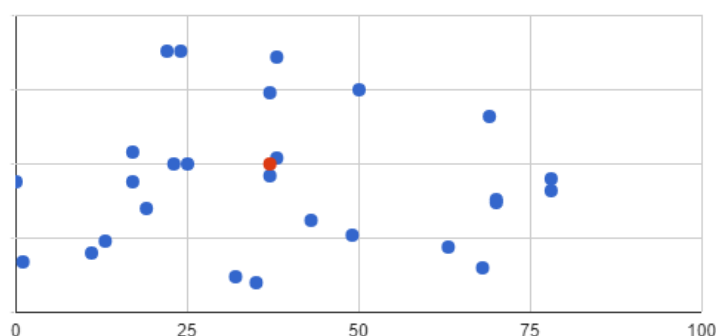
L had photographic evidence of the harm and abuse perpetrated by P against her children, including text messages of the perpetrator admitting to the harm caused to the children.²²¹

Respondents to the Lived Experience REDCAP Survey identified the following key factors as important to keep in mind when helping someone find out about Intervention Orders:

Find a victims support legal person if at all possible to help with the process. To not trust in its effectiveness and the laws response to it as they only thing I found it was effective for was to keep my children safe from him taking them from school. Always push to have your kids added.
Give them a realistic understanding of the process of applying for an intervention order, the chances that they might not be able to obtain one and clear understanding of what interventions do and do not do.
Advise them to go to the nearest police station
[Explain that the Orders] they don't cover/protect against/address coercive control.
Explain there are criminal and civil intervention orders.

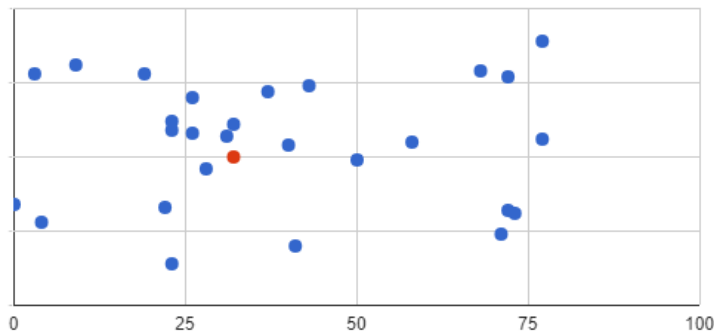
Service Provider Participants

The following graph summarises the responses received to the Service Provider REDCAP Survey in response to the question: how easy is it for you to access information about how the Intervention Orders system works? (with 0 being not easy at all, and 100 being very easy).

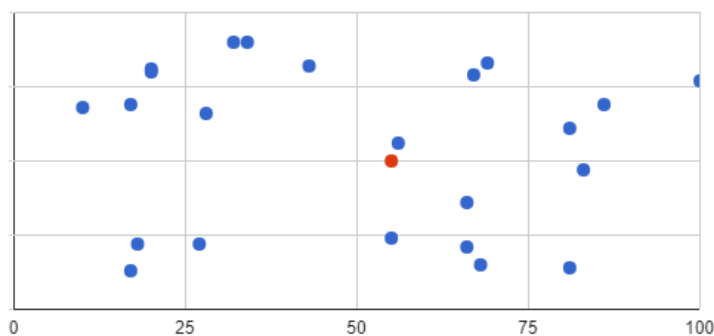


²²¹ LE 7

The following graph summarises the responses received to the Service Provider REDCAP Survey in response to the question: ‘How easy is it for you to provide other people with information about how the Intervention Orders system works?’ (with 0 being not easy at all, and 100 being very easy).



The following graph summarises the responses received to the Service Provider REDCAP Survey in response to the question: If you provided someone with support to engage with the Intervention Orders system, how easy was it for you to provide that support? (with 0 being not easy at all, and 100 being very easy).



Respondents to the Service Provider REDCAP Survey identified the following key factors as important to keep in mind when help someone find out about Intervention Orders:

- Providing information in a trauma-informed way, and acknowledging the complexities of family and domestic violence and the variety of experiences and needs victim survivors may have
- Ensuring a range of supports are in place to help the person make informed decisions and evaluate risks (including the risk that the police may not issue an Intervention Order and/or that the perpetrator may not comply with the Intervention Order)
- Explaining the difference between police issued Intervention Orders and private Intervention Orders
- Sharing accurate information about the legislation and its scope, as well as honest accounts of how this legislation is interpreted and applied by police and the courts
- Providing honest, accurate information about the process of obtaining an Intervention Order, including the defendant’s right to contest the order which could result in a trial where the victim survivor will be required to provide evidence, and the right of the defendant to contest the order after 12 months, and the reality that defendants can be offered a reduction in sentencing (if criminal charges are associated with Intervention Orders) if they attend a behavioural change program through the courts
- Providing an honest account of the prospect of police applying for Intervention Orders in cases where there are no other associated criminal charges

- Providing honest accounts of the extent to which an Intervention Order will change the living conditions and safety of the protected person and their family
- Using clearly, easily understood conditions within Intervention Orders and providing protected persons with clear information about what to do in case of a breach

Some specific suggestions provided by this cohort include:

That the South Australian Police, as a matter of policy, have a narrow view of what constitutes Domestic Violence, while the actual definition under the *Intervention Orders (Prevention of Abuse) Act 2009*, section 8 has a broader definition of what constitutes abuse. I warn clients that if the South Australian Police refuse to assist the client to obtain [an Intervention Order], then seek alternative assistance from WDVCS or seek to obtain an Intervention Order privately. I advise client's to gather and to keep good records of the perpetrators abuse- eg. photographs, videos, recordings, SMS, voice mail, medical evidence, witnesses and diary notes. I warn the client's that the South Australian Police and the court are evidence based services - they will require the client to have evidence. The South Australian Police have limited resources and rarely conduct adequate investigations- they will often tell the client's on the front desk to go away unless they can show the officer something by way of evidentiary proof. The South Australian Police deny this and claim they put adequate resources into this area but this is not our experience.

Set their expectations. Unfortunately, a number of perpetrators see it as merely a piece of paper. Even if successful in obtaining an order, it does not guarantee their safety. This is even more so if they are (or will be) involved in the family law system, due to sharing children with their abuser. You need to provide them with practical steps and ensure they have other systems in place to ensure their safety.

This focus on expectation management was echoed by a Service Provider interviewee who said that:

When it comes to providing information about intervention orders it's important to tell clients that an intervention order is actually just a piece of paper, and it might not be enough to make them feel safe or to keep them safe from harm.²²²

In the past, intervention orders haven't always been taken seriously, even when breaches are reported and police respond to reports from a victim survivor about a breach. There might not be any action taken; sometimes they can just be a warning given. As a result, survivors don't always feel protected by the order. The defendant can still threaten and abuse a victim survivor, even when the intervention order is in place. They can still act in a way that breaches the order. A pattern of behaviour that might include a number of relatively minor incidents is an experience of coercive control or ongoing abuse. The burden of proof that the victim survivor has to bare is also important to talk about at the beginning of the process. It can be very difficult for a victim survivor to prove a breach of an intervention order.

It's important to provide a reality check about what an intervention order will actually do and what it will actually change for that victim survivor. Advice about practical things is also offered on what a victim survivor can do to keep them safe. An intervention order is a good thing, if it can be obtained, but there are other things that need other steps that need to be taken to keep the victim survivor safe.²²³

One Service Provider interviewee with experience working with Aboriginal and Torres Strait Islander clients expressed the following perspective on access to quality information about Intervention Orders in South Australia:

²²² Service Provider interviewee A3.

²²³ Service Provider interviewee A3.

You can give someone a pamphlet and even if it's translated in Pitjantjara, it doesn't have the same effect. We use the term 'yarning' and you know, when you're having a yarn with people, so we do that in tandem with senior Aboriginal people that work here. It works really well. As a non Aboriginal person, it's very important. I've got to build that trust, and we can do that together. So those are the things that we think are very important.

And we think education is really the key because often as you know, with Aboriginal people, because of the systemic experiences of [abuse] including stolen generations and all of those historical issues, their experiences with DCP and the way that adults dealt with their own vulnerabilities. It's just really important. We find that face-to-face communication is critical. Information being provided to people in community and an explanation of ... what that means for them within their own cultural context. It is coming from a place where they can understand that we appreciate the dynamics, that they're facing a lot pressure from community to withdraw allegations to not give statements, you know, the guilt that they feel, the shame that they feel it will bring on the community.

...

It's really important that we share the right information with the community about what domestic violence is. To make it clear that it's not just physical abuse. I think that's starting to resonate in the community now. To understand all of the subtleties and the amendments to all of the different legislation about all the types of violence.²²⁴

The need for high quality face to face information sharing was also noted by another Service Provider interviewee with experience working with perpetrators within the court system.

Our main interaction would be with the alleged perpetrator, around their engagement in the behaviour change program and around their court appearances.

Our assessment is in person. Any contact we have with the perpetrator will be either in-person or over the phone when they appear in court for reviews, the case manager will be there in court to liaise with the magistrate.

So it's always in person. And then we have interaction with the treatment provider about engagement and about getting reports from them to determine how this person is engaging in the program.²²⁵

Some of the challenges associated with accessing good quality information about Intervention Order system were identified by the respondents to the service Provider REDCAP survey as follows:

- Potential for incorrect information to be provided to applicants by police officers.
- Lack of access or direct pathway to [Family Violence Investigation Section] at police stations for family and domestic violence victims at some police stations.
- Lack of legal advice until after key court dates and processes have commenced.
- Complexities associated with relationships between the alleged perpetrator and the protected person/s.
- Lack of clear information about what is expected of the applicant and/or any protected persons at each stage of the Intervention Order process (both for police-issued orders and private orders).
- No public access to police policies and decision making processes relating to when to issue an Intervention Order or when to investigate/prosecute a breach.
- Ambiguity regarding the jurisdiction (civil or criminal) and what this means for how the matter will proceed.

²²⁴ Service Provider interviewee A1.

²²⁵ Service Provider interviewee A2.

- Language barriers for people from CALD backgrounds.
- Complex intersections between legal frameworks, including child protection, family law and bail proceedings.
- Lack of accessible information about the process and steps involved to obtain or vary an Intervention Order especially for parties who may be self-represented.

One service provider also emphasised the need to think carefully about the different experiences of those seeking between private intervention orders compared with those seeking police-issued orders:

There is an important distinction between private intervention orders, where a lawyer is providing a woman with support and talking them through the process, and intervention orders that are applied for by the police.²²⁶

Some clients find it difficult to approach police particularly at the police station. They can find that process intimidating and sometimes they are turned away.²²⁷

Sometimes when a person approaches the front counter of a police station seeking police assistance in response to domestic abuse or seeking an intervention order or reporting a breach of intervention order, their claims can be dismissed or minimised. They can be told that their experience of abuse is 'not serious enough' or there is no abuse identified to warrant action. They can be handed flyers or other written material instead of being offered in-person assistance or provided with referrals to specialist services.²²⁸

Being told that your abuse is 'not serious enough' or there is no abuse identified is one of the most damaging things that can happen. It can impact the relationship of trust going forward.

It is therefore critical that first responders are adequately trained in trauma-informed care and practice, and have training in best practice responses to domestic violence, so that the victims can also be referred to suitable support services.²²⁹

Many respondents to the service provider REDCAP survey had suggestions for how to improve the processes and practices associated with supporting people to apply for and enforce Intervention Orders in South Australia. These included the following:

[It is] important to ensure clients know I cannot give legal advice and I often refer them to the Police for clarification or advise to seek legal advice but understand the cost of this can deter some people from seeking the correct information necessary to manage the situation.

The South Australian Police changing their policy so they can issue Intervention Orders when nonphysical abuse occurs.

Police to support applications for Intervention Orders that cover non-criminal acts of abuse and consistent responses to victims from police/prosecution/magistrates.

women not required to bear the burden of truth before an Intervention Order is issued, understanding what is helpful to have on the Intervention Order and how to read them better protection enacted by the South Australian Police.

A thorough support system in place for the protected person. An assigned worker to explain the process and how they can best adhere to it. Understanding of the complexities of emotions that are involved.

²²⁶ Service Provider interviewee A4.

²²⁷ Service Provider interviewee A4.

²²⁸ Service Provider interviewee A4.

²²⁹ Service Provider interviewee A4.

Greater information sharing from the police to enable services to best support applicants to obtain an Intervention Order. Information from police such as FV history, previous arrests, previous Intervention Orders etc is needed in able to properly assist someone to apply for an Intervention Order.

Better awareness of what services are available to help. There are so many services out there but many don't know about each other to get people connected.

Greater consistency in application of the law, so lawyers and other support services can confidently advise victims on what to expect, the process and likely outcome. As well as greater enforcement for breaches of Intervention Orders.

1. It is very difficult for victims of family violence to bring personal applications for IO's. The very act of applying puts them at great risk. So I would like to see broader powers available for police to bring applications. 2. The procedural delay with private applications are a significant disincentive for applicants. I would like to see these applications listed faster; at least so that interim orders could be put in place. At present, the defendant can delay the hearing to their own benefit. 3. I would like to see much more effective penalties for breach.

A less daunting system particularly for people from CALD communities who may struggle with language. The intimidating legal process renders some people who which to apply for Intervention order as a very difficult one - especially if they may have limited internet access. For many victims if their phones and internet use is being monitored, having to use an online system to find information and apply for Intervention Orders can put them at further risk. For some victims of [domestic violence] they are more concerned with safety and may find the process of having to apply for Intervention Orders mentally and physically draining. In court, the personnel that help victims can invariably become a barrier when they come across as unfriendly and unapproachable - deterring many victims from proceeding with process of Intervention Order applications.

Education for South Australian Police officers to ensure that when a woman asks for an intervention order, the process is explained to her respectfully, whether the police believe that she is entitled to an intervention order or not.

Process is often not transparent to the protected people, or the targets of, Intervention Orders. That is, often the decisions made by police/court are not explained, or not understood.

Court based assistance to ensure that the person applying for the Intervention Order will obtain the specific protections they are seeking. Removal of application costs and a significant change in training and culture by the South Australian Police in the enforcement and willingness to explain to parties how they will be kept safer.

More safe places for women and children to access accommodation and support

Education for police regarding DV, changes to culture of "victim blaming" often experienced when reporting DV to police.

I would like to see that once an Intervention order is made a referral to a trained Social Worker or Psychologist can be made for a counselling session for interim assessment of risk to be determined

One of the Service Provider interviewees with experience working with Aboriginal and Torres Strait Islander clients shared the following thoughts on the complexities of providing support to clients seeking to access the Intervention Orders system in South Australia:

Some find that the laws work really well for them, and the orders are issued and they're enforced and they're protected. And then you've got that other layer that we see in regional communities with Aboriginal clients where experiences are quite different. ...

What we find is, in Aboriginal communities, it's all well and good to have these laws, but it's very difficult for victim survivors [to access or enforce the laws] because of the dynamics of community. ...[W]ith Aboriginal families, there's a lot of complexity. There's the complexities

and the considerations of what happens to them when they're responsible for protecting themselves and their children.

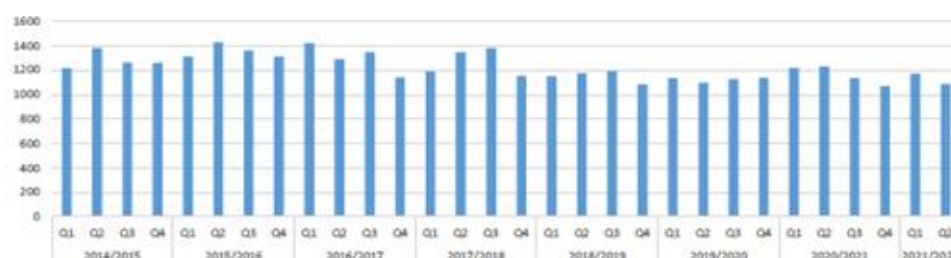
There is a lot of fear associated with being seen as not protecting themselves or their children, and having children removed. So that's one layer of blame and shame.

Then you've got the perpetrator being run out of community based on criminal charges. And then also just the dynamics and complexities of Aboriginal families, where it's very difficult for them, even with lawyers to want to call out that behaviour. They're very reluctant, because of the complexity of culture, to even want to talk about those things, even in a confidential, safe space. ...

Having said that, these laws are not exclusively used by women. I'm obviously aware that there are female perpetrators and I've certainly seen lots of Intervention orders where the female is the perpetrator rather than the protective person. Then you've got that whole other layer of what happens to that person, pressure from community to not give statements to not make disclosures coming from the family, you know, to the victim. So we find that that is a huge complexity.

Part D- Interacting with Police and Courts

The following diagrams and tables, taken from the Courts Administration Authority's website²³⁰ show the numbers of Intervention Orders applications lodged by police and privately:



		POLICE ISSUED INTERVENTION ORDERS		APPLICATION TO COURT FOR INTERVENTION ORDER - POLICE		APPLICATION FOR INTERVENTION ORDER - NON POLICE		APPLICATION TO REGISTER FOREIGN ORDERS	NOT IDENTIFIED ORDERS	APPLICATION TO VARY / REVOKE AN INTERVENTION ORDER	TOTAL
		DV	Non-DV	DV	Non-DV	DV	Non-DV	Not Identified	Not Identified	Not Identified	
2014/2015	Q1	686	50	209	83	16	19	7		146	1216
	Q2	765	47	264	94	24	12	7		150	1363
	Q3	762	45	205	79	23	6	4		141	1265
	Q4	771	53	172	74	23	16	3		150	1262
	Total	3084	195	850	330	86	53	21		587	5126
2015/2016	Q1	801	41	158	76	39	13	8		176	1312
	Q2	906	55	161	65	50	24	9		158	1430
	Q3	863	54	137	67	42	23	18		159	1363
	Q4	789	51	130	83	31	33	6		191	1314
	Total	3361	201	586	291	162	93	41		684	5419
2016/2017	Q1	883	51	156	61	31	31	13		199	1425
	Q2	793	38	125	54	37	28	9		207	1291
	Q3	771	62	138	64	58	26	11		219	1349
	Q4	628	61	128	64	43	33	7		178	1142
	Total	3075	212	547	243	169	118	40		803	5207
2017/2018	Q1	718	57	112	51	29	27	7		191	1192
	Q2	832	59	120	66	52	43	1		177	1350
	Q3	848	69	110	51	67	49	0		188	1382
	Q4	681	67	106	35	41	43	0		184	1157
	Total	3079	252	448	203	189	162	8		740	5081
2018/2019	Q1	703	37	83	36	63	47	0		184	1153
	Q2	751	44	93	43	57	47	0		142	1177
	Q3	785	42	84	34	56	36	0		157	1194
	Q4	716	27	76	50	54	48	0		116	1087
	Total	2955	150	336	163	230	178	0		599	4611
2019/2020	Q1	695	35	86	38	54	47	0		181	1136
	Q2	728	28	70	40	40	42	0		150	1096
	Q3	765	36	61	24	60	43	1		138	1128
	Q4	775	28	72	28	71	35	0		132	1141
	Total	2963	127	289	130	225	167	1		601	4503
2020/2021	Q1	760	42	78	54	70	52	0		166	1222
	Q2	787	45	67	59	81	44	1		148	1232
	Q3	727	42	59	35	76	49	1		148	1137
	Q4	684	31	55	19	76	55	1		152	1073
	Total	2958	160	259	167	303	200	3		614	4664
2021/2022	Q1	707	56	56	43	82	44	1	0	184	1173
	Q2	736	28	46	40	58	57	2	0	122	1089
Total		1443	84	102	83	140	101	3	0	306	2262

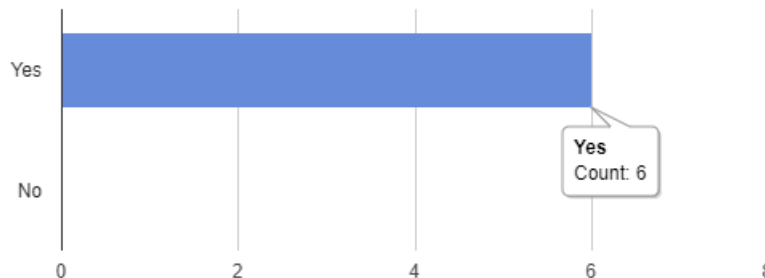
Legislative changes that came into effect on 25 November 2017 will result in a reduction of applications to register foreign orders. Intervention order figures refreshed to capture domestic violence (DV), non-domestic violence (Non-DV), not identified and applications to vary/revoke orders lodged.
NOTE: Foreign Intervention Orders and Unidentified Intervention Order figures are split from 2021/22 onwards

The questions in Part D of the REDCAP Questionnaire and interviews related to participant's experiences interacting with the police or the court when seeking to access, or applying for an Intervention Order. Participants were asked to describe the most important things to keep in mind when police or court officials are dealing with applicants, and to describe the nature and quality of their own interactions with police and court officials within the Intervention Order system. Participants were also asked to offer suggestions for reform and improvement.

²³⁰ Courts Administration Authority website, 'Statistics: Intervention Orders' (2022) South Australian Government <<https://www.courts.sa.gov.au/publications/statistics/>> (accessed 15 March 2022).

Lived Experience Participants

The following graph summarises the responses received to the Lived Experience REDCAP Survey in response to the question: Have you ever talked to the police, Magistrates, court officers, corrections officers or other people in the Intervention Order system?



Respondents who answered 'yes' to this question said that they had spoken to:

- Police (5, 83.3%),
- Court officials (eg people behind the counter at the court registry office) (2, 33.3%),
- Magistrates or Judges (2, 33.3%),
- Prosecutors (1, 16.7%),
- Corrections officers (0, 0.0%),
- Other public officials (1, 16.7%),

Only some respondents described difficulties in interacting with these officials. Of those that described difficulties, gender and past involvement with law enforcement or police were cited as causal factors.

When describing the most important things to keep in mind when someone goes to the police or to the court to ask for an Intervention Order, respondents to the Lived Experience REDCAP Survey listed the following key considerations:

- The need to prioritise the person's safety and support systems, and to warn the person that they may 'have to fight long and hard' to access an Order.
- The need to acknowledge that the person may be scared, stressed or experiencing trauma and may not understand the legal system or the specific laws relating to the Intervention Orders system.
- Ensuring accuracy of information and ease of access in one central place.
- Honesty about the potential for reports of family and domestic violence to be dismissed.
- Honesty about the complexities of the interactions between state and federal laws, in particular, the impact of Family Court orders on State-issued Intervention Orders.

One respondent explained that police and court officials need to:

Be patient and understanding instead of procedural and judgemental, and to clearly explain to them what they need to know rather than assuming they know it or can find it themselves.

Lived Experience – Interactions with Police

Many Lived Experience interviewees noted with respect the important and often extremely challenging role police officers play in the Intervention Orders system and the South Australian response to family and domestic violence. There was an acknowledgement of the many individuals within the system who are working tirelessly to protect women, children and others from harm often in the context of limited resources and threats to personal safety.

A number of respondents described positive aspects of their interactions with police. For example, some respondents said that:

Constable [X] took seriously what was happening and wanted the abuse to stop. I felt believed, and that really helped.
--

I found everyone to be professional and empathetic
--

They did help and when I had to get the intervention order changed in court, it was an easy process.
--

I found the individuals to be professional and empathetic, but in some cases the system did not allow them to be helpful or take action.
--

One Lived Experience interviewee explained that when she sought assistance from the police:

I didn't have to do anything. [The police] obtained the order for me because I guess, you know, there were so many assaults and sexual offences against me. But they wouldn't extend the intervention order to my daughter. I wanted them to. But he'd never hurt her before. He'd always been pretty good to her. He hasn't had a relationship with her for a long time, but I was kind of afraid he might try and get to me through her.²³¹

Another lived experience interviewee said:

I never had any trouble with the police.²³²

...

One time D threw a set of keys at me and they hit me in the face. This caused a lot of pain and damage to my face and bruising. My daughters told me to go to the hospital and to tell the police. The police sergeant was amazing. The officers at the [specialist domestic violence unit] were very helpful. They helped me get into a hotel and then accompanied me back to my house to collect my belongings. Then they helped to find me a house.

A total of 3 officers came to support me to collect my belongings and come with the removalists. I was very worried because D was very verbal and yelling at everyone. I was really scared. It was then that we got the restraining order.²³³

The experience of another Lived Experience interviewee – referred to as T – also included positive, protective elements:

When T went to the police station, the police explained what her legal rights were and explained what an Intervention Order was all about. The police explained how an Intervention Order could help stop T's husband from going near her or contacting her in any way. At this time, T felt very happy. She said: *"There's going to be a barrier between me and my husband. There's going to be something to stop him from going near me."*

T was smiling so much at the police station. It was like she couldn't believe that there would be a law that would help protect her from this. She felt like this law could offer her justice. And she felt that this is how she was going to be protected. She felt that someone out there is bigger than her husband.

It was the Family and Domestic Violence section of the police that were providing her with assistance. And it was this section of the police that applied for an Intervention Order on T's behalf. These police officers also went with T to the Court to have the Intervention Order confirmed.²³⁴

²³¹ Lived Experience interviewee LE2.

²³² Lived Experience interviewee LE3.

²³³ Lived Experience interviewee LE3.

²³⁴ Lived Experience interviewee LE5.

However, other respondents to the Lived Experience REDCAP Survey described their experiences interacting with police as follows:

It was difficult. The first Police Officer that I was in touch with through the [Family Violence Investigation Section], Constable [X], was kinder, but I still didn't feel like things were explained that well, and also whenever there was contact with her or her unit (they attended her house to speak to my husband or I, or called) there would be an escalation in violence. I felt helpless to prevent this and that they didn't understand that their intervention was actually having this effect. When speaking to police officers at the station they varied from being curt and wanting to process the report quickly, to disbelieving me and ridiculing through sarcastic comments and body language.

I was told to come back Monday to apply for [an Intervention Order], despite displaying bruises on my ... daughter at front desk of police station. I insisted to at least get a card to say I had been there, then left dumbfounded and scared over my children and I being unheard.

Fighting and dealing with failing systems is exhausting let alone when you are traumatised and dealing with children after fleeing DV, It impacted my health so severely ended up with breast cancer.

I didn't feel like I was taken seriously or disbelieved, and made to feel like I was being judged as hysterical, ridiculous and time wasting. This made me feel unsafe to approach police again which was fairly scary, because they were the place I was supposed to be able to count on to help, and I wasn't sure where else I could go.

If only the officer had told me to go to child protection, or sought to take our statement ,the abuse would have at least been recorded. We wouldn't have been so alone.

Because I hadn't been the victim of recent physical violence, I was not eligible to apply for a police intervention order, although it was necessary to protect my daughters. Navigating through a civil intervention order was time consuming and difficult. Without the help of the Court Assistance Service, it would have been impossible to work out what steps to take to get it in place and if not for the fact that DCP were already involved and had recommended all contact between my daughters and their father be suspended, we would have been extremely vulnerable while waiting for the application and first hearing to happen

One Lived Experience interviewee described the police reaction to her reports of abuse as 'completely inadequate'.²³⁵ The interviewee explained that she found the officers to whom she reported the abuse 'to be condescending and dismissive, describing it as a Family Court issue and not something that needs to be reported to the police'. She said

There was no empathy or understanding clearly a misunderstanding about what the law said.²³⁶

This interviewee's application for a final intervention order did not go through, it was not confirmed by the Magistrate. The participant explained that:

In his report, following the decision, the Magistrate documented the range of concerns and evidence of abuse ... and classified the abuse ... as child abuse. However the Magistrate dismissed the act of child abuse on the grounds that [the defendant] had changed his behaviour.²³⁷

In this interviewee's view:

The South Australian Police has got the wrong people working in the area, the wrong people responding to domestic violence and family violence.²³⁸

²³⁵ Lived Experience interviewee LE7.

²³⁶ Lived Experience interviewee LE7.

²³⁷ Lived Experience interviewee LE7.

²³⁸ Lived Experience interviewee LE7.

There are people responding to reports made by women of abuse and harm who do not want to be there that don't understand the issue and that would rather be working somewhere else. Those officers should not be working with victim survivors. They should be working elsewhere.²³⁹

Another Lived Experience interviewee described her interaction with police following an experience of domestic violence as follows:

He was my boyfriend and he assaulted me. And he would grab me by the hair, you know, shake my head around. He'd bite my fingernail off. A few things other things. Drove around like crazy with me in the car. And I went to the police immediately when I got home and you know, wanted to press charges. And they said things to me like, 'So, what about the traffic lights, you know, when things slowed down, why didn't you jump out of the car? Get out?' It was like, well, the assault had been the point where he was really, really mad and had been assaulting me. It had stopped by then. And then it kind of just stopped. And the kinds of things that they said to me were just victim blaming. Yeah, the attitudes were pretty terrible on the part of the police.²⁴⁰

When reflecting on the factors that contribute to these varied experiences, many respondents noted the variance in police understanding of the complexities of family and domestic violence and the significance of adopting trauma-informed approaches to communicating with and supporting victim survivors. The need for police officers to understand the potential implications of coercive control and how this may manifest within the legal system was also cited as a critical factor by a number of respondents to the lived experience REDCAP survey and those undertaking qualitative interviews.

One Lived Experience REDCAP Survey respondent said that:

I definitely had more positive experiences with female officers and more negative with male officers. My husband had also made several reports against me at the Police Station after incidents where he had been violent, alleging I was the perpetrator. I think that this had an impact on how I was perceived and treated by officers.

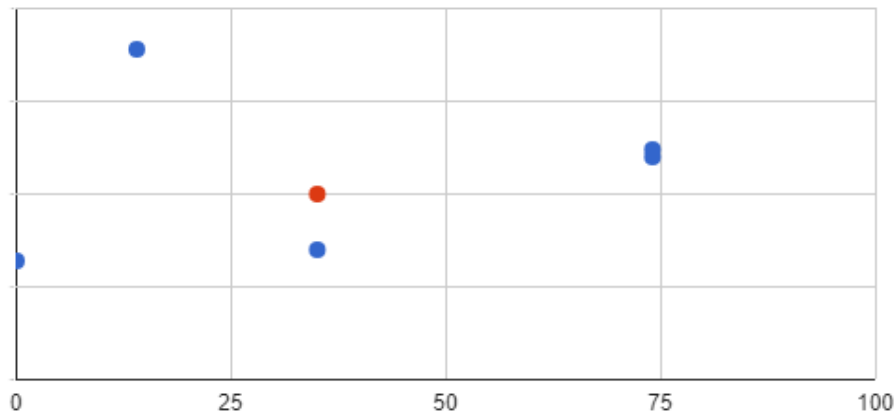
Another Lived Experience REDCAP Survey respondent explained that

Intervention orders are evidence based. Coercive Control presents very little "tangible" (I.e. bruises) evidence, yet coercion is always endemic to domestic violence... Thus, perpetrators can often weaponize the system into dismissal (I.e. "he said/she said") in the least, and often more than this, counter accusations to be defended against for the victims. This silences and defeats victims before even engaging police to try to be heard and believe. This is the d.v. perpetrator's [modus operandi]. When Police approach with a defensive practice to their job, to a high stake judgement d.v. presentation, it can often shockingly result in a reticence for them to act at all. Evidence or narrative not recognised/recorded by police, leaves victim no 'tangible evidence' to apply to the court with on her own.

²³⁹ Lived Experience interviewee LE7.

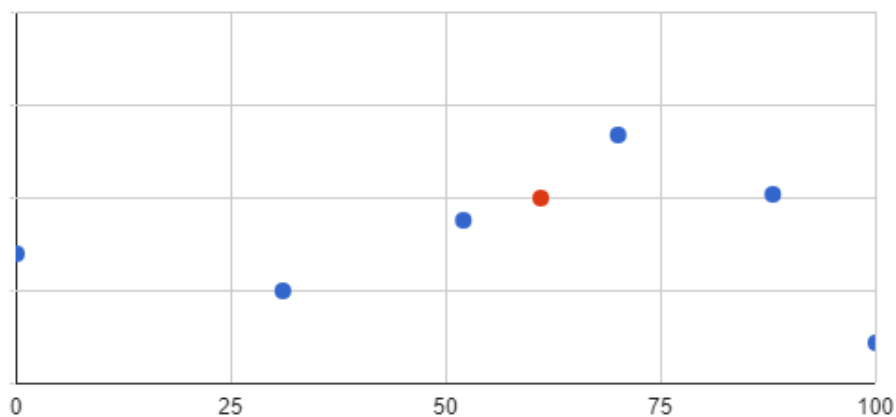
²⁴⁰ Lived Experience interviewee LE2.

The following graph describes how willing respondents to the Lived Experience REDCAP Survey would be to attend a police station about an Intervention Order (with 100 indicating very willing and 0 indicating not willing at all). The red dot represents the median response.



Lived Experience – Interactions with Courts

The following graph describes how willing respondents to the Lived Experience REDCAP Survey would be to attend court to give evidence about an Intervention Order (with 100 indicating very willing and 0 indicating not willing at all). The red dot represents the median response.



When it comes to giving evidence in court in support of an Intervention Order application, respondents to the Lived Experience REDCAP Survey explained that:

Going to court is really intimidating and stressful, particularly since this involves close proximity with the person who has abused you, and the possibility that what you say against them might cause escalation in their behaviour, despite the intervention order. Video link is better than in person since you aren't physically present but still stressful. Evidence in writing is better, but still carries the risk of angering your abuser.

It can be intimidating and stressful to attend court, especially if the person you have applied against is in attendance. I think it is important for the Magistrate to speak directly with the applicant, so I don't think evidence in writing is sufficient, but by video link, even if it was a separate room within the courthouse, might be less intimidating

Four respondents indicated that they would be more willing to attend court and given evidence if they could do so via video link.

Lived Experience – Children and the Intervention Orders System

Respondents to the Lived Experience REDCAP Survey were also asked whether any of their interactions with the Intervention Orders system involved children, for example, where a child was listed as a 'protected person' in an Intervention Order. Of those that responded positively, to this question, the comments received highlight the challenging intersection between Intervention Order proceedings in South Australia and Family Court orders issued within the federal jurisdiction. For example two respondents said that:

The children it helped keep them safe at school, however when family court orders allocated time my children were no longer protected as the family court order overrides the intervention order and my children were abused in his care leading to more stress and trauma and child protection becoming involved with long lasting consequences on there mental wellbeing

Both my daughters were listed as protected persons for the interim order but were removed for the final order. I was persecuted in the Family Court by the Independent Children's Lawyer and my ex husband's lawyer for having the children listed as protected people. They said matters involving the children should be for the Family Court, not the Magistrate's Court and painted me as controlling and trying to defame my ex-husband by having them listed as protected people. They told me unless I removed the children as protected people, they would force me to trial in Family Court, which I could not afford to do, either financially or emotionally. It was also confusing for my daughters because it became unclear to them what to do in some situations. The interim Family Court orders started to allow contact between the children and their father in some situations, which overrides the IO. An example is the IO prevented their father from attending their school, but the Family Court gave a temporary order allowing him to collect them from school to spend a few hours with them on one of their birthdays. This was also difficult for the school staff to manage, because suddenly there became some situations where he was permitted to attend, but not at other times.

Service Provider Participants

Respondents to the Service Provider REDCAP Survey also reported a variety of experiences when it comes to interacting with the police and the courts in the context of Intervention Orders in South Australia. For example, one Service Provider interviewee said that

In many ways court application processes, where a private intervention order is sought, are not as difficult as going to the police, particularly if the victims have access to good quality support and legal advice. If the police are making the decision about whether or not to proceed with the intervention order, different levels of evidence and proof appear to be required from the survivor. Also, questions arise for the victim survivor about how to keep themselves safe during that process. Whereas the court application, private intervention order process enables the victims to have some more control over the evidence that's being brought and the proceedings and timeframes.²⁴¹

One of the Service Provider interviewee with experience working with Aboriginal and Torres Strait Islander clients expressed the following perspective:

One thing I found is that some police are amazing. What you've got your specialists use [Family Violence Investigation Section], people are educated, they're trained, and those units work well. But what I found was that sometimes you have a police officer that just turns up flat cold, and I

²⁴¹ Service Provider interviewee A3.

don't say that to be disrespectful - police can't possibly be across everything. The difficulty we've got, and we see it in family law as well, where they come up to a situation and they may not have a full handle on domestic violence and the nuances, the subtleties of it. So I think there's a lot more that needs to be done with police in terms of just broader education, about subtleties, something that will help with enforcement and understanding their role and the important role that they have to play. ... [They are] the first port of call and that makes all the difference to a client.

And also, I think the difficulty is, sometimes police might not be aware that... they are so powerful. The police sometimes don't realize how forceful, just even a uniform can be. Even though they have no-power federally to take a child, but the mere fact that they're there is a huge thing. I mean, imagine the effect that that has on an [Aboriginal] victim survivor.²⁴²

When asked about the most important things to keep in mind when police or court officials are talking to people who want to apply for or enforce Intervention Orders, respondents to the Service Provider REDCAP Service referred to the need to provide:

- Trauma informed, family and domestic violence informed approaches to communication and service provision.
- Adequate resourcing for police and courts so that they can support survivors of family and domestic violence.
- Clear concise information about the legal process and the short term and long term consequences of applying for an obtaining an Intervention Order.
- Clear concise information about what an applicant will need to do at each stage of the process, and what they can expect the police to do at each stage of the process.
- Adequate and consistent responses to investigating and prosecuting breaches of Orders, in line with the text of the legislation.
- A safe space for women and children to share their experiences and to be believed.
- Responses to reports of violence and abuse that use non-judgemental language and avoiding making assumptions.
- Referrals for free legal advice from a community legal centre or legal service commission before an application is submitted.
- Honestly describe the likely outcomes and risks to potential applicants.
- Access to interpreters and cultural support for persons of CALD backgrounds.

One respondent to the Service Provider REDCAP Survey said that the most important factor was to ensure that:

Respect [is] given to the victims- at the moment they are not respected, unless you are referring to victims of the narrow definition applied by the South Australian Police as to [domestic violence] and can prove physical violence. -Listen to a victim- victims can be terrorised and stalked by perpetrators over long periods of time, but these victims are not listened to or the 'time of the day' by South Australian Police officers- until he has finally assaulted the victim or actually attempted to murder the victim. -Given a victim a voice- in the courts process, allow a victims voice to be heard. For instance, actually take a victim impact statement and read it out in court (this does not happen in the lower courts). -If a victim flees the state due to terror of the perpetrator- the South Australian Police to not drop the Intervention Order and the criminal charges laid against a perpetrator because the victim is not in the State so the South Australian Police does not need to waste resources following up with the victim interstate (this often happens). The South Australian Police will withdraw the Intervention Order and the charges with officers stating in court that the South Australian Police cannot 'find' the victim- despite the victim having told the police where they are now living. The officer will simply withdraw as it is 'too hard' to chase a victim if she is interstate. This can be termed all sorts of things but it comes down to police resourcing- money saving.

²⁴² Service Provider interviewee A1.

Other respondents underscored the importance of providing an environment where the victim survivor is supported and believed, regardless of their demeanour:

The person they are talking to has likely experienced significant trauma and deserves gentle listening. If in doubt, lean on the side of believing their story. It takes huge courage to talk to another person about this.

They need to listen to the person and provide them with time to speak and provide a history of incidents that have occurred. They also need to be aware that not every female that requires an Intervention Order to protect them or their children will appear distressed or traumatized. Some females have endured years of domestic abuse and have learnt to endure same and their presentation may not reflect the serious risk they are in of being subjected to further violence and/or death.

Service Providers – Interactions with Police and Courts

All Service Provider research participants noted with respect the important and often extremely challenging role police officers play in the Intervention Orders system and the South Australian response to family and domestic violence. There was an acknowledgement of the many individuals within the system who are working tirelessly to protect women, children and others from harm often in the context of limited resources and threats to personal safety. There was also a recognition that police officers are actively looking for ways to continue to improve their practice and the impact of their policing work in this area. One Service Provider interviewee was a retired police officer with experience with the Intervention Orders system interstate. This interviewee explained that:

Me and my colleagues advocated to change the system from within. This advocacy resulted in the introduction of new approaches to address problems with accessing Apprehended Violence Orders (AVOs) and the ability to seek after AVO hours intervention orders. Prior to this reform, police officers used to have to ring the 'on call Justice' ringing them at 3am. The reforms meant that a Senior Officer could issue an interim AVO – that would last for about 3 weeks and then be confirmed by Magistrate. This resulted in a lot faster process. It exponentially increased the workload of the Sergeant but eased the pressure on the Victim. It also meant that the police could hold the perpetrator in custody whilst the AVO application process was ongoing. Then once the order was granted, the police would release the person – unless other criminal processes like bail in play. This allowed us to (a) remove the person from the premises and (b) address the safety issues.²⁴³

This recognition of police playing a critical and positive role in the Intervention Orders system was also recognised by some respondents to the Service Provider REDCAP Survey. Some respondents described positive interactions with police in the context of the Intervention Orders system in South Australia saying, with many giving particular praise for the work of the Family Violence Investigation Section within the South Australian Police. For example, one service provider said:

There are many examples of women having good outcomes. Often these include women who've had: good support through case worker support; good legal representation; the benefit of interacting with the Family Violence Investigation Section of the South Australian Police and/or Magistrates (Family Violence) Court; and/or a good lawyer.²⁴⁴

However, when describing their interactions with police in the context of the South Australian Intervention Orders system, many respondents to the REDCAP Service

²⁴³ Service Provider interviewee A12.

²⁴⁴ Service Provider interviewee A4.

Provider survey reported frustration at the lack of consistency in police responses to reports of family and domestic violence, noting the significant difference in experiences when police officers demonstrated knowledge of trauma informed response models and/or understanding of the complexities associated with coercive control and other forms of non-physical abuse. For example, some respondents said that:

Several clients could attend with same situation, but receive very different responses depending entirely on which officer they happen to get. It seems to be entirely dependent on officer's own belief system, values or perception of the client compared to the actual situation/circumstance.

Its a very mixed response. Some are fantastic and go above and beyond. some are very dismissive and victims really have to fight for help.

[Police responses are] varying from dismissive to polite but unhelpful. Many referrals to our service some from officers who are obviously concerned about the applicant's safety but are constrained by police policies.

Some are trauma-informed and pragmatic. Others are rigid and dismissive. Element of victim blaming in the approach taken by the latter. No consistency.

Staff within the Family Violence Investigation Section at the South Australian Police in our local area are brilliant - I can't speak highly enough about their assistance and support for victims. They are, however, run off their feet.

I have had a mix of very positive interactions and some very negative ones. In my experience, victim blaming by police is common toward women who experience domestic violence.

The Family Violence Investigation Section in the South Australian Police are good to deal with. Other interactions are varied and really depend on the police officer. Some police officers are very compassionate and understanding, while others are the opposite.

These variations in experiences were also noted by one of the service provider focus groups, which explained that

If a client is lucky enough to get through to the [Family Violence Investigation Section] then they need more information from police about what has happened, what matters have been followed up. Client/victims are often in a distressed state. They might have made a statement to the police but only about half of the clients we see say they receive adequate information about what's happening to their matter. This applies not just to Intervention Orders but also to any criminal offences. This goes to the heart of her safety out in the community. She has gone to the authority that is supposed to help her, got through the first gate, and is then told "go away, we'll be in touch". The interface between the authority and the client breaks down.²⁴⁵

This view was also shared by a Service Provider interviewee who works in a regional area. The interviewee explained that:

There are some amazing crew. Because we are [in a regional area] we often get people come here for a couple of weeks and then go. There can be really different reactions when reporting breach and non-physical abuse.

...

There is a real difference between the police officers who have access to [domestic violence] training and those who haven't. The South Australian Police's Family Violence Team is really up to speed with this stuff, but then there's some other blokes back the station that take a really different approach.²⁴⁶

²⁴⁵ Service Provider interviewee A5.

²⁴⁶ Service Provider interviewee A11.

Another service provider interviewee also expressed the view that there is a disparity of skills among police

The [Family Violence Investigation Section] often provides an excellent first response and follow up with victims. Victims feel like they've been heard and listened to and they get the best information so it's imperative that first responders have trauma-informed responses and family violence-informed responses. This could mean the difference between someone who has a careful private conversation with victim of domestic violence compared to a police officer who just hands out a flyer. It has happened that victims were reported by the perpetrators as being aggressive and general duty police officers did not respond appropriately. ²⁴⁷

There is a need to make sure that all women are told about their rights to get information and their rights to get legal representation and to be told about the range of different services that exist to support people. ²⁴⁸

When applicants or potential applicants interact with officers from the [Family Violence Investigation Section] of the South Australian Police – who have received this training – their experiences are generally more positive. They are also more likely to be provided with appropriate information and/or referrals to appropriate services. Follow up interactions are also undertaken to support applicants through the intervention order application process. ²⁴⁹

This can lead to some lawyers and support providers to suggest that the client bypass the front counter of the police station and go straight to the [Family Violence Investigation Section]. ²⁵⁰

Another Service Provider interviewee said:

Some clients have had some really good experiences, but there's also been times when the experiences of interacting with the police have not been positive. Victim survivors can struggle to have the opportunity to prove abuse or violence or the opportunity to prove a breach of the order. Sometimes victim survivors have had to install cameras and other surveillance devices or equipment around their home to try and catch every breach and document evidence of abuse, including stalking. Sometimes the defendant uses other people to stalk the victim survivor or to create an experience of threatening behaviour or abuse, and they can get away with it, if the intervention order is limited to the defendant only. Victim survivors often say that an intervention order “sounds good, but it doesn't really scare the guy.” And there's many stories about defendants getting away with breaches of the order or other forms of abusive behaviour. The defendant might be worried about it if the intervention order includes requirements that impact on their work, they can also manipulate the intervention order.

It should be noted that non-physical forms of abuse can be harder to prove than physical forms of abuse. And the police can respond in different ways, depending on if the abuse is physical or not. The [Family Violence Investigation Section] can provide an important source of information and support for victims survivors. But it's not always possible for victim survivors to get access to that unit, particularly at the first response stage. Some police officers have a different view on what constitutes abuse. ²⁵¹

The varied response to reports of family and domestic violence in circumstances where the alleged abuse is non-physical was a particularly strong theme. As one of the service provider focus groups explained

The Police have a policy of not assisting client/victims to obtain an Intervention Order at all unless there is evidence of physical abuse. This is despite the fact that the legislation defines abuse in broad terms. The Police guidelines or standing orders or policy is that take a narrow

²⁴⁷ Service Provider interviewee A4.

²⁴⁸ Service Provider interviewee A4.

²⁴⁹ Service Provider interviewee A4.

²⁵⁰ Service Provider interviewee A4.

²⁵¹ Service Provider interviewee A3.

view of what types of abuse warrant the issue of an Intervention Order – and it generally has to be evidence of physical abuse. The Police don't act even in cases of extreme threats to life. The don't act unless they law a substantive change *and* the protected person is willing to support the application with a statement. As the Intervention Orders Act expands, the South Australian Police need to adjust their policies and guidelines.²⁵²

A Service Provider interviewee who works in a regional area shared this view and highlighted the need for resources to support specialist police officers. The interviewee explained that:

There is no locally based the South Australian Police [Family Violence Investigation Section] in this [regional area]. Instead other suburban locations send out locum police officers. They are the ones that come [to the regional area] and some of them have been amazing, but because you don't know who you are going to get, I hesitate before recommending that women report something to police.

Often police will respond differently to “clear evidence” of physical violence, property violence and have a really different response to physical violence to non-physical violence. This can work against women. For example if a woman has been drinking and the perpetrator locks her out of her house at night with the children inside screaming – when she breaks a window to help her children, she is considered the ‘crazy one’.”²⁵³

Service Providers from Aboriginal controlled organisations also expressed concern about the quality of police responses for Aboriginal women seeking to access the Intervention Orders system:

When Aboriginal women seek support for family and domestic violence they don't get police support.

Sometimes the perpetrator of violence gets in first and seeks police assistance or gets an Intervention Order. This effectively isolates the woman and her children who are then unable to get police support and often find themselves in circumstances where they are subject to police intimidation. They become persons of interest or subject to child protection proceedings and sometimes are arrested or prosecuted.²⁵⁴

The same group explained that:

Male perpetrators of violence know how to play it right. They can be calm before the police - speak in the right way the police and other authorities.

If an Intervention Order is put in place there is absolutely no effort to enforce breaches.

It's also impossible for people to understand whether someone is subject to an Intervention Order in the broader community.

Consideration should be given to using electronic bracelets for perpetrators who are subject to an Intervention Order in the same way that the bracelets are used for people who might be on bail or parole

There appears to be no effort by police to identify, report and prosecute breaches of Intervention Orders. The women involved bear the full burden of enforcement in a practical sense and are also required to produce evidence to substantiate any breach

“Police still have their man ego thing. Police look after men. How many times have women rang the police for protection and got nothing? Often the police would say ‘Ring me again when he hits you!’”

²⁵² Service Provider interviewee A5.

²⁵³ Service Provider interviewee A11.

²⁵⁴ Service Provider interviewee A13.

When an Intervention Order is made, it is always under the police authority and the police are in full control of when an Intervention Order is issued and when an Intervention Order will end.

“Under the Intervention Orders order laws, police have the power to arrest perpetrators who are breaching the order, or move people on or move people out. But in practise this doesn't happen. The police just walk the perpetrator down the street and round the corner.”²⁵⁵

It became clear in the course of undertaking this qualitative research that for most respondents, police play *the* central role in the Intervention Order system. Their response to incidents or reports of family and domestic violence, requests for information about Intervention Orders or requests for Intervention Orders to be issued often defines people's experiences of the Intervention Orders system. This aligns with the feedback received from one service provider focus group:

One service provider focus group said:

At the police station they are not given the support they need or the opportunity to be heard and are often dismissed.

Practitioners have experienced at least two dozen matters where clients have been directly mocked or dismissed. This can be extremely traumatic.

Some clients say they are “never going back to the police station” let alone make a statement or report.

Sometimes police officers might even say something like “Unless you calm down we are going to arrest you.”

If the client is lucky enough to get through to the [Family Violence Investigation Section] then some things improve but there can also be other issues.

That first gate – that first contact with police – is really critical.²⁵⁶

Another service provider interviewee explained:

When a person seeks assistance from the police or other service provider in response to domestic violence or abuse, the first response of the police officer or service provider is critical. In some cases, service providers advise victims to firstly contact police as it is emergency and their lives are in danger. The first response can have a significant impact on the person's subsequent experience of the legal system and can be determinative as to whether the person seeks an intervention order or not.²⁵⁷

A number of respondents to the Service Provider REDCAP Survey also emphasised how critical police responses to reports of family and domestic violence can be for victim survivors who may be seeking to access the Intervention Order system. As one respondent explained:

If victims have a negative experience with the South Australian Police, they will be reluctant to ask them for help later. I have had clients go in to report multiple breaches of Intervention Orders, only to have the staff behind the counter roll their eyes at them. It doesn't create trust between the client and the South Australian Police and they are unlikely to return if they need help.

When reflecting on the factors that contribute to these varied experiences, and how improvements could be made in the future, respondents to the Service Provider REDCAP

²⁵⁵ Service Provider interviewee A13.

²⁵⁶ Service Provider interviewee A5.

²⁵⁷ Service Provider interviewee A4.

Survey strongly emphasised the need for (a) more training to officers in dealing and interacting with victims of family and domestic violence and (b) a closer alignment between the text legislation relating to Intervention Orders, which clearly refers to non-physical abuse as constituting grounds for an Order, and internal police policies relating to issuing Intervention Orders and prosecuting breaches. For example, one respondent said that:

There needs to be more training and a consistent response from [the South Australian Police]. I have had many clients who have reported a negative experience from an officer when they attempted to report and not been listened to or been brushed off before complete disclosure had occurred, which has been the reason they stopped reporting to police and the severity of the domestic violence increased.

This aligns with the views of a service provider focus group who said that:

People who interact with client/victims at the point of lodgement of applications for IO also need training to understand domestic violence and abuse. This is an important 'first gate' or 'first interface' between the court and the client/victim. It is important that these court officers/registry staff have the skills to respond effectively and to refer client/victims to appropriate services including WLS and Indigo.

The Victorian model could be useful – there the courts regularly make referrals and even appointments for people to access support services and legal services.²⁵⁸

There is a need for some kind of in-court service to be available to those applying for Intervention Orders directly with the court. Sometimes people are referred to the Legal Services Commissioner's Duty Solicitor for help, but this type of support for Intervention Order applicants go beyond the scope of the Duty Solicitor's role (which prioritises people in custody) and beyond their file load. They are not well equipped to help victims of domestic violence and/or Intervention Order applicants. There needs to be a specialist service, that can refer people to places like Indigo. Improved public information about the Intervention Order process would also help. Often applicants expect to get the IO immediately at the time they file their application at the court, they don't realise there is a court process.²⁵⁹

Other respondents pointed to the need for police and courts to be better resourced and carefully trained to respond to the specific needs of the applicant or victim survivor. For example, some respondents said that:

If there is a CALD victim, officers are very reluctant to use interpreters (for which they have funding) and instead will use relatives such as children whom are under 18 or relatives that are sided with the perpetrator. Rarely are the victims spoken to directly by the officer with an impartial third party interpreter and often they do not have a chance to speak for themselves.

[Short term] More money and staff for [South Australian Police Family Violence Investigation Section] please. [Long term] One only has to look at the court lists to see the enormous impost of family violence on our criminal justice system. This in turn leads to pressure on the child protection system, to children going into state care, then into the juvenile justice system and so the cycle goes. Even leaving aside an (essential) trauma informed approach, it just makes plain economic sense to intervene and act to prevent FV, rather than deal with the consequences.

When asked if any of the following changes would help improve interactions with between applicants, service providers and police officers, court officials or other public officials in the Intervention Orders system, respondents to the Service Provider REDCAP Survey indicated as follows:

²⁵⁸ Service Provider interviewee A5.

²⁵⁹ Service Provider interviewee A5.

- Specific training to improve understanding of complex causes and experiences relating to domestic or family violence (19, 86.4%),
- More time or resources to enable more meaningful interactions (17, 77.3%),
- Improved understanding of your role and experience in the Intervention Orders system (12, 54.5%),
- Improved understanding of your client's role and experience in the Intervention Orders system (13, 59.1%),
- Other (1, 4.5%)

This aligns with the feedback received from one of the service provider focus groups which explained that

Where the police take time and effort to support client/victims to prepare good quality statements and collect relevant evidence, the results improve. This can include ensuring CALD women have access to interpreters, or taking time to record statements in a supportive environment eg over a couple of days. [The South Australian Police] should also consider employing some lawyers to help them understand the newer provisions in the Act.²⁶⁰

Other suggestions for improvements in police and court response to those seeking to access the Intervention Order system included:

- Improving resources for victims to give evidence in court, including access to companions/support persons while giving evidence.
- Removing the requirement for applicants to give oral evidence in support of private Intervention Order applications if the victim is represented or has a detailed affidavit.
- Providing police with more discretion to apply for an Intervention Order on a protected person's behalf.
- Providing more resources devoted to the South Australian Police to investigate domestic violence reports and more resources to courts.
- Ensuring prosecutors are more responsive to applicants and their representatives.
- Increased referrals to social workers and counsellors for all parties involved once an order is made.

This aligns with feedback from one of the service provider focus groups, which explained that

There needs to be more public information about the duties of police and the duties of Magistrates and what they should be doing. This would give the public the chance to hold police and courts to account and given people using the system more power. It would send a message that "You can ask for this, and if you are not getting a response you can complain."²⁶¹

It is also important to set up a stronger complaints process, back it up with data and evidence of police processes. It is imperative that we improve things. At the moment there is a trail of women and children who have been damaged by the comments by police officers at the front desk of the police station.²⁶²

The same focus group also suggested that the:

Family Violence Court in Magistrates Court needs to make some changes. At the moment it is a 'perpetrators court' when it is supposed to be about 'abuse protection'. The Victim's voice is completely left out. VIS should be mandatory but they are not. The Victim's voice needs to be

²⁶⁰ Service Provider interviewee A5.

²⁶¹ Service Provider interviewee A5.

²⁶² Service Provider interviewee A5.

heard, should be required to have VIS read before sentence for breach of Intervention Orders, to hear the impact of the violence or the abuse on the victim and their children. At the moment the victim complaint statement is read out by the police with no emotion at all.²⁶³

One service provider interviewee also expressed the view that

The Magistrates (Family Violence) Court also provides an improved environment. These specialist Magistrates can provide private hearings or closed courts and important procedures to increase protections and privacy for applicants. ²⁶⁴

The Adelaide Magistrates (Family Violence) Court has separate listings for private applications and Police applications. There are dedicated Family Violence Court days in Elizabeth and Christies Beach.²⁶⁵

Some Magistrates are really skilled at interacting with applicants involved in domestic violence and considering comprehensive aspects, including counselling reports. Others are not fully aware of the implications of the context and can be abrupt. For example if a woman applicant is asked questions about removing her child as protected person in an Intervention Order in front of the defendant this can really impact on that woman's response. The woman might agree to changes to an order in the presence of a defendant that she doesn't really want to agree to. This can have flow on effects for her safety and her child safety and for intersecting laws, including child protection laws. It can result in children being removed from the care of their parents. It can mean that women feel that down by the system and lose their trust in the legal system.²⁶⁶

Another Service Provider interviewee observed:

The most important things to think about when it comes to police interventions in domestic violence incidents are:

1. Understand the dynamic of domestic violence – otherwise you will misinterpret what you see. Officers need to draw upon the training they receive (including that delivered by Women's Safety Service with lived experience people included).
2. Understand what you see could be different from what you hear. It is important to separate the parties, speak to the female partner separately from the male partner (or separate parties in case of same sex or transgender relationships).
3. Create a safe space for women / victims to speak to police. Women can't speak about what has happened with the perpetrator around/within earshot. Women need to know that perpetrators will be removed from the property if the police come. Women need a safe space to tell their story. "Once that door closes the violence will get worse for that woman."
4. Understand how to collect evidence and interview correctly and assure people of their safety.
5. Understand that the person with the coolest head will be the perpetrator.
6. The perpetrator who has been removed from the property needs to be monitored and held accountable *before* the matter goes to court. This is a particularly dangerous time for women. There can be immense pressure to withdraw the application for the intervention order. Consider tagging people at that point so you can monitor their behaviour.
7. Some women will want to give their partners a second, third and sometimes fourth chance. They need to be given some options about how to construct an Intervention Order that might

²⁶³ Service Provider interviewee A5.

²⁶⁴ Service Provider interviewee A4.

²⁶⁵ Service Provider interviewee A4.

²⁶⁶ Service Provider interviewee A4.

include contact or even co-habitation but that still protects from violence and holds them to account for their behaviour.²⁶⁷

Intervention Orders and Cultural Context

Two focus groups conducted with Aboriginal controlled groups and organisations who provide leadership and support to Aboriginal women, children and other community members engaging with the Intervention Orders system in South Australia stressed the importance of understanding the cultural context for Aboriginal people. These groups explained how important it is to think through what happens to the protected person when they have other family members that they are close to. In such circumstances, the perpetrator can target those other family members as a way to intimidate and abuse the protected person. One focus group explained that:

Police often have the view that: 'You black women keep going back to your men.' But culturally we look after our family. Having our men around is very important. A lot of women break up from a difficult relationship and have a rest and go back. There is an important psychological dimension to this. It can be described as 'better the devil you know'. Men can use this cycle to make sure the woman knows that they're their woman, and that the man is in control of her.²⁶⁸

The focus group also explained that Aboriginal women often end up in jail because of family and domestic violence that is perpetrated against them.

For example, a woman might have been in and out of hospital but still be with the same man for cultural reasons. Then finally she might have had enough and assaults the man or even kills the man. Then she ends up in jail.

Because of the kids, because of their cultural role, many Aboriginal women go back to their man. Our family, our cultural obligations, our love for our children and love for our family are the most important things."

They are Aboriginal men who have witnessed family and domestic violence as children who are determined to break the cycle.

Aboriginal women don't want to put their partners in jail. Even where there have been incidents of serious physical abuse, including a broken arm, and an Intervention Order is in place, you can have women continuing to communicate and see their partner.

It is important that lawyers understand the Aboriginal women do not want to put their men in jail.²⁶⁹

The focus group further explained that at the time of the physical violence Aboriginal women want protection, but they might later change their mind about Intervention Order when the cultural implications become clear. At this point they may have lost control over the process which is being handled by the police. It was also observed that in some Aboriginal communities, women can receive cultural payback and other ramifications from seeking or supporting an Intervention Order or where police have applied for an Intervention Order against their partner.

These cultural laws are not the same for everyone, they are different for different communities. But it's important to understand that even if traditional fellas have been living in Adelaide for a number of years their culture will always come first. For example, there was a case of a lady who was convicted of driving unregistered and this occurred because the lady was asked by a man in her community who was sick to drive him to get his tablets. Her cultural obligations

²⁶⁷ Service Provider interviewee A9.

²⁶⁸ Service Provider interviewee A13.

²⁶⁹ Service Provider interviewee A13.

were the most important thing to her. She should not have been convicted for that offence. She was following her cultural obligations.²⁷⁰

It is also important to think about the safety of Aboriginal women in circumstances where an Intervention Order is in place and where a perpetrator has been put in prison for a family and domestic violence incident. When that person is released, the woman can face very severe violence and she might not report that violence to police because she feels that the experience was her payback from having been part of a scenario that led to an Intervention Order being put in place.

A lot of Aboriginal women don't want to contact the police. They are being constantly harassed by police, particularly if they're the key household for the family and they're looking after children's grandchildren and great grandchildren. Police attention on this type of household can start a big chain of events of responsibility, with the police coming to look for different people of interest. So it can result in women that are the head of the household experiencing police harassment.

There's also the problem of racism and stereotyping within the police force.

Intervention Orders are largely just a tick box exercise for police. They don't do anything to enforce them afterwards. Women are separated for violence but are often put in emergency housing and the male perpetrator will often return to that emergency housing to be with their partner and this can create further difficulties in the shelter or in other emergency housing.²⁷¹

Service Providers – Children and the Intervention Orders System

Respondents to the Service Provider REDCAP Survey were also asked whether any of their interactions with the Intervention Orders system involved children, for example, where a child was listed as a 'protected person' in an Intervention Order. Of those that responded positively, to this question, many referred to the reluctance of both police and courts in South Australia to issue Intervention Orders listing children as protected persons in circumstances where Family Law proceedings were underway or Family Court orders in place. There was also a reluctance among Magistrates and police to require children to give evidence in support of an Intervention Order. As two respondents explained:

The Court is very reluctant for children to give evidence. The Court is also very reluctant to list children on an Intervention Order, as it is a 'family law matter' and often solicitors will use the children as a way to try and finalise the Intervention Order eg negotiations for the Defendant to confirm the Intervention Order on a 'without admissions basis' if the children are removed to avoid the victim having to give evidence at Trial.

I have observed it is very difficult for a child to be included on an Intervention Order, even if they have been present when the victim is violently assaulted or if child is threatened by defendant. There seems to be a lack of understanding by the court that exposure of domestic violence has on children or that their exclusion from orders can greatly increase their risk of abuse despite never having been targeted directly.

This aligns with material provided by a service provider focus group who explained that:

The police can also be very reluctant to put children on the order as protected persons even in cases where there is a clear threat to a child. This counteracts with what the legislation says. This can also be a problem in court.

Why should the police be taking the side of the D when he is the perpetrator of violence, putting the children at risk.

²⁷⁰ Service Provider interviewee A13.

²⁷¹ Service Provider interviewee A13.

There is a disconnect between the approach child protection orders and IO.

Under both Acts they are meant to prioritise the children and protect them from violence. This is not occurring in practice.

D is using children as a weapon against V, then victimising the woman to get her to return to him, or else not see the kids. D saying things like “Unless she drops the charges against me she is not seeing the children again.”

The Child Protection Act is very clear about the role of police and the rights of children. But this is not consistently applied to IO.

This is also an issue in the Magistrates court where there can be a reluctance to include children on IO even if threats are made that involve children.

There can be a real difference when it comes to responses by different police officers, police prosecutors and Magistrates. Ds can even sometimes intimidate Magistrates and get them to remove conditions on the order.²⁷²

One Service Provider interviewee said:

There can be a particularly harsh impact on children aged eight to ten; they can freeze up. If there's a family court order for an access visit, the child might not want to go. The victim survivor has to work against his or her instincts in encouraging the child to spend time with somebody that they know to be harmful or abusive.

It can also raise issues relating to child protection. There could be a mismatch between orders: intervention orders and family court orders, where the information used to support an intervention order application or collected as a response to a breach of that order can be used against the victim survivor in applications before the family court for access and custody arrangements.

The family court decisions need to be about assessing the child's needs. But instead the child can become the subject of violence and abuse. The child can be affected by non-physical abuse including non-physical abuse, directed at the victim survivor parent.

Often the children are not included as protected persons under the intervention order because of overlapping family court proceedings. This can be the case, even when the child really does not want to go to the care of the other parent, who might be subject to the intervention order, with the victim survivor that is the parent, as the protected person.²⁷³

Another Service Provider interviewee explained that:

Certainly many children are in a situation where they just don't feel safe going to their dads. And then women don't feel safe sending them, but because court mandates and they feel like they're going to be referred to the family court if they don't do it and be further potentially punished. Or they're given mixed advice - someone might say ‘don't send them if you worried about their care’. They're kind of damned if they do, damned if they don't. And it's really hard to, to get those kind of family court issues resolved urgently, since we have different kind of threshold. I think those two systems need to more closely together and the people that we speak to often find it really confusing and really expensive to get the access to the resources needed to interact successfully with the family court. Sometimes the male perpetrators will deliberately defer for long periods of time to rack up the costs that the woman experiences. It almost feels like some kind of financial control and actual abuse.²⁷⁴

All REDCAP Survey respondents expressed the view that children should be protected and supported within the Intervention Orders system, and should not be required to give

²⁷² Service Provider interviewee A5.

²⁷³ Service Provider interviewee A3.

²⁷⁴ Service Provider interviewee A8.

evidence in court in matters involving one or both of their parents. Many noted the trauma experienced by children exposed directly or indirectly to family and domestic violence, and the re-traumatisation that can occur if these children are asked to recount their experiences, make statements or give evidence in Intervention Orders proceedings.

Some respondents described the complexities of specific scenarios involving children as protected persons as follows:

[In one case a] young person was [a] protected person at the age of 16-17. There was little consideration of this and there was immense pressure placed on this person to make statements, etc. where this person was not given the time to be listened to or open up to a trusted and reliable source. No consideration was given to make it a more comfortable experience and there appeared to be a lot of judgement placed on this person for not making public statement and wanting some contact with the person intervention order placed on. The complexities of the situation were not considered and there was little empathy shown.

I often support applicants seeking an order (or have an order) which lists children as the protected person/s. It seems difficult to obtain an Intervention Order to protect a child unless that child has previously been directly harmed or threatened - this leaves children vulnerable.

We support parents predominately mums that have had their children removed where the child is sometimes placed with the perpetrator even though there is a violence intervention order against them in respect to the mother of the children. Children are removed from this intervention order when the department is looking to move children into the father's care.

One Service Provider interviewee with experience working with Aboriginal and Torres Strait Islander clients expressed the following perspective on the inclusion of children as protected persons in Intervention Orders in South Australia:

Some of the laws work really well for some victims and then for others, well, it falls short because of where they're at in their life, what they're trying to achieve. And then, and then there's a tension where children have been removed. If I can talk about the child protection context, where quite appropriately children need to be removed because of the exposure to domestic violence. And so children are removed and then what the family tries to do is get everyone back together. So Mum and Dad might say, 'I want to reconcile that I want to go and do courses'. They want to have counselling, but unfortunately the authorities have already determined that these two can't be a unit, so that that's a huge challenge. And that's where we see the laws work in the reverse.

So initially the laws are good and they're positive and protect children and protect the protected persons and the victim clients. But then what happens is when the parents try to have the light bulb moment and wants to work towards reconciliation, reparation, the attitude of authorities coming to the other extreme. ...

I think a lot of what we see is that the laws are really good. They're very good at reviewing the laws, but there is a lack of consultation and then ultimately there's a lack of service provision. So that that's the gap I think. There's a lack of services, lack of advocates. There's not enough funding for things like Aboriginal family practitioners on the ground to really get in there and be the conduit between the family and the authorities.

Even language is a barrier. We find we've got traditional Aboriginal people, in need of protection but they don't often get interpreters as much as they should. There's a real cultural misunderstanding of things. Sometimes victim survivor clients are seen as complicit in the abuse, almost like they are the author of their own tragedies.

You need to have that, that other layer of support people that work as a conduit between victims and perpetrators and the police and the court to really bridge that gap.²⁷⁵

²⁷⁵ Service Provider interviewee A1.

Part E- Process and Criteria Applied when Granting and Approving Intervention Orders

The diagrams and tables below, published by the Courts Administration Authority on its website²⁷⁶ provide the numbers of Intervention Orders issued:



		POLICE INTERIM INTERVENTION ORDERS		INTERIM INTERVENTION ORDER		FINAL INTERVENTION ORDER		FOREIGN ORDERS & NOT IDENTIFIED	NOT IDENTIFIED ORDERS	VARIATION ORDERS	TOTAL
		DV	Non-DV	DV	Non-DV	DV	Non-DV	Not Identified	Not Identified	Not Identified	
2014/2015	Q1	686	50	508	102	514	118	7		87	2072
	Q2	785	47	602	101	532	100	7		112	2286
	Q3	762	45	496	58	674	116	5		85	2241
	Q4	771	53	458	61	692	105	3		120	2263
	Total	3004	195	2064	322	2412	439	22		404	8862
2015/2016	Q1	801	41	437	65	680	106	7		126	2263
	Q2	908	55	510	68	588	93	6		130	2358
	Q3	863	54	561	78	657	94	17		133	2457
	Q4	789	51	541	109	628	123	4		122	2367
	Total	3361	201	2049	320	2553	416	34		511	9445
2016/2017	Q1	883	51	571	80	651	101	13		121	2471
	Q2	793	38	517	68	643	80	10		120	2269
	Q3	771	62	534	101	578	99	7		128	2280
	Q4	628	61	476	103	635	107	9		108	2127
	Total	3075	212	2098	352	2507	387	39		477	9147
2017/2018	Q1	718	57	463	81	600	111	6		107	2143
	Q2	832	59	583	75	541	95	2		148	2335
	Q3	848	69	625	93	530	80	0		111	2245
	Q4	681	67	527	63	561	74	0		136	1973
	Total	3079	252	2198	312	2232	360	8		502	8696
2018/2019	Q1	703	37	465	71	499	93	0		132	2000
	Q2	751	44	434	80	445	108	1		112	1975
	Q3	785	42	469	63	440	73	0		100	1972
	Q4	716	27	394	49	438	82	0		66	1772
	Total	2955	150	1762	263	1822	356	1		410	7719
2019/2020	Q1	695	35	412	51	425	56	1		106	1781
	Q2	728	28	417	56	376	57	2		105	1769
	Q3	765	36	479	63	405	55	4		90	1897
	Q4	775	28	428	38	361	57	0		104	1791
	Total	2963	127	1736	208	1567	225	7		405	7238
2020/2021	Q1	760	42	421	66	514	74	13		126	2016
	Q2	787	45	414	64	377	75	7		128	1897
	Q3	727	42	440	67	417	62	15		96	1857
	Q4	684	31	413	63	501	81	3		128	1904
	Total	2958	160	1688	260	1809	292	38		478	7684
2021/2022	Q1	707	56	447	63	488	102	1	5	139	2008
	Q2	736	28	419	77	400	79	2	4	111	1856
	Total	1443	84	866	140	888	181	3	9	250	3864

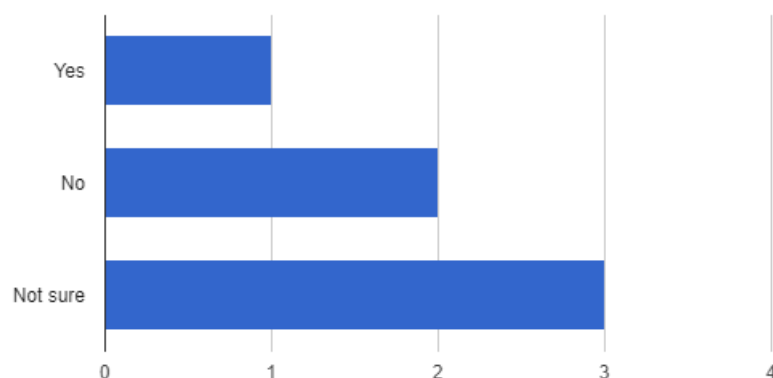
Counted by intervention order issued. Multiple interim intervention orders can be issued on one lodgement.
 Legislative changes that came into effect on 25 November 2017 will result in a reduction of foreign orders being registered, this figure includes intervention orders that are not identified as either domestic violence (DV), non-domestic violence (Non-DV).
 Intervention order figures refreshed to capture domestic violence (DV), non-domestic violence (Non-DV), not identified and variation orders issued. Applications to revoke an intervention order which are dismissed can result in a variation order.
 NOTE: Foreign Intervention Orders and Unidentified Intervention Order figures are split from 2021/22 onwards

²⁷⁶ Courts Administration Authority website, 'Statistics: Intervention Orders' (2022) South Australian Government <<https://www.courts.sa.gov.au/publications/statistics/>> (accessed 15 March 2022).

The questions in Part E of the REDCAP Questionnaire and interviews related to participant's perspectives as to the legal tests and criteria associated with issuing an Intervention Order, as exercised by the police or by the courts.

Lived Experience Participants

The following graph summarises the responses received to the Lived Experience REDCAP Survey in response to the question: In your experience, do the police and the courts look at the right types of evidence when deciding whether to grant an Intervention Order?



When describing the most important things to keep in mind when the police or a court should have in mind when deciding whether to grant an Intervention Order, respondents to the Lived Experience REDCAP Survey listed the following key considerations:

- The safety of the protected persons and any other family members that may require protection from harm or abuse.
- The likely effectiveness of the Intervention Order at keeping protected persons safe.
- Respect for the victim survivor's narrative and description of events.
- The complexities associated with family and domestic violence and experiences of trauma and abuse, and the implications this may have for the collection and presentation of evidence.
- The need to ensure non-physical as well as physical forms of harm and abuse are considered carefully, having regard to the complexities associated with family and domestic violence and experiences of trauma and abuse.
- An appreciation of the ongoing experiences of trauma associated with utilising the legal system to achieve a long term outcome for victim survivors and their families, including a recognition that the grant of an Intervention Order may not adequately respond to the complexities associated with an individuals experience of family and domestic violence.
- An appreciation of patterns of behaviour, and time lapses between 'incidences' of abuse or violence, and how this may relate to the presentation and collection of evidence.

Some respondents to the Lived Experience REDCAP Survey provided more information about the types of evidence the police or court should consider. For example, some respondents said:

I think that non-physical forms of abuse are considered far less than they should be, as the effects of these alone are still devastating, but also there is not always obvious physical violence prior to devastating incidents like murders though non-physical aggression has been present. I also don't think women's knowledge of their abuser is valued enough.

My application was against my ex-husband with my (and his) daughters listed as protected people. I had to get a civil order because the police couldn't grant me one as I had not personally been the victim of recent PHYSICAL violence, although my children had been. The police need to be able to grant orders to a care-giver of children who have suffered physically abuse

because it is their duty to keep the child and the child's home and school safe. Because [Department of Child Protection] investigations take a long time to happen, there needs to be an ability to quickly protect the children and their environments from danger, but a civil intervention order also takes time. Police should also be able to file for orders against other kinds of abuse, not just physical. The Magistrate looked at the appropriate evidence to grant the Intervention Order, but the other court systems do not give it much, if any weight.

Service Provider Participants

A number of Service Provider participants noted the powerful, positive impact the courts can have on providing a victim survivor with protection and empowerment. For example, one Service Provider interviewee said:

[W]omen have told me that they appreciate it when Magistrates have called the man out and really held them up, almost educated them, that this is not okay. [The Magistrate's might say] "This is totally inexcusable. And if you don't go and get a psychological assessment and we're going to mandate you. Or if you don't start doing this behaviour change group, we will put you in prison for assault charges." So I think it's a really key window for possible intervention around holding the man accountable.²⁷⁷

However, to achieve this goal of accountability, Service Providers have explained that it is important that courts:

- Ensure a priority focus on the safety of the applicant and any protected persons or others at risk of harm or abuse.
- Understand the complexities and varied manifestations of coercive control and other forms of non-physical abuse.
- Provide equal treatment and consideration of non-physical and physical forms of violence and abuse (and an active rejection of an approach that seeks to 'rank' seriousness of violence and only respond to 'more serious' instances of abuse).
- Respect the narrative of the applicant and any protected persons.
- Acknowledge that many applicants are experiencing trauma and this may impact their ability to recall information, respond to questions or engage with police or court officials.
- Trauma-informed responses by police and courts at every stage of the Intervention Order process.
- Separate adult and child safety issues and prioritising the safety of children.
- Demonstrate an awareness of the complexities, challenges and time delays associated with collating and presenting evidence of family and domestic violence.
- Adopt clear, accessible, trauma informed approaches to sharing information about the process and consequences of different legal decisions or options.
- consistently use [Family Violence Investigation Section] and Specialist Courts with staff that have been trained to understand the complexities of family and domestic violence.
- Allocate resources and support within the South Australian Police to assist applicants to gather and present evidence.
- Automatic referral to community legal centres or legal services commission for legal advice and referrals to other supports before their application is made.
- Access to trained, independent interpreters for anyone who needs support understanding English.

In addition to these considerations, a number of respondents to the Service Provider REDCAP Survey recommend that Intervention Order applicants (and potential applications) be provided with additional support when interacting with police and/or

²⁷⁷ Service Provider interviewee A8.

courts at the initial stages of seeking information about or applying for an Intervention Order. For example, one respondent advised applications to:

Have a companion with you when you go to the Police station- especially if English is not your first language. The South Australian Police will often overlook providing a translator for [domestic violence] victims. Be calm- despite being traumatised and a victim of a crime. Victims are often not listened to and dismissed as hysterical women and mentally unwell by officers, if the victim presents to a police station in a heightened emotional state. Ask for an appointment- Do not leave the Police Station until you have been given an appointment with an officer in the [Family Violence Investigation Section] - front desk officers will often dismiss or turn away victims seeking assistance for an Intervention Order. Often the [Family Violence Investigation Section] is not on duty when victims come into the Police station.²⁷⁸

One of the Service Provider interviewees with experience working with Aboriginal and Torres Strait Islander clients shared the view that individuals interacting with Intervention Orders proceedings in South Australia need additional support and continuity of care by police officials and other service providers. The interviewee explained:

It's exhausting, what some of our clients have to do to make reports is huge. And they also have to deal with social workers, support workers, places to live, that constant having to repeat themselves becomes a source of stress. They think do they know about my case? Am I going to have an adverse outcome? So that that's a huge issue. And that's significant because often the level of support that survivors have around them is really variable. Some have really good friends, family support others are just isolated a lot. We find those in the child protection system, those families have complex dysfunctional dynamics. So the only supports they have are they're professionals. So when those professionals are in a state of high turnover, that's really damaging for them.²⁷⁹

When reflecting on what criteria are currently applied by the police or the courts when deciding whether to issue or approve an Intervention Order, respondents to the REDCAP Service Provider Survey noted a strong focus on the immediate threat of harm to the applicant and the protected person and the likelihood that abuse or violence might occur in the future, in line with the provisions of the legislation. Many respondents expressed the view that the current legislative provisions were appropriate, but that the scope of abuse and violence set out in those provisions was not being consistently applied by all police officers and Magistrates. For example, some respondents said that:

Police seem to only proceed with Intervention Orders if there is a criminal charge associated with it and seem to disregard other acts of abuse which can be more difficult to prove, such as harassment, coercion, etc. Courts seem to disregard an Intervention Order if there is an associated family court matter on foot and often refer victims to family court.

Police have told us if they can't charge someone with an offence they won't issue an Intervention Order. This is not in line with the Act but an internal policy to stop an overwhelming number of matters. I think each Magistrate approaches it differently. They all apply the legislation but take different liberties with it.

The South Australian Police apply to narrow a policy as to what they consider constitutes as the meaning of abuse - eg. physical abuse and physical harm.

Hard to say, due to lack of consistency and the South Australian Police's reliance on 'internal policies'. It would seem the South Australian Police require a physical assault to have occurred before they will issue (or, in some cases - even support) an Intervention Order, which is inconsistent with the wording of the legislation.

²⁷⁸ Service Provider RECAP Survey respondent.

²⁷⁹ Service Provider interviewee A1.

it is well known that non-physical violence will not be taken further unless physical violence is present. This has a huge impact on victims being heard and being protected

The South Australian Police 's policy is too narrow. Too many women are missing out and having to do Private Intervention Order applications. It is harder for these women, they must act as their own prosecutor, they must subpoena their own evidence, and Defendants are more likely to contest a Private Intervention Order vs when the South Australian Police issue one.

The South Australian Police's policy applies the criteria too narrowly. This is contrary to section 8 of the act, which applies a broader meaning of abuse and the grounds for issuing an Intervention Order under section 6. For instance, the South Australian Police do not assist victims to obtain Intervention Orders in respect of severe/repeated stalking despite the victims terror and the severe impact upon the victims. This leaves victims to pay for and apply for a private Intervention Order and without police support and representation.

This aligns with the comments of one service provider interviewee who said that:

When it comes to the legal tests that apply to granting an Intervention Order, the test itself does not usually pose any barriers to access. It is a relatively low threshold to meet. The standard of proof is balance of probabilities. It can actually be quite hard to defend.²⁸⁰

...

[However], gathering evidence can sometimes pose challenges. It's the prosecutor's decision to proceed with a police-requested application or breach proceeding, so there can sometimes be a challenging tension between the police taking on matters that they're not prepared to see through, or not prepared to gather sufficient evidence to substantiate.²⁸¹

This can once again lead to a moment for a woman to hear that the abuse she is experiencing is not serious enough. And that is a really significant moment.²⁸²

In light of these concerns, some respondents to the REDCAP Service Provider Survey recommended a stronger focus on the risk of harm arising from 'coercive control, manipulative behaviour, controlling behaviour, financial deprivation, verbal abuse, stalking behaviour, monitoring of devices, deprivation of liberty'.²⁸³ Others recommended adopting a more holistic approach to assessing evidence of abuse and risk of harm that takes into account "all of the elements of evidence of control, which may not meet the threshold on their own but together make a strong case."²⁸⁴ As one of the Service Provider interviewee explained

The inclusion of the term 'recent' abuse can be problematic and/or give rise to uncertainties about what 'recent' means. [There is] no definition in the legislation, but [this is] generally understood to be within the last 3 months. If the abuse occurred more than 6 months ago it is unlikely to be considered. It might still be able to be included in an affidavit to show a pattern of abuse, but it won't be considered to be 'recent'. Often Magistrates are applying a 'but for IO' abuse would not stop type test – taking a narrow approach – which means that evidence of abuse needs to be very recent – this can be hard to prove. Perhaps there is scope to think about defining the term 'recent' with respect to different forms of abuse -for example abusive text messages.²⁸⁵

When reflecting on the factors that make a difference to an applicant's experience of the Intervention Order system, and how improvements could be made in the future,

²⁸⁰ Service Provider interviewee A4.

²⁸¹ Service Provider interviewee A4.

²⁸² Service Provider interviewee A4.

²⁸³ Service Provider REDCAP Survey respondent.

²⁸⁴ Service Provider REDCAP Survey respondent.

²⁸⁵ Service Provider interviewee A5.

respondents to the Service Provider REDCAP Survey emphasised the need for (a) increased training for first responders with respect to trauma informed care and the complexities of family and domestic violence, including training with respect to common tactics used by abusers to discredit women (b) additional support from trained police, including with respect to the collection and presentation of evidence of non-physical forms of abuse and violence (c) automatic referrals by police to community legal centres or the Legal Services Commission for legal advice and to social worker/psychologist supports for face to face assessments before and after their application is made.

In addition to these common themes, other specific suggestions for improvements include:

- the appointment of court advisors that can explain the process and consequences very clearly.
- publication of guidelines/examples for private intervention order applications, containing information about what type of evidence is required in an affidavit to prevent needless adjournments because the affidavit has limited information.
- allocation of social workers assigned to support applicants navigate the system.
- removal of filing fees for all private Intervention Order applications.
- increased use of provisions that allow for applicants and protected persons to provide out-of-court testimony and documentary evidence such as statements and affidavits rather than providing oral evidence.
- increased access to interpreters for court hearings.

Withdrawal of Intervention Order Applications

As part of the Lived Experience REDCAP Survey, participants with direct experiences relating to accessing an Intervention Order were asked whether they ever considered withdrawing their application. Most respondents answered 'no' to this question, with only one respondent saying "Yes - I did consider withdrawing but I kept going with the process".²⁸⁶ When asked to explain their reaction to this question, some respondents said that:

I didn't withdraw an application, but when offered an application for Intervention Order on my behalf by the police I did decline. The reason for this was that I felt unsafe to proceed with an Intervention Order, didn't know much about it, but knew that it would escalate my husbands aggressive behaviour, and I was still living with him at the time.

Any opportunity in court would be used to falsely accuse me of his abuse of the children. He would simply find other ways to torment and control us "red rag to a bull".

I was threatened with trial in the family court if I did not withdraw my application. In the end, I kept the application, but removed the children as protected persons. This was heartbreaking to have to do. The only small blessing is he can't attend my and my children's home, but there is now nothing to stop him attending their school or Out of School Hours Care Centre

One lived experience interviewee said:

I was also thinking that when it's a private application for an intervention order, I've heard that often people concede to withdraw the intervention order and this can have implications in terms of parenting orders, family law orders, things like that. And I think that's, that's really problematic.²⁸⁷

²⁸⁶ Lived Experience REDCAP Survey respondent.

²⁸⁷ Lived Experience interviewee LE2.

It can be a serious concern. If it's a private application and it's expensive and you know, you might be not be very well resourced. I've heard that sometimes people just concede to get it out of their life and to protect the children and their safety, but then it has these flow on effects.²⁸⁸

Respondents to the REDCAP Service Provider survey listed the main considerations leading to applicants withdrawing Intervention Order applications as follows:

Changing the behaviours, children's relationship with both parents and family members - sometimes that it is a situational threat only and needs to be managed accordingly
Police not willing to go to Trial/putting pressure on the victim to withdraw if there are no other witnesses/evidence other than the victim.
Coercion and fear from defendant; confusion about IO process; the South Australian Police withdrawing support for an application that they initiated if victim does not want to proceed with charges, belief that police won't protect or believe them.
perpetrators putting pressure on the person experiencing violence under various coercive measures
Fear, pressure, not feeling safe with order placed, feeling lack of trust in system and police.
Fear of Trial, no merit for Trial (getting granted interim intervention orders when a final won't be granted), reconciliation of relationship, and intimidation to withdraw.
not reaching high enough evidentiary threshold. pressure from the defendant and/or family
-Pressure by perpetrators applied to the victim- sometimes directly and sometimes by families. -Pressure due to cultural factors and cultural shame (ATSI and CALD). -Victims speak of the collective pressure of friends and family, telling victims things like: (i). Pushing myths that it is the victims fault - "he's a good bloke, he's depressed and you drove him to it". (ii). Pushing the myth that a perpetrator should be able to see 'his' children. That the victim has made up allegations of [domestic violence] to keep children away from him. -Financial pressure. This is often a large issue. Eg. If the victim is not employed and the victim and children relies upon the perpetrator for financial support to pay the home loan for the family home. Also, if the victim and children are living in emergency accommodation but cannot access secure accommodation, they are pressured to return to the family home with the perpetrator.
Lack of support from the South Australian Police, victim blaming attitudes, lack of psychosocial support and legal advice, delays in the system, impact on children, bullying/intimidation from abuser, impact of order on abuser (employment etc).
fear of retribution from the perpetrator
Private applications are so problematic. Applicants put themselves at huge risk by bringing applications. Where abuse is not immediately recent, they risk poking the snake and reagitating the perpetrator. I have seen huge family and community pressure brought to bear on private applicants to withdraw their applications.
Fear of the perpetrator of worse violence towards them
Reunification with partner. Pressure from offender and/or other family/friends/community. Practical impacts on lifestyle (financial, social, housing), especially where children are concerned.
Not feeling safe
Pressure from perpetrator or family. Scared for safety of themselves or children. Police able to enforce Order
Fear of the perpetrator.
Fear, grief, unresolved loss, intimidation
Difficulties with co-parenting Want to resume relationship ?? not enough support for protected person with regard to finances, social support
fear, indirectly threatened by perp which police aren't aware of . no alternative strategies to keep client's safe

²⁸⁸ Lived Experience interviewee LE2.

This aligns with the observations of one service provider interviewees said:

Applicants sometimes withdraw an application for an Intervention Order. The reasons behind this decision are varied. Often the determinative factors are not to do with the legal tests but other factors including the relationship, family context, health issues, housing or income issues, and the stress of having to go through the court process. For example if it's an older person with an intervention order against somebody in their family these factors can be significant.²⁸⁹

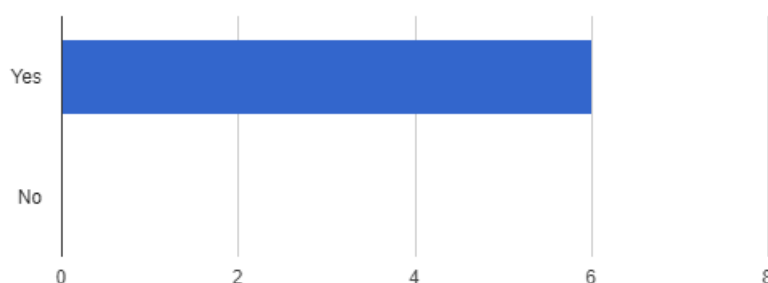
In addition, often lawyers and case workers will be looking for other solutions to the issue rather than going through a stressful court process. They will be looking for alternative ways to help resolve the problems the client is facing, such as counselling. This can be another reason for withdrawal.²⁹⁰

Sometimes, particularly in police requested orders, there may be an issue with the quality of the evidence supporting the application.²⁹¹

Service of Intervention Orders

During the Uniting Communities' Workshop 'Improving Intervention Orders', Community Forum, held in August 2021, a number of participants raised concerns about the process undertaken by police when police issued or court issued Intervention Orders were served. In particular, concerns were raised that in some instances, Intervention Order applicants or protected persons were not informed about when the Intervention Order would be served, leading to concerns about the safety of applicants and projected persons, some of whom anticipated an increase in violence, abuse or threatening behaviour at the time of service (either by the person subject to the Order or their friend or family member).

The following graph summarises the responses received to the Lived Experience REDCAP Survey in response to the question: Do you think the person who wants the order (the applicant) should be told when the Intervention Order is being served on the defendant?



This strong positive result was also observed in the responses to the REDCAP Service Provider survey. Some of these respondents explained that notifying the protected person about the timing of service of an Intervention Order on the defendant was important because:

The victim is suppose to be informed of when the defendant is served the IO by Police, but often this is overlooked in practice. -At the point of service the victims are often in danger and terrified and should be informed at each and every stage of proceedings by Police.²⁹²

²⁸⁹ Service Provider interviewee A4.

²⁹⁰ Service Provider interviewee A4.

²⁹¹ Service Provider interviewee A4.

²⁹² Service Provider REDCAP Survey respondent.

Victim should be advised 6-12 hours prior (of the intention to serve) and immediately following successful service - to ensure they have enough time to secure their safety. ²⁹³

Other thoughts on service included:

The personal should be personally served (as it currently is) so it can be proved that they have received it. I understand if children are on the Orders the school will also get a copy which is good.

I think consideration needs to be given about updating the method of how it is served to speed up the process of when it is in effect to protect the victim. There have been numerous cases of police failing to locate the defendant due to deliberate avoidance and the victim being targeted with continued abuse. Could it be served via other means such as Facebook messenger, email, registered post in addition to in person so that it can come into affect as soon as possible.

Personal service of documents has a longstanding history in court matters. However, in today's society with access to numerous electronic devices - service could be by email, text, and post.

Frankly, I don't see why it has to be served to be put into effect in situations where the defendant is on the run. If they are making themselves inaccessible, and good faith efforts have been made to contact them, it's better to enact the protection whether the defendant knows the details or not.

One Service Provider interviewee explained:

I think the government can underestimate the actual effect that [failure to notify a victim about service] can have on a person's functioning and their ability to make decisions.

...

Some police do this really well, for example the [Family Violence Investigation Section]. The client would get text messages [updating her on proceedings]. So she was acutely aware when there were breaches and he was locked up and also when he was due to come out. So that was really helpful. And then I've seen it in the reverse, no information and then things coming out of the blue.

Victim survivors can be very hyper vigilant because of what they've experienced. And that constant state of vigilance is really difficult for them. And I think can be misinterpreted by some authorities as a mental health problem, or a lack of parenting capacity or lack of emotional regulation when it's actually an inability to have control and map your life. ²⁹⁴

Another Service Provider interviewee said that:

It is important that applicants are told about the service of an intervention order on a defendant because this might significantly increase their risk profile. Applicants need the opportunity to put protective measures in place for them and their family in anticipation of the defendants' response or any response from the defendant's family or friends. ²⁹⁵

Another Service Provider interviewee said that:

Client/victims need to be told about service of IO on D. It would appear only about half of the clients are told about service at the time by police. Often client/victims find out about service of IO from the D – receive an abuse text or threatening image. Being told about time of service really important so that clients can keep themselves safe.

²⁹³ Service Provider REDCAP Survey respondent.

²⁹⁴ Service Provider interviewee A1.

²⁹⁵ Service Provider interviewee A4.

Duration of Intervention Orders

As noted above, under the current South Australian provisions, once an Intervention Order has been granted by the courts in South Australia it continues without an end date until the court makes an order for a variation or termination of the Intervention Order. In other jurisdictions, Intervention Orders have a set expiring date (see Appendix A).

During the Uniting Communities' Workshop 'Improving Intervention Orders', held in August 2021, some participants questioned the merits of issuing Intervention Orders with no expiry date, querying whether this feature of the South Australian system, which was designed to provide strong protection for protected persons and remove the need for victim survivors to continually participate in court processes, may be operating as a deterrent to some potential applicants or having an influence on police attitudes to enforcement.

In the RECAP Survey participants were asked whether they supported the current 'no expiry' approach and if so, why. Respondents to the Lived Experience REDCAP Survey expressed strong support for the current approach, with some commenting that:

[Intervention Orders] should never expire unless the person requests it.
I think it is better that it keeps going forever. People who are perpetrating this kind of behaviour don't easily change, and this way the protection is not lost after 2 years.
I think intervention orders should come with no end date to protect the person's involved
Without end date. The stress in standing up to him once, and thus engaging with the system was crushing. With a defined end date, He may not have perpetrated a 'provable' act of ongoing abuse to hedge a reapplication upon, that doesn't mean he has changed, or has stopped wanting to torment or control us.
I think it should have no end date, but the person the order is served on should have the right to apply for the order to be ended after a set period of time. An example might be, if the Intervention Order is against a co-parent, they should be able to apply for the Intervention Order to end once the children are 18 and there is technically no need to interact with the applicant again. I don't think that means the court should end every Intervention Order (and in my case, I'd hope they wouldn't), but I believe people should always have the right to ask.

One Service Provider interviewee expressed a slightly different view, saying that:

There should be scope to negotiate the length of Intervention Orders in certain circumstances. In some case a 6 month or 12 month time frame could assist the negotiation process, and lead to more Ds agreeing to IO.²⁹⁶

One Service Provider with experience as a police officer in another jurisdiction agreed and said that:

Shorter duration orders give more flexibility. If you are the investigating officer, you can engage with the parties and design something that is better for the family/parties. Once the dust settles, things become different."

If people get back together, things can be challenging, particularly with the former NSW laws that included an aid and abet aspect.

In NSW, there used to be 12month, 2, 5 year AVOs.

"This promotes more regular review, opportunity for things to be adjusted, shows compassion for both sides and can be fair and equitable to both parties.²⁹⁷

²⁹⁶ Service Provider interviewee A5.

²⁹⁷ Service Provider interviewee A12.

Other respondents to the REDCAP Service Provider survey expressed mixed views about the current unlimited duration of Intervention Orders in South Australia. For example, some respondents said:

There are pro's and cons for this. Because there is no end date, people are more likely to contest the order. However it provides more safety and security to victims.
No end date is better - it is less traumatic for a victim if she knows that there is an expiry date where the defendant can legally start abusing her without the same penalty as when an Intervention Order is in place. It means that the onus is on the defendant to prove to the court that he is not a threat to the victim any more, rather than him waiting for the Intervention Order period to end. Accountability sits with the perpetrator rather than the victim.
As mentioned above I support the Victorian model which has a lot of flexibility. No end date is a barrier to defendants confirming without admissions at an early stage. sometimes 12 months is enough to break a cycle and if not in Victoria protected persons may apply for extension prior to expiration of the original order
No sunset clause is what we refer to this as. In my experience, this is far better for victims, as they do not have to keep applying for a fresh Intervention Order or begging Police to re-issue an Intervention Order. The onus is upon the defendant to seek a revocation and not an onus upon the victims.
Hybrid. Indefinite with the chance for a review - if the victim engages/wants the review to occur.
Our approach is far superior to the short term jurisdictions. Speak to any practitioner in those jurisdictions and they are advocating for the South Australian approach. As it is, perpetrators of family violence place enormous pressure on their victims to apply to withdraw an Intervention Order. Yet that Intervention Order is often the only tool available to protect that victim. For example, if a victim won't proceed with assault charges against a perp, police can still charge with a breach of an Intervention Order.
I support keeping Intervention Order's permanent. Previously they had what was colloquially called a "sunset" clause which meant the protected person/victim was the one who had to go back and seek the continuation of the Intervention Order. The new permanent Intervention Order's put the onus on the abuser to satisfy the court they are no longer a risk.
Better for it to require active consideration to remove. If they expire automatically targets of abuse will be less protected if the risk has not abated. People fleeing violence may fall in and out of contact, experience severe disruption to their lives, and not be in position of keeping track of when their Intervention Order expires.
I think leaving it without an end date is the best, the victim doesn't have to go through the process again. Too stressful

Firearms Related Conditions

One Lived Experience interviewee shared the view that women in regional locations were particularly vulnerable to firearm offences in the context of family and domestic violence.²⁹⁸ She explained that farms were very isolated areas where people were not always seen or heard.²⁹⁹ In this setting, too many women have been killed by their partners and the perpetrators keep getting away with their reckless behaviour and their lack of respect for the law. In the interviewee's experiences, it appears that gun laws in South Australia are not stringent enough.³⁰⁰ The interviewee added that the Police were quite laid back in their approach to compliance with laws due to the country's culture of

²⁹⁸ Lived Experience interviewee LE6.

²⁹⁹ Lived Experience interviewee LE6.

³⁰⁰ Lived Experience interviewee LE6.

looking after each other.³⁰¹ The interviewee suggested operating a demerit points system for Firearms License holders who are responsible for the breaches.³⁰² Fines can also be appropriately applied to the offence. Furthermore, a re-education program for Police was also recommended.

³⁰¹ Lived Experience interviewee LE6.

³⁰² Lived Experience interviewee LE6.

Part F- Breaches of Orders and Penalties

The following diagrams and tables, provided by the Courts Administration Authority on its website³⁰³ indicate the numbers of breach charges of Intervention Orders found proved:



NUMBER OF BREACH CHARGES FOUND PROVED		
		Not Identified
2014/2015	Q1	337
	Q2	375
	Q3	560
	Q4	461
	Total	1733
2015/2016	Q1	525
	Q2	592
	Q3	487
	Q4	723
	Total	2307
2016/2017	Q1	711
	Q2	637
	Q3	594
	Q4	558
	Total	2500
2017/2018	Q1	581
	Q2	506
	Q3	538
	Q4	642
	Total	2267
2018/2019	Q1	710
	Q2	571
	Q3	573
	Q4	550
	Total	2404
2019/2020	Q1	598
	Q2	521
	Q3	562
	Q4	481
	Total	2162
2020/2021	Q1	559
	Q2	602
	Q3	507
	Q4	567
	Total	2235
2021/2022	Q1	616
	Q2	552
	Total	1168

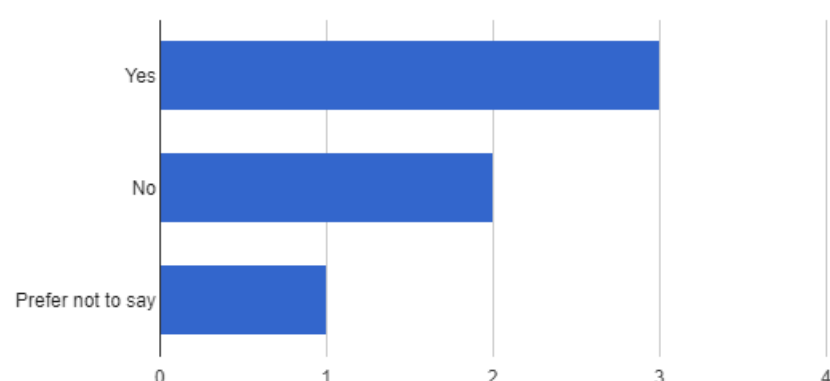
Counted by charge. One defendant may have multiple charges relating to the same intervention order. One defendant may have multiple charges relating to multiple intervention orders.
A number of breaches committed during the COVID-19 period may still be unresolved and working thier way through the court system.

³⁰³ Courts Administration Authority website, 'Statistics: Intervention Orders' (2022) South Australian Government <<https://www.courts.sa.gov.au/publications/statistics/>> (accessed 15 March 2022).

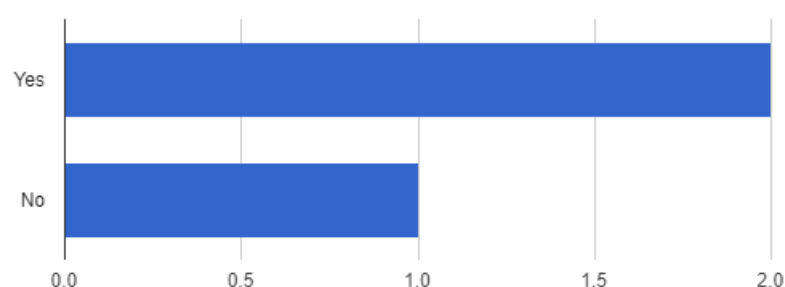
The questions in Part F of the REDCAP Questionnaire and interviews related to experiences associated with reporting breaches of Intervention Orders to the police or the courts, and the subsequent consequences for the person subject to the Order, and the protected persons.

Lived Experience Participants

The following graph summarises the responses received to the Lived Experience REDCAP Survey in response to the question: Have you ever had to report a breach of an Intervention Order to the police?



The following graph summarises the responses received to the Lived Experience REDCAP Survey in response to the question: If a breach occurred, was the breach of the Intervention Order referred to the court?



When asked 'what makes a breach of an Intervention Order serious?', respondents to the Lived Experience REDCAP Survey indicated the following factors:

- Verbal contact with a protected person (6, 100.0%),
- Physical contact with a protected person (5, 83.3%),
- Electronic surveillance of the protected person (5, 83.3%),
- Contact with the protected person's family (4, 66.7%),
- Contact with the protected person's friends (5, 83.3%),
- Contact with the protected person's workplace or school (5, 83.3%),
- Other (2, 33.3%).

One respondent to the Lived Experience REDCAP Survey provided the following response which reflects the general theme of responses from this cohort:

When breaches are [considered] inconsequential to the named person, it gives them power over the applicant which discourages the applicant for reporting the next breach. ³⁰⁴

³⁰⁴ Lived Experience REDCAP Survey respondent.

When asked ‘Do you think any of these other things should happen if someone breaches an Intervention Order?’ respondents to the Lived Experience REDCAP Survey indicated the following factors:

- Suspended sentence to be served in the community with conditions (2, 33.3%),
- A fine (2, 33.3%),
- Ongoing restrictions on certain activities or contact with certain people (4, 66.7%),
- Compulsory rehabilitation/behaviour change and diversion programs (3, 50.0%),
- Prefer not to say (1, 16.7%).

When asked to provide some more insights into this question, respondents to the Lived Experience REDCAP Survey explained that:

Any behaviour that tries to control, manipulate or intimidate another person, either physically or emotionally, should be taken seriously.

I think any of these can potentially be a serious breach. Any of these can be used to communicate to the protected person that they aren't safe and keep them scared and controlled.

If a person knows they can push the boundaries, they will and then push a little further and a little further. This is how people end up in [domestic violence] relationships, because they get used to a certain level of dysfunction and learn to live with it, sometimes until it's too late. A person who has done something to become a named person on an Intervention Order is a person who needs to understand they can not push that boundary any further. The Intervention Order should be that immovable boundary to say enough is enough, so every breach should be considered a serious one.

Respondents to the Lived Experience REDCAP Survey listed the following factors as important things for the police or a court to have in mind when deciding whether to enforce an Intervention Order or punish a person for breaching an order:

- The courage required for a victim survivor to report a breach to police, and the need for every report of an alleged breach to be taken seriously by police.
- The impact of the alleged breach on the safety of the person being protected.
- The normative impact of ‘following through’ with punishment for breach, including as a deterrent to other.
- That from the perspective of the protected person, the order is ‘null and void’ unless every breach is acted upon.

As one respondent explained:

Has the applicant been in a position where they either felt, or were, unsafe because of actions of someone named on an [Intervention Order]? If they have, there needs to be some sort of consequence.³⁰⁵

Three respondents to the Lived Experience REDCAP Survey indicated that they had direct experience reporting a breach of an Intervention Order to the police. When asked how the police responded, these respondents said that the police:

Fobbed me off, minimised it. [They] didn't respond when they could have or should have. the breaches are still continuing years later.

They advised me what would happen if I reported the breaches.

They simply noted it and said to continue to report breaches to see if there was a continued pattern. They did go and speak with the person named on the IO at one point, but no consequences were given.

³⁰⁵ Lived Experience REDCAP Survey respondent.

Of those that reported a breach to the police, two out of the three cases resulted in the breach being referred to the Court. When asked if they felt satisfied with the outcome, the relevant respondents to the Lived Experience REDCAP Survey said:

Only one breach out of loads and it was dropped anyway.

No. The other party just got away with it and that's completely unfair. It's almost pointless to even have an intervention order if the other party gets away with any breaches

This aligns with the perspectives of one Lived Experience interviewee who explained that:

I felt the police were not very happy about investigating the issues of domestic violence whatsoever and then he breached the order two times, slashed my tyres. But proving that he was there [at my house] was always a difficulty, so I don't know how many times he came and damaged my property and then he would hack into my email. He was doing that for a while because he knew all my passwords. ...

But the police were a nightmare. I had to do absolutely everything to try and get them to take on the breach, you know? I had to really bring my case and argue very strongly and bring all the evidence to them. No, they didn't want to investigate anything. I had to really make the case out.³⁰⁶

Another Lived Experience interviewee – referred to as ML – said that at the start of the Intervention Order process, she had a feeling of being protected and safe. But later on, she felt it really made no difference.

Without substantial evidence that can be confirmed by other people H is able to manipulate the system. He knows the law around Intervention Orders and he is able to engage in conduct that doesn't result in an evidence trail for what he's doing.

ML is scared because she knows H has breached the Intervention Order before and there's been no police action, and now H thinks he can work around it. ML feels like she's not safe and not protected.

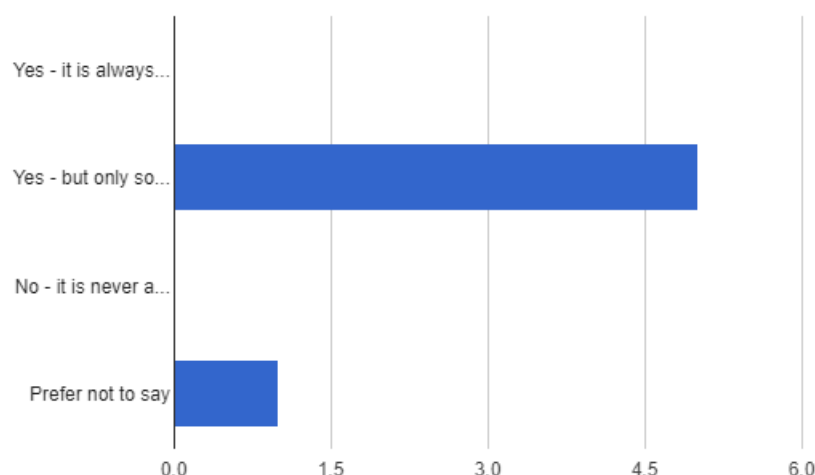
“How can I actually show evidence? How can I show what he could do to me?”

ML has the feeling that H can still contact her. He can still get to her. He could still harm her, even kill her.³⁰⁷

³⁰⁶ Lived Experience interviewee LE2.

³⁰⁷ Lived Experience interviewee LE5.

The following graph summarises the responses received to the Lived Experience REDCAP Survey in response to the question: Do you think it is ever appropriate to put someone in prison for breaching an Intervention Order?



Respondents to the Lived Experience REDCAP Survey were asked to reflect on the circumstances in which a person should be subject to a custodial penalty for breaching an Intervention Order. One respondent explained that a sentence of imprisonment:

... acknowledges the impact that this behaviour is having on the life of the protected person and the seriousness of coercive control and non-physical abuse. This person will likely be kept safe while the person is.³⁰⁸

Another respondent said:

There are some people that need their normal routine to be disrupted before they are forced to face their behaviour. A time in prison would allow this. I know in the case of the person named on my IO, it would take something drastic and public to force a behaviour change.³⁰⁹

Under the current provisions in South Australia, the Magistrates Court can order a defendant who has breached an Intervention Order to attend a behaviour change program. The Lived Experience REDCAP Survey asked respondents to reflect on the value and appropriateness of these programs as part of the Intervention Orders system. All respondents expressed some reservations about the effectiveness of these programs, particularly when attendance and participation was mandatory. Some respondents said:

I think behavioural programmes are a waste of time and expense
I'm not sure about the effectiveness of any compulsory rehabilitation programs, but I do think we have to try. If there is anything with a good evidence base that is what I would prefer.
I don't think behaviour programs have much effect. If someone is only doing a program because they have been forced to, they're not ready to make a change in their life, they just want to tick boxes. Anyone can 'fake' it for the length of a class and it actually then gives them 'credibility' to say they have done the program. Behavioural programs should be available if a person chooses, but not ordered.

³⁰⁸ Lived Experience REDCAP Survey respondent.

³⁰⁹ Lived Experience REDCAP Survey respondent.

Service Provider Participants

The issue of enforcing breaches of Intervention Orders provoked a strong response in Service Provider respondents, many of whom recognised and acknowledged the challenging position police officers are in when faced with responding to or investigating reports of breaches of Intervention Orders. Often the pressure to deliver a sound case to the prosecutor, and the many other demands on police time, can give rise to difficult judgements and questions – particularly if the report of breach appears ‘minor’ at least at first instance. This can lead to very difficult questions for police officers to evaluate. For example, one Service Provider with experience in a police force in another State said that:

There is pressure on police to not to be criticised by the courts, and also challenges around proving the case *prima facie* – but my approach was: ‘Ask yourself the moral question – can you honestly say that the person breached the order and you can prove it *prima facie*?’ If the answer is ‘yes’, then you should arrest and prosecute and leave it to the court.³¹⁰

REDCAP Service Provider Survey respondents were asked whether they considered current police and court processes to adequately support people to report a breach of an Intervention Order, and why. Every single respondent to this question answered ‘no’, they did not feel current police and court processes adequately supported people to report a breach. Many of the reasons cited related to lack of qualified, trauma-informed support being provided to the victim by police or other support services responding to the report of the breach. While a number of respondents noted that there are some police officers and other support services who provide excellent support for protected persons who seek to report a breach of an Intervention Order, there remains significant concerns around the overall quality of support provided. For example, some respondents said:

The South Australian Police rarely will charge someone for a breach unless it is a significant act of violence or threat.

Often it comes down to the officer that the protected person gets. Response seems to rely heavily on officers own personal views, attitude and willingness to complete the relevant paperwork.

Support persons to attend for reporting need to be provided by the victim. Hard to secure an appointment with an officer from the family violence team (with more training), often left with officers/volunteers not equipped to deal with the nature of the complaint.

Sometimes they are responsive, and particularly the Child and Family Investigations sections. Sometimes there is more of a resigned air of "what do you want us to do about it" particularly if the offender is illusive and persistent.

The South Australian Police support resources are limited as is their Scope of Practice. Many South Australian Police officers are not trained Social Workers or Psychologists and so many South Australian Police officers do not see the greater impact on families - only the incident that they are called out to. Strategies are reactive and not preventative.

This aligns with the observations of a service provider focus group who explained that:

Some police officers raise concerns with [our service] about the safety of a victim, and the need for an Intervention Order. They are worried about the victim, but they know that their colleagues will not take out an Intervention Order without evidence of physical harm. They have a threshold of action that is higher than the Act itself. Some those police officers with concerns have sometimes got in touch with WLS to ask them to apply for a private Intervention Orders for the victim at risk.

³¹⁰ Service Provider interviewee A12.

Even in cases of extreme stalking there has been no police response, even where there is ample, comprehensive evidence, the police have refused to bring an application for an Intervention Order. Sometimes we even have Magistrate's query that decision, saying things like "How can that not be grounds for taking action?".

The Victorian experience could be potential model to consider – VICPOL appear to be more willing to take action, more comfortable implementing the full scope of the Victorian legislation.

In SA there is a big misalignment between the legislation and the powers given to the police, and the police policy on the ground. For example, even though the Act allows for tenancy orders to be made, rather than remove the D from the family home, Police often remove the client/victim and her children instead. The woman and children are then living in family shelters, often these are full so they end up in hotel rooms with no facilities, they are completely dependent on others for the basics including food. After this occurs for some time, some women think "Its too hard. I'll just go back." Other times the Police ask D to leave but allow him to take the child.³¹¹

Fifteen respondents to the REDCAP Service Provider survey indicated that they had experience supporting a person to report a breach of an Intervention Order to the police. Some of those respondents described their experiences as positive, with police responding promptly. One respondent said:

Police were great to talk to, the victim didn't follow the Order which made it difficult for the police³¹²

However, others described their experience as follows:

Police initially refused to allow the victim to report the breach, because it was a 'Private Intervention Order' and not a South Australian Police Intervention Order. Our service lodged a complaint with the station. The South Australian Police took the report but they never charged the defendant with the breach.

Police were initially dismissive and tried to minimise and not record breach, despite IO clearly saying what the conditions were.

We have written support letters and liaised with police to help clients report breaches when police don't take action. Generally when we help the client more action is taken.

If not physical, not interested. 'Warnings' issued but no serious action taken.

Normally ok. On one occasion though, my client was chastised for ringing 000 when the defendant was banging on her door and told to ring the local station. The local station did respond appropriately, but my client was at real risk for her life and the 000 response was entirely inappropriate. In discussions with colleagues, this appears to be a consistent response, which is concerning and may require training to address.

lack of interest by police and victim told to make changes to protect themselves instead of being able to use the IO

Generally police are responsive, send patrols to address where protected person is staying, flag address for rapid response, seek alternative safe place through support services if necessary. Sometimes though they can be dismissive and unresponsive/disbelieving, sometimes even intimidating to those they judge have done the wrong thing, allowed contact with offender.

I have had 1 client whom felt the South Australian Police were not listening to her at all regarding IO breach's. Generally the South Australian Police act on any breach's that occur

My previous interactions with the South Australian Police staff is where some South Australian Police staff are frustrated that the either the victim or the perpetrator have reunited or are continuing on a relationship despite the order. Some victims are not concerned that an order is breached and in fact some oppose what the South Australian Police have done after the

³¹¹ Service Provider interviewee A5.

³¹² Service Provider REDCAP Survey respondent.

offence was reported as the perpetrator was seemingly contrite. This is where having some counselling could be quite useful to support and inform victims and perpetrators

This aligns with feedback received from one of the service provider focus groups, which explained that

Most people think pursuing a breach of an Intervention Order is a joke. There is an attitude among police and some Magistrates that breaches of IO are hard to prove, difficult to prosecute and “not really a crime”.

Often police discount the seriousness of the breach, this is a flow on effect from the attitudes and cultures described above. There are issues around misunderstanding the legislation, including in the area of victims being told that they are ‘aiding and abetting’ the breach which is no longer part of the law. Even Magistrates can discount the seriousness of breaches. D can be in court for multiple breaches but the Magistrate may be very reluctant to impose the maximum penalty and this can have serious flow on effects for the victim/client.³¹³

One Service Provider interviewee said:

It's one thing to say to victim survivors or applicant's intervention orders to “report every breach”, but there may be situations where it doesn't feel safe for the victims to do this. They might be worried that the defendant would just ramp up the violence. Many victim survivors feel like it's a waste of time to report breaches because they don't have confidence that the police will take action to stop the violent behaviour.

Women need to experience a different response. One that shows that reporting breaches translates into a benefit for them. A lot of men have worked out the loop holes in the intervention order system. The victim survivor might report it, but if the police just give a warning, hence the defendant becomes more enraged or gets the sense that they're untouchable. There needs to be a sanction that lets the defendant know that it's not okay. Something needs to be done now and it's more than just a warning.

Often breaches form a pattern of aggressive behaviour. This can include stalking, being followed, following the children after school and the defendant manipulating how they can be traced using emails or other social media forms of surveillance with de-identified engagement online. They can be abusive to family members and friends, or they can use family members and friends to perpetrate abuse against victim survivors.

Victim survivors have to carry the burden of showing, not just that the intervention order has been breached, but that it's been breached in a serious way. There is also a lack of avenues for information about what the law says. And so people are reliant on the police's description about what constitutes abuse and what would be serious enough for the order to be breached, which might not always be the same as the legal test under the legislation.³¹⁴

This view was also shared by a Service Provider interviewee who works in a regional area. The interviewee explained that:

Often perpetrators get home detention for threatening and assault, and an Intervention Order gets put in place. Then the perpetrator contacts the victim and this generates no response by the police. The primary focus of the police is still on the substantive proceedings – and other court proceedings. Maybe the law needs changed, but at the moment there are many cases where the police and prosecutors are not even using what's there already.

I have not met any women who want to be vindictive, they just want the perpetrator to leave them alone. They just want to feel safe, and they don't necessarily feel safe if there's an

³¹³ Service Provider interviewee A5.

³¹⁴ Service Provider interviewee A3.

intervention order. They think: "I don't want to mess up his life, I don't want him to get locked up. I just want him to leave me alone."³¹⁵

REDCAP Service Provider Survey respondents were asked whether they had experience supporting a person to give evidence about a breach of an Intervention Order and if so, what that experience was like. Six responses were received, with respondents indicating that they saw their role as acting as an important conduit between the protected person and the police and the courts, and a useful source of information when it came to how to collect evidence in support of the breach report. For example one respondent said that:

We talk through the tangible evidence, messages, VM, number of calls, property damage, photos of injuries, medical reports, high risk indicators which need to be reported. When I have supported people it has generally been advice before the report and supporting the person after.³¹⁶

Another respondent explained the frustrations that can arise where the protected person or victim survivor consents to or agrees with contact initiated by the defendant that is in breach of the order. For example, one respondent said:

In my cases regarding contact after an I/Order contact is usually agreed to by the victim. This is frustrating (and dangerous) for this person and any related parties that the order seeks to protect. Sometimes the victim will agree thinking the perpetrator has changed and has apologised.³¹⁷

When asked whether they feel like the current police and court processes adequately support people to give evidence about a breach of an Intervention Order, the respondents to this question in the REDCAP Service Provider survey answered 'no' (with one answering 'not always'). Many respondents to this question again emphasised the lack of consistent, high quality and trauma-informed support offered by police, prosecutions and court officials, noting the lack of resources available to police and courts to extend training and expertise in this area. The result of this lack of consistent support has left some protected persons vulnerable to negative experiences that could result in a reluctance to report breaches in the future. As one respondent said:

[The] onus is on the protected person to provide evidence of breach, but if protected person makes a mistake or misunderstands conditions, there have been occasions where officer's response have left the victim feeling reluctant to report or engage with police.³¹⁸

This was also reflected in the interviews with Service Providers. One Service Provider interviewee said that:

It is really important for police and courts to understand that men that use violence around women and children do so to wear them down and get them to not enact their rights. It's done in a psychological framework. Quite often we've heard examples of where police have said, 'oh, well, you've got no proof of that. Or that's just a general threat. It's not specific enough. Or that's the technical, that's not an actual breach.' There seems to be different ways that police interpret what is an actual breach worth prosecuting or not. I feel like that bit of the law needs a lot of overview and review because I feel like that's where it can really move from being a fairly useless piece paper to actually, no, we are going to hold you to account for these behaviours towards women and children and there will be criminal consequences. Breaches should be taken seriously even you're sniffing around, even if you're just threatening her or the kids or

³¹⁵ Service Provider interviewee A11.

³¹⁶ REDCAP Service Provider Survey respondent.

³¹⁷ REDCAP Service Provider Survey respondent.

³¹⁸ REDCAP Service Provider Survey respondent.

intimidating her in any way. Police should be responding by saying 'If we get any sense that you're using practices that fit with that in the order, or using other people in the family or friends or employees or whatever to do some of that work for you, we're going to come down really hard because we have zero tolerance on that sort of behaviour.' There needs to be a recognition that there is a woman feeling really traumatised by that behaviour.

It is important that more things are considered serious in that psychological intimidation space. I had an example of the day where a woman had an intervention order in place and was looking after five children. The father of the children was seen dancing in a kind of cocky way in her street. The woman even took video footage of it. But when she showed the police they said 'Oh we know he shouldn't really be doing that, but you know, we can't really use that evidence, it's just your word against his and he is saying that he was there to pick the children up'. So he can kind of just get away with it when really there is absolutely no reason why he should be in that street and he should definitely not be mocking her and like intimidating her. She was so retraumatised in that space. By the time the police came, I think he'd gone, but she did have the video footage.³¹⁹

Some respondents also noted that the legislative provisions that seek to prevent any variations being made to an Intervention Order within the first 12 months of its operation could be having an impact on the approach taken by protected persons, police and courts. This may be because in some cases the parties to an Intervention Order may have no legal forum to negotiate changes to an Order as their relationship repairs or circumstances change. It may also lead to experiences of frustration and anger on the part of the defendant that give rise to breaches. As one respondent to the REDCAP Service Provider Survey explained:

... I think that the South Australian Police are limited in what they can do and how they provide support. A person has to wait 12 months until an order can be changed and I think that this is too long and inefficient and may lead perpetrators to act irrationally as there is no recourse for 12 months³²⁰

When asked 'what makes a breach of an Intervention Order serious?' respondents to the Service Provider REDCAP Survey indicated the following factors:

- Verbal contact with a protected person (18, 90.0%),
- Physical contact with a protected person (19, 95.0%),
- Electronic surveillance of a protected person (18, 90.0%),
- Contact with the protected person's family (18, 90.0%),
- Contact with the protected person's friends (17, 85.0%),
- Contact with the protected person's workplace or school (18, 90.0%),
- Other (6, 30.0%).

Of those that indicated 'other' they described their answer as follows:

All of the above
Making reports to the department for child protection
It really does depend on the extent of the contact/breach/surveillance - it can't be broken down to one particular thing. The test of a 'serious' breach is - If the breach causes the victim to fear for their safety. Basically, the defendant knows they are not allowed to contact the protected person. If they are doing so, or surveilling them, they are engaging in that behaviour to cause harm.
pattern of stalking, driving past, throwing items, following them, threatening messages, manipulate how they can't be traced, random emails with details, relatives/friends, need much proof to convince the police,

³¹⁹ Service Provider interviewee A8.

³²⁰ REDCAP Service Provider Survey respondent.

All of it, an intervention order is meant to stop the offender contacting the protected person. Women I have spoken to have disclosed that they have dropped intervention orders after being pressured by perpetrator to do so.
any breach of a condition if it makes the protected person feel unsafe
Having a friend or associate contact / stalk/ harass protected person. Stalking. threatening texts, vandalizing property
creating false sites or profiles of client with intend to humiliate client. to threaten client by following around or having others do surveillance or harass client for perp,

It is clear from the responses to the REDCAP Service Provider survey that there is a lack of understanding and / or a lack of consistency when it comes to the legal consequences that flow from a breach of an Intervention Order.

In 2019, the penalties prescribed in the *Intervention Orders (Prevention of Abuse) Act 2009* were amended and increased.³²¹ However, these penalties were not identified by respondents to the REDCAP Service Provider survey when asked what they understood to be the consequences (including penalties) that currently flow from a breach of an Intervention Order. Respondents correctly identified that the penalties imposed upon breach vary depending on the 'nature and amount of breaches and other important information'³²² and 'can vary from fine to a prison sentence'.³²³ Many respondents to this question also expressed the view that while they understood the penalties prescribed in the legislation to include custodial penalties of up to two years, in practice it was rare to see custodial penalties or heavy fines imposed. As some respondents explained:

Little recourse initially and only action regarding penalties if there are breaches involving physical contact with the victim.
In my experience, the penalties are insignificant.
very little most of the matters I have been involved in only resulted in warnings
usually at most a warning but often Nothing. Jail is a possibility but don't believe that occurs very often
warnings, arrests but no dire consequences, perp[etrators] don't take the actions implemented seriously. Have heard many a times where clients live in fear once order is lifted as perps continue to find a way to be abusive or find out their location.

One service provider interviewee explained that:

When dealing with a series of relatively minor breaches, or a coercive control situation, it can be difficult for an applicant to get a satisfactory enforcement response.³²⁴

For example, if a woman reports a minor breach of an order (such as the defendant placed a bag of clothes at the family home while everyone was out) police might just give the defendant a warning about the minor breach. This could impact the defendant's approach to the applicant and increase her risk profile. If on the other hand the woman does not report the minor breach, it can be difficult for police to be able to gather evidence of a pattern of behaviour. Each time there is this experience of not being taken seriously it dilutes the effectiveness of the intervention order system.³²⁵

³²¹ *Statutes Amendment (Intervention Orders and Penalties) Act 2021* (SA).

³²² REDCAP Service Provider Survey respondent.

³²³ REDCAP Service Provider Survey respondent.

³²⁴ Service Provider interviewee A4.

³²⁵ Service Provider interviewee A4.

It's a combination of factors that need to be considered for penalties rather than just increasing custodial penalties.³²⁶

It is also important to think about who gets to talk in the courtroom and what kind of materials can be presented in support of an application for an Intervention Order. For example, the use of counselling reports as affidavit might be more common in private applications, and less common in police-requested orders.³²⁷

When reflecting on whether these consequences for breaches of Intervention Orders are appropriate or not, respondents to the REDCAP Service Provider survey shared the view that 'current penalties for breach are nowhere near adequate'.³²⁸ Many respondents queried the utility of imposing small fines or issuing warnings, noting that:

Fines don't really deter people from breaching the Order. It would be better if penalties could include anger management counselling or community service.

For defendants that are serial breaches, they are not much of a deterrent. Harsher penalties should be considered.

I do not think the current enforcement is appropriate because offenders are effectively able to continue their abuse, just from farther away. It's rare I've heard someone protected by an Intervention Order report that fixed their situation and they were safe because of the IO.

Many respondents to the REDCAP Service Provider survey considered that custodial penalties should form part of the response to breaches of Intervention Orders particularly in instances involving repeat offending and 'physical violence, threats to harm, stalking, surveillance, harassment'³²⁹ One respondent expressed the view that a custodial penalty would be appropriate:

If there are serious breaches such as assaults or threats of violence, I think that it is the best way to keep the victim safe. Defendant knows that that are deliberately breaching the IO to scare or intimidate the protected person, if the order and police is not keeping them safe then removing them from society is a just response.³³⁰

Another respondent said:

If there are serious breaches such as assaults or threats of violence, I think that it is the best way to keep the victim safe. Defendant knows that that are deliberately breaching the IO to scare or intimidate the protected person, if the order and police is not keeping them safe then removing them from society is a just response.³³¹

One respondent to the REDCAP Service Provider Survey said:

I don't believe Intervention Orders are protective enough as they do not stop harassment. If prison was a common response to a breach of an Intervention Order there would be less breaches and protected people could get on with rebuilding their lives. For me the consideration is the nature of the abuse the Intervention Order is protecting from. If it's a pattern of abusive control and they breach the Intervention Order in any way they should be imprisoned for breaching, particularly when this is repeated. At the moment it's the victims of this offending who suffer the consequences. It is true more common imprisonment would impact the offender more substantially, i.e. losing employment, housing etc, but at the moment this is happening to

³²⁶ Service Provider interviewee A4.

³²⁷ Service Provider interviewee A4.

³²⁸ REDCAP Service Provider Survey respondent.

³²⁹ REDCAP Service Provider Survey respondent.

³³⁰ REDCAP Service Provider Survey respondent.

³³¹ REDCAP Service Provider Survey respondent.

the targets of the abuse. If these consequences must be experienced let them be experienced by the person using abuse.³³²

However, other respondents considered that alternative approaches, including those that would support parties to safely rebuild families and relationships, should also be adopted as a response to breaches of Intervention Orders. One respondent explained:

Many things can change in the space of 12 months for both parties and so counselling and intervention by trained clinicians should provide some process of rebuilding.³³³

Another respondent to the REDCAP Service Provider Survey said:

Depends on the nature of the breach. Prison is not a proven method to rehabilitate people and may only make matters worse for the parties involved. Mandated therapy, change in residence, and monitoring should be utilised for 'minor' breaches. Victim should be provided more support to move to undisclosed location (if they want) or to better secure current property.³³⁴

One Service Provider interviewee said that:

When it comes to breaches, elderly clients mostly don't want to see defendants go to gaol however it could be different with different perpetrators.³³⁵

In general, the behavioural programme style consequences should be preferred rather than custodial sentences but context is really important.³³⁶

When asked to consider whether a different approach to penalties should be employed for repeat offenders, respondents to the REDCAP Service Provider survey generally agreed that more serious penalties should apply, including terms of imprisonment. One respondent said:

If the defendant is subject of multiple Intervention Orders against multiple victims and there is history of breaches; consideration should be given to longer term sentencing after second IO has been issued against a different victim as defendant has shown that they are a danger to society.³³⁷

Another said that:

Penalties should be cumulative with each offence rapidly escalating the consequences, and perhaps lowering the threshold of offence required.³³⁸

Another respondent suggested that a register for repeat offenders who breach Intervention Orders could be set up, similar to the Sex Offender Registry.³³⁹

Behaviour Change Programs

In South Australia, the Courts Administration Authority and the Department for Correctional Services organise behavioural change programs for men issued with an Intervention Order to provide protection to family and domestic violence survivors.

³³² REDCAP Service Provider Survey respondent.

³³³ REDCAP Service Provider Survey respondent.

³³⁴ REDCAP Service Provider Survey respondent.

³³⁵ Service Provider interviewee A4.

³³⁶ Service Provider interviewee A4.

³³⁷ REDCAP Service Provider Survey respondent.

³³⁸ REDCAP Service Provider Survey respondent.

³³⁹ REDCAP Service Provider Survey respondent.

Service providers responding to the REDCAP Survey were asked to share their thoughts on these programs and how they are used by the courts. Almost all responses valued the idea of behavioural change programs but raised concerns that the current programs are:

- Too short
- Subject to relative strict eligibility criteria
- Entirely dependent on the quality and nature of the participation by the defendant
- Not subject to regular or public review to determine their effectiveness
- Not sufficient linked to longer term counselling services

Some specific thoughts shared by respondents to the Service Provider REDCAP Survey included:

These are very short duration courses that is unlikely to have a long term effect on someone who has been perpetuating abuse for years. After completing the course, there should be a condition that they continue privately with counselling for the duration or a year, with proviso that the counsellor can inform protected person of any deterioration or non-engagement if the protected person wants that so they can be hypervigilant.

At [a particular suburban location] we very rarely see the private applications get referred to the Abuse Prevention Program. I also have concerns that many of the defendants get assessed as not eligible because they deny the offending. Most defendants don't understand their behaviour is abuse and those are the ones who need the course.

The abuse prevention program in this state is a vastly shortened and watered down version of this type of prevention program as compared to overseas. The current program is inadequate and respectfully does not reduce offending. Adopting the original abuse prevention model proposed, as opposed to the model we have now would be preferable.

They should be mandatory and show insight and reflection about their behaviour and demonstrate change

I think they can be useful as a rehabilitative tool. But they are for the benefit of the defendant NOT the protected person. The court should not allow these programs to reduce the ability of that protected person to go about their life without fear.

When it comes to identifying options for improvement for behavioural programs, training programs or other non-legislative programs to improve the effectiveness of South Australia's Intervention Order system, respondents to the REDCAP Service Provider Survey suggested:

More support to women who are trying to leave domestic violence situations. We need more housing available for women and their children so they can leave.

There is an intensive behavior change program in WA where defendants reside on a farm for intensive therapy- I think such a facility for cases of severe domestic violence should be available and something that a court could order in either with conjunction or in lieu of jail time.

Attendance at a six month abuse prevention program mandated upon perpetrators- not voluntary. A abuse prevention program that actually runs for six months. A program that is actually funded to allow for intensive counselling and individual recommended treatment for each perpetrator.

One respondent suggested that South Australia could improve its approach to behavioural change programs by carefully considering innovative programs being trialled and evaluated overseas, including models that recognise and focus on addressing

the entrenched gendered aspect of family and domestic violence and operate over much longer periods of time.³⁴⁰

One Service Provider interviewee explained that:

There's a problem at the moment with [behaviour change programs ordered by the Court]. Overall, they are very valuable, but the way that they're working could be improved. A person who is a recidivist or has failed the program before can be put in the same course again, and all this does is repeat the same negative outcome.

There is a real need to make sure the resources are being used effectively and that they're being evaluated. To ensure effectiveness and efficiency we need to keep asking the question: "What's in it for the person who's going to attend the program? Are the right incentives in place? What are they going to get back? Could this involve an impact on their custodial sentence or their limits or conditions of parole or home detention?"

There's a need to create incentives for people to attend and participate meaningfully and to report back on the quality of participation to people who are in decision-making positions. For example, those able to make changes to a person's parole or home detention requirements.

If the person feels that they're going to get something back, get one of their freedoms restored or privileges back that they've lost through the process, then they might be more willing to engage meaningfully in the behavioural change program.

Thinking optimistically - everyone has the potential for an "a ha!" moment, a moment where they reconsider their actions for the future. And creating the right environment for that to occur, so people think if I do this, I get something valuable back. This could be the pathway forward.³⁴¹

Another Service Provider issued a warning when it comes to behavioural change programs and the focus on the experience of the perpetrator in family and domestic violence matters:

Whatever we do on one side of the fence with perpetrators and BCP, we should do on the other side with victim survivors. Currently the system requires women to *pretend* that they are not traumatised. If we want to change men, we need to recover women. If women are not recovered from trauma, they will move into unsatisfactory relationships and unsatisfactory environments because they don't have any options.³⁴²

One Service Provider interviewee with experience as a police officer explained the frustration often experience when repeat offenders were not given appropriate penalties for their offending conduct:

You're not going to rehabilitate every person, but one the most frustrating things being a police officer on the ground is seeing the same person day in day out. You breach, you're in. You breach you're in again for a bit longer. It's like drink driving, if you get done, you do the drink driving course before you can drive again. And here, if you've breached the AVO you have to complete the course before you're released. And you keep the victim informed every step of the way and

³⁴⁰Service Provider REDCAP Survey respondent. This respondent offered the following references to support this suggestion: D Adams, *Certified Batterer Intervention Programs: History, Philosophies, Techniques, Collaborations, Innovations, and Challenges* available at: <https://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Certified>; K Healey, C Smith, and C O'Sullivan, 'Batterer Intervention: Program Approaches and Criminal Justice Strategies' (1998) *Issues and Practices in Criminal Justice*, vii. L McGuire, *Coordinated Community Response* (2006) available at <http://www.stopvaw.org/Coordinated_Community_Response.html> ; M Paymar, *Starting a Batterers' Intervention Program* (2006) available at <http://www.stopvaw.org/the_duluth_model_factors_to_consider_when_starting_a_batterers_intervention_program>.

³⁴¹ Service Provider interviewee A7.

³⁴² Service Provider interviewee A9.

that should be legislated. Because they have a right to be kept in the know. And that should be legislated right across the country.

The community expectations is that the court system should punish people that do wrong. There's the truth in sentencing concept. The Court has to look at every aspect. Looking at - what are the cultural issues? Has the Aboriginal Community Liaison Officer been engaged? If they are a repeat offender, why are they reoffending? Truth in sentencing is exactly that. My expectation is that the court would apply the truth in sentencing prima facie rules. That would be the expectations of any person who has not been through the system."

I've had it said to me so many times – 'Why would I call the police they don't do anything'. I think the courts and the politicians have dropped the ball, we need to be tougher on DFV. We need to look at the bigger picture. Why are they doing this, do they have foetal alcohol system, or some other problems, mental health? If that's legislated, then that is important. If they have mental health issues, then they have to receive psychiatric treatment before they can be allowed back into the community. That forms part of truth in sentencing.³⁴³

Data and Information

REDCAP Survey respondents were also asked to share their thoughts on the extent to which more information about the Intervention Order system needs to be collected and shared. Most respondents shared the view that collecting and sharing of information relating to Intervention Orders needs to be undertaken with extreme caution and the safety of the protected person/s and/or victim survivors must be the paramount consideration. For example, some respondents said

I also think we need to be really cautious with this information because of the cases in which Intervention Orders are taken out on people in error. So I think that the information should still require an application process to access.³⁴⁴

I don't believe all details should be made public, but I do think it's important for some people to know if someone is a named person or an applicant. Employers, schools, sports coaches, GPs etc need to know to help protect the applicant from the named person. Employers and even spouses should be able to apply to find out if someone has an intervention order against them, but not who the applicant of the order is or the circumstances around it.³⁴⁵

To prevent the misuse of collection of data (which in itself can be used as a weapon against someone) until proven otherwise I think it is important that information remain confidential. Unless of course it is a fatality or near fatality - these are controversial issues however the protection of victims should be the underlying intent of enforcement.³⁴⁶

However, many respondents also indicated that there is a need to make more de-identified information about the Intervention Orders system publicly available in order to be able to monitor the success and effectiveness of different components of the system. This includes information about:

- How many people sought information about Intervention Orders from police and specialist legal services?
- Of the applications for Intervention Orders made, how many related to intimate partner family and domestic violence compared to other forms of family and domestic violence?
- Of the applications for Intervention Orders made, how many related to non-physical forms of family and domestic violence compared to other forms of family and domestic violence?

³⁴³ Service Provider interviewee A12.

³⁴⁴ Lived Experience REDCAP Survey respondent.

³⁴⁵ Lived Experience REDCAP Survey respondent.

³⁴⁶ Service Provider REDCAP Survey respondent.

- How many applications for Intervention Orders were withdrawn and at what point in the process this occurred?
- How many reports of breaches of Intervention Orders were made and, of these, how many breaches were considered by the courts?
- What types of breaches were reported and what consequences or penalties were imposed for those breaches (as distinct from penalties that might have been imposed for other offending)?
- How many defendants who were referred to behaviour change programs reoffended following completion of the program?

One Service Provider interviewee said that it can be difficult to obtain clear information about the types of penalties being imposed on persons for breaches of Intervention Orders:

For example, if you are dealing with a series of breaches or a pattern of escalating abuse, you will often see the perpetrator charged with another criminal offence such as an assault, so it is the combination of these two factors that often result in a custodial penalty.³⁴⁷

It may be difficult to disaggregate the data for penalties for breaches of intervention orders due to other offences being finalised at the same time including breaches of bail or other more serious criminal offences.³⁴⁸

Many respondents expressed the view that evaluating the effectiveness of the system is about reinstalling hope for others. As one interviewee explained:

It's really important to be able to monitor the success and effectiveness. Of different aspects of the intervention order system, including behavioural change programs and penalties. Evaluating the effectiveness of the system is about reinstalling hope for others. If the intervention order system is successful for some people, we want to know about the successes and give people hope so that the system can work and encourage people to use that system.

When it's not working, we need to know why. And how many intervention orders have been breached and how many people have been involved? We need to know, is this a problem with one person breaking multiple orders? Or is this a failure in every occasion? So the South Australian Police need to be able to participate in the sharing of information so that we can celebrate success and understand areas for improvement.

If you're a person in power or in a decision-making position you need to know that you have an evidence-based for the decisions that you're making. And this is how we approach other areas of important social policy, including health policy. So we need to be able to help her decision makers to make informed choices by providing an educated piece of analysis that can be developed on the basis of detailed desegregated data.³⁴⁹

Part G- Recommendations for Reform

The questions in Part G of the REDCAP Questionnaire and interviews related to participant's suggestions for reform. They are about how to make the current Intervention Orders system better.

³⁴⁷ Service Provider interviewee A4.

³⁴⁸ Service Provider interviewee A4.

³⁴⁹ Service Provider interviewee A7.

Top Priority Reforms

Accountability and Justice

Central to the top priority reforms articulated by lived experience participants were the concepts of accountability and justice and putting the victim survivor at the centre of the system. As one interviewee explained:

Put the victim front and centre. The Canadian experience can be instructive. We need expert [domestic violence] courts, with expert, trained judges with experience providing continuity of engagement with victims and perpetrators. Expert prosecutors that can lead [domestic violence] informed prosecutions. We also need to utilise First Nations courts where people can be held accountable to their communities. We need to prioritise and privilege the voices of victims and protect their safety and wellbeing. It is possible to do this. We must not think this is impossible.³⁵⁰

Another interviewee said:

At the heart of the issue is why isn't the man being held accountable? They wouldn't need so much money spent to domestic violence if the man was held to account.

Put the men in the safe room, put them under surveillance, with no freedom. How would they cope?

It's what happens behind closed doors. That's where the control is.

...

I have been isolated by from family, I have suffered reputational damage. How can I start a new life? No one has made him be accountable for this actions.

I don't want a settlement. I want justice.³⁵¹

This demand for accountability was also reflected in the responses from the REDCAP Service Provider Survey. For example, one respondent said:

Accountability of some description but am not sure what capacity there is for this or whom would police it.³⁵²

This sentiment is also evident within the feedback provided by Service Provider interviewees, one of whom said that:

There needs to be more transparency and accountability for police in the general police force, not just the family and domestic violence unit. It's not acceptable for a police officer, not to understand what's going on for a woman. Understanding about abuse, including the causes and pattern of behaviour of low level abuse and culminating in a manipulative situation, where the police believes the defendant rather than the victim, needs to be improved.

Often there's an assumption being made about the victim and the defendant. It might be that the defendant is physically small and therefore couldn't perpetrate the violence or that the defendant is articulate and so must be the good guy or that the victim survivor is distressed and therefore is crazy or irrational. There's a problem of police lacking an understanding or knowledge of what happens around power and control and what that looks like on the ground. There's a need to look beyond what presents at face value – to go back to the evidence of past reports and really understand what's happening for that victim survivor.

Over a period of time the number of women who hear about defendants getting away with ongoing abuse, even though an intervention order has been taken out, puts them off reporting

³⁵⁰ Service Provider interviewee A9.

³⁵¹ Lived Experience interviewee LE1.

³⁵² REDCAP Service Provider Survey respondent.

and engaging with the system. Every time a woman faces a police officer that doesn't believe her, or doesn't think the abuse is serious enough, the defendant becomes untouchable and able to perpetuate more violence.³⁵³

An Aboriginal controlled organisation also stressed the link between education, information, empowerment and accountability, explaining that:

Education is critical. Everyone presumes that everyone knows the law and has the support. There is a lot of support in the community but not many people know about it. You could use the Grannies Group to facilitate direct involvement by Aboriginal people within the [Family Violence Investigation Section] of the police. But you've got to remember that the whitefellas legal system is set in concrete. The Port Adelaide Magistrates Court has different forms of accessible support, but this is less so in the city courts. Often these systems are not really trying to support Aboriginal women.

When Aboriginal women attempt to use the legal system to protect themselves or their families, they have to question police about everything, and they have to work hard to create relationships of trust between themselves and the police. This is really important to work together with the police to change attitudes, but it takes work from both sides, and there are not a lot of police or prosecutors who have shown a willingness to change their ideas. Many of them still think it is Aboriginal people that are causing all of the crime. That they are the thieves, or involved in domestic violence, abusing alcohol and that they need to be addressed through the prison system.³⁵⁴

One approach to improving accountability within the Intervention Order system identified by a number of research participants is a greater focus on proactive monitoring of compliance with Intervention Orders. As one Service Provider interviewee with experience as a police officer in New South Wales said:

In NSW Police, every 6 weeks, we'd do an AVO compliance check. We would focus on repeat offenders and those categorised as a high risk offender. We'd go and target these people. A bit like a warrant operation. Quite often they would still be living with their partners. We would just turn up, unannounced, and separate the parties and see what was going on. Sometimes that would work and sometimes it wouldn't."

When it comes to compliance with conditions relating to contact and breaches relating to non-physical violence, the Domestic Violence Liaison Offices would play a really important role, 'checking in with applicants and connecting with them.

"It should be legislated that, at least at 18 month mark, someone should be touching base with the person subject to the order and with the applicant. A mandatory reporting system. If its mandated and legislated we had to do it. But as far as having the applicant involved, its important for the police on the ground to have that training and focus on the needs of the victim. It's about the questioning at the time of issuing the IO and selecting the right conditions. We had a DVICM model – instead of taking a statement, we would give the person's consent to take a video – it would show the extent to which the violence was having an impact on the individual. That then allowed the person to be part of the process.³⁵⁵

Another interviewee from a CALD background – referred to as ML – highlighted the need for the broader community to understand and take responsibility for holding perpetrators to account for their abuse and violence. In ML's experience, the unequal gender roles within her community added to her experiences of isolation and impeded her ability to seek protection against abuse and violence.

³⁵³ Service Provider interviewee A3.

³⁵⁴ Service Provider interviewee A13.

³⁵⁵ Service Provider interviewee A12.

You have to have a man to be there for you. And if you don't have a male figure in everything that you do, you are not respected and you have no status in the community. And if you attempt to leave your husband you are ridiculed and humiliated and considered available for sexual intercourse or other sexual activities by other men.³⁵⁶

ML considers that it should be possible for the police or the courts to go out to the community where the perpetrator is based and explain what an Intervention Order means for that community, not just the individual. This should include an explanation of the rights of the woman protected by the Order, and the restrictions on the man's conduct. This should be explained to the head of the community, then this could assist in the community understanding Intervention Orders.³⁵⁷

Another practical suggestion for improving perpetrator accountability and victim survivor's sense of justice was identified by a service provider focus group who said that:

At the moment the victim complaint statement is read out by the police with no emotion at all.

Can recall one case where the police prosecutor asked the court to listen to the 000 call made during an incidence of domestic abuse, the D was trying to get into the house, the 000 call records the voices of three young children who were terrified and the client/victim who was crying and extremely traumatised. This was an example of good practice by the police prosecutor. It gave a voice to the impact of the violence and abuse on the victim and her children.

Often when dealing with CALD women or First Nations women the South Australian Police will use family members as interpreters or support people – but sometimes these family members could be connected to the perpetrators family.

Some of the forms used by the police and the courts around IO also need to change. Some women don't know that they can provide more information even if there is not space on the form, they don't know that they can get a fee waiver, they aren't told about all the support services they can access at the time that they first file an application for an Intervention Order.³⁵⁸

This focus group recommended that the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) be amended to require the Magistrate (or the victim if they elect) to read out the Victim Impact Statements in all proceedings relating to breaches of Intervention Orders, to hear the impact of the violence or the abuse on the victim and/or any other protected persons.

This theme of accountability and justice also extends to improving the interaction between intervention orders and family law environments. For many respondents from the lived experience cohort, their experiences of the Intervention Orders system were interwoven with their experiences in the Family Court, including experiences relating to property settlement and custody arrangements for children. When the Family Court proceedings were delayed or subject to legal complexities or capable of manipulation by defendants, the ability of the victim survivor to effectively navigate and utilise the Intervention Order system were significantly reduced. Similarly, when defendants were experiencing extreme stress or mental health episodes as result of protracted Family Court proceedings, their ability to comply with Intervention Order conditions also appeared to be reduced. As one Lived Experience interviewee explained:

³⁵⁶ Lived Experience interviewee LE5.

³⁵⁷

³⁵⁸ Service Provider interviewee A5.

A key consideration is the interaction between intervention orders and family law environments.

My personal experience most squarely fits within the family law system.

What is needed is a streamlined, early intervention, simpler more thoughtful opportunity for a conversation with someone in a position of authority to give advice and guidance to all parties about the prospects of success within the family law system.

It might be hard for some parties to hear that advice about their possibility of success or the reasons why it might be difficult for them to achieve their desired outcome. But if the advice is backed up by the right types of supports, it can lead to a better outcome for everyone.

When this doesn't happen men can feel completely shut out of the system. They can make poor decisions for themselves, for their partners and sometimes for their children.³⁵⁹

Another Lived Experience interviewee said

I found it a good process, but I can understand why some women don't want to go through it. You get so worried about what D would do, what they will say to you, the lies they will tell. It is so difficult to go through the property settlement process with someone lying about property ownership. The Family Court process is very scary. Legal aid was a big help but I still felt like I wanted to hide in the corner. It worked out, but it is very very scary.

Legal aid provided support for the property settlement. We ended up having to sell the house. D tried to turn it around and say you can't have the house, but my name was on the title so ...During this time I felt really isolated from friends and family, D was exercising financial control over me, telling lies about me to friends.³⁶⁰

The same interviewee explained that at this point in her experience, support from specialist, trauma informed support services and family violence trained police officers was critical:

At this point I was really scared, really lonely. I had lost lots of my friends. I was really worried that D was going to find me and be violent. I was sitting alone in the house looking at the window, worried. I had thought for a long time that it would be good for the children for me to stay with D. But I was wrong. Relationships Australia helped a lot. In one meeting I really lost it, really broke down, started to talk about suicide. Relationships Australia said they needed to report that I had said that. It was then that they contacted the [Family Violence Investigation Section]...³⁶¹

Responding to Coercive Control through Intervention Order Reform and Further Criminalisation

Among the top priority reforms identified by respondents to the Lived Experience REDCAP Survey was the need to criminalise coercive control and clarify within the legislation and within public education materials that Intervention Orders can and should be issued in response to incidents or reports of coercive control. For example, one Survey respondent said they wanted to see:

More consideration of coercive control in Intervention Orders so that people are protected not just against physical violence, obvious harassment and stalking but also the more insidious forms of abuse which are just as devastating.³⁶²

This aligns with one Lived Experience interviewee who said that:

³⁵⁹ Service Provider interviewee A7.

³⁶⁰ Lived Experience interviewee LE 3.

³⁶¹ Lived Experience interviewee LE 3.

³⁶² Lived Experience REDCAP Survey respondent.

Coercive control laws are really important. The coercive control was the start for me, before it got to violence. The more I tried to stand up for myself, the more the violence escalated. They start with the control of the money, then who you can talk to, and the abuse continues from there.³⁶³

A number of Lived Experience interviewees talked about the normative value of coercive control legislation, with reference to the work of Jess Hill in her monograph *See what you made me do: Power Control and Domestic Abuse*³⁶⁴ and the importance of raising community awareness about coercive control, and about setting a clear standard that this type of behaviour is unacceptable and deserves reprimand in our community. For example, one Lived Experience interviewee suggested that each Family Violence Investigation Section within the South Australian Police should have a psychologist to help identify in a forensic way the psychological pathogens, including narcissistic pathogens, that might be covertly present in a defendant. This was considered to be essential to ensuring the quality of first responses to reports of coercive control and other forms of family and domestic violence, and to the effectiveness of the Intervention Order system. The interviewee said that

being viewed as a 'non-victim', [and] her inability to be a 'perfect victim', [meant that] her story came secondary to the defendant's story that 'frames' her as the perpetrator.³⁶⁵

This can have devastating long term consequences, particularly where children are experiencing serious harm and violence, and that experience is attributed – falsely – to the behaviour of their mother. As the interviewee said:

The greatest damage that comes from a "he said, she said" style dismissal is the realisation, that it is not being said to you because your story bares no truth or merit.....it is said to you because it does....it is said simply because it came secondary to his.³⁶⁶

Early Intervention, Case Management and Mediation Support

Access to high quality information early and in a trauma informed way was one of the themes common among research participants. For example, one Service Provider interviewee explained that

I think really clear, concise information is important. I remember years ago I had a client that had been living in a place of abuse and had children who had experienced it too from her partner. And she said she was just so overwhelmed. When she did speak out to the police for the first time they were giving her all these things – pamphlets - and she was sort of like going, "I don't know which ones to look at. My head's just mush. I mean, crisis mode in survival mode. And I just want someone to walk me through the process". In her view, there was a need for one flyer or a pack of very concise, stepped out kind of information. ...

So it's probably some peer support at that early level, where someone could come who had been through that system, who had had a similar experience, to be with her at the police station and offer her resources that she could look at after. Someone to help work through 'what are my options'? A place where someone could sit with her and have a coffee and really talk through questions like: 'What would this mean? What was their experience of it? What would they recommend? What if she just wants to report information? Not necessarily charged him or have it acted on.'³⁶⁷

³⁶³ Lived Experience interviewee LE1.

³⁶⁴ Jess Hill, *See what you made me do: Power Control and Domestic Abuse* (2019, Black Inc).

³⁶⁵ Lived Experience interviewee LE6.

³⁶⁶ Lived Experience interviewee LE6.

³⁶⁷ Service Provider interviewee A8.

This focus on access to quality information about Intervention Orders was also recognised by a Service Provider interviewee with experience in the police force in another State who said:

One of the things we would address was when an Intervention Order was taken out there would be an automatic notification to the DVLO [Domestic Violence Liaison Officer] to follow up. This would be important because at the time of the initial incident, applicants are not really going to be able to absorb information. In [the other jurisdiction] we had a really good relationship with referral services, including Anglicare and others. The applicant would always get a copy of the AVO, with constables highlighting most pertinent aspects of the AVO. For example, if there was distance requirement, we would highlight all that, and make sure that the DVLO followed that up. Then we would walk the person through the AVO process, explaining that it was an interim order, and that the court would then look at it to confirm it. It was an education process. Obviously for most people this was a really emotional time, with people focused on being able to do things like seeing the kids. But the court side of things would really benefit from good quality education being provided to both parties.³⁶⁸

Many research participants stressed the need to adopt proactive, evidence-based interventions to prevent family and domestic violence from arising in the first place.

As a community we haven't stopped to think about meaningful early intervention by experts. This can make a significant difference. For some people involved in the family law and intervention order system. For some people, it could make all the difference.

It is important to stress that throughout this that there is no suggestion that anyone who is demonstrating aggression or violence should not be held account for their actions. Violence or abuse cannot be tolerated at any level.

This reform suggestion is not looking to overhaul the law. It's rather looking to see how to make a practical difference in the way the system is implemented.

It doesn't necessarily have to mean a whole lot more resources. The total cost of resourcing wouldn't necessarily have to change, but the way resources are used could change.

This reform suggestion would provide an opportunity for either party to bring family law matters on quickly, particularly when those issues include interactions include children.

Currently cost issues and time delays become significant issues for the wellbeing of anyone interacting with the family court system, sometimes with parties facing six month waiting lists.

...

There is a clear need to have services available at the front-end of family relationship breakdowns and family-based disputes. It needs to be services that are available for people at times of crisis. For example, someone might be having a really difficult time working out a financial settlement or access to children in the lead up to Christmas. Someone in that situation might take action that could be a really bad decision for themselves or have really serious consequences for other people, including their partners and their children. There's a need for urgent case conferences when people are feeling under pressure, where someone can say. "[data removed to avoid identification]. This is the situation. This is the impact of your actions. This is the likely outcome." And then support the parties through their decision-making process, managing their expectations about what likely outcome of their actions. These type of case conferences can make an enormous difference to people who are on the edge.³⁶⁹

This important expectation management process, and specialist support also interacts with feedback and suggestions received relating to accessing information about the Intervention Order system. As one Service Provider interviewee explained:

³⁶⁸ Service Provider interviewee A12.

³⁶⁹ Service Provider interviewee A7.

Reliable information about the Intervention Orders system in South Australia exists, including in the Intervention Orders Handbook. However, access to this information can be difficult for those applicants or potential applicants who do not have a lawyer or access to other support services.

When an applicant instructs a lawyer to obtain a (private) intervention order on her behalf, accessing information about the Intervention Orders system is straight forward. Many applicants that receive specialist legal assistance have positive outcomes. They are able to receive accurate information about the Intervention Orders system and are supported to apply for an order via the specialist Magistrates (Family Violence) Court.

When an applicant attempts to interact directly with the police or the court to seek an intervention order it can be difficult for the applicant to understand the relevant legal processes and procedures. This can cause distress and confusion for applicants and frustration and delays for court officials and Magistrates.

It is important to note that many applicants may be experiencing distress, violence, abuse, ill-health, accommodation problems, or other upheavals. It can be very difficult to access and understand legal information in these circumstances. Many clients do not expect to be in the situation of having to interact with the legal system.³⁷⁰

One Lived Experience interviewee also suggested establishing a :

support group for domestic violence for women and men, where we could all get together, meet people who have been through the same thing.

I have met some people who have gone through similar things at Women's Legal Aid volunteer events such as the soup kitchen.

I think there needs to be a group for people to talk about what they have been through, with people who have been through the same thing, perhaps with social workers there for support.

Keeping all those feelings inside for so long is not good.

I still need medication to help me sleep.

A support group like this would be a good way to let people know what their options are, what they should do. To give people ideas about where to go to get help, about legal advice, where to go to get food.

It could be something that police refer people to the first time they come out to respond to domestic violence or abuse.³⁷¹

...

When I have volunteered through the Women's Legal Aid I've been able to connect with others, I've met other women who have been through the same things, it's good to talk to them at the soup kitchen events but then we lost contact after that.

I would be good to have an ongoing support group.

There used to be a Domestic Violence Group but the funding for that finished, which I think is a bad thing.

We really need a group for therapy, including for males, somewhere to go for connection and support.³⁷²

³⁷⁰ Service Provider interviewee A4.

³⁷¹ Lived Experience interviewee LE 3.

³⁷² Lived Experience interviewee LE 3.

A focus on community level, pro-active risk assessment and outreach was also identified as important by a number of research participants, including one Service Provider interviewee who said that:

I think if more police were involved in active outreach, when they first get a sense that violence or abuse is occurring - they could be in the home with women and children and just encouraging them to tell this story and help them navigate risk. Even if that's not getting an intervention order and making charges – they would still have that narrative on file and at any stage they could turn that into a statement for court or whatever. And then that whole pattern of behaviour over time can be looked at by a judge, all of that history, so women don't feel like they have to sit in a police station for three days and they finally have had enough and go, 'oh my God, when did that happen? I can't really remember, but I remember I went to hospital where I could go to the hospital.' Because most women will remember if you sit with them and help them. But so many women think if you go to police, you have to press charges.

I think police need to better support women to tell the narrative and have that held safely in place records, so that they can make some decisions about what they want to do next at any time.

I think that sort of happens, but I think women don't know that that is an option.³⁷³

Many participants also expressed the view that experienced and professional mediation practices could play a central role in setting expectations around the Intervention Order system, and provide a pathway for parties who sought to reconcile and repair relationships to do so safely. While such reform must be approached with great care, and must continue to prioritise the needs and safety of any protected persons, it could provide a useful tool for some families within the system. As one Lived Experience interviewee explained:

The individuals involved in a family relationship breakdown or other domestic related dispute could be represented by people who know them well, or by legal representatives who could participate in a collaborative conversation. This could include representatives from different service providers and other professionals working within the sector, such as representation from child protection, from the schooling system, expert and general health practitioners, social workers and psychologists. They could work as a collective to develop a solution and to talk about different, effective ways to communicate with the parties. They could consider questions like "Why did the perpetrator or defendant become unreasonable? Or why did one of the parties become unreasonable? What are the key concerns here? What are the key risk factors? What are the risks of harm? Has the person acted reasonably before? Could we get them back to that position of common reasonableness?"

Often we underestimate the skills of practitioners and professionals who are working in this area and their ability to come up with creative and sustainable solutions if they're given the freedom to talk.

These collaborative conferences could provide a forum to share strategies for communication with people that are experiencing distress or are under pressure for a range of different reasons. Often the simplest things can change the demeanour of the person and the outcome of a conversation. For example, if someone is stressed about where they're parked their car, haven't eaten or experiencing anxiety, there are simple things that people can do to reduce those stresses and to encourage a collaborative, calm response to mediation or other forms of dialogue.

If the perpetrator is male and other criminal issues are in the background, there might also be issues around parole or issues around home detention conditions. This could mean that it is

³⁷³ Service Provider interviewee A8.

really important to talk to parole officers, people who know all the various points in the process that could be used as incentives for behavioural change.

The collaborative approach could put a plan together for parties like this. It could make a significant difference to the outcome.³⁷⁴

One Lived Experience interviewee suggested that changes also need to be made to the way evidence is considered in Intervention Order hearings. In her case, this interviewee had compiled seven 'Child Abuse Report Line' reports but none of this information was admissible before the Magistrate.³⁷⁵ The interviewee was encouraged to take her children to see a child psychologist, but there was no possibility of getting access to a child psychologist in the relevant time frames due to wait lists exceeding six months³⁷⁶. The interviewee later managed to get an expert social worker with extensive experience in the area of interviewing children in family court matters to speak to her children.³⁷⁷ This experienced social worker documented discussions with the children that indicated strong feelings against the defendant and also documented experiences of abuse and violence.³⁷⁸ But this report was also considered inadmissible in the Magistrates' Court hearing involving the Intervention Order, even though the report documented clear concerns about children's safety.³⁷⁹ This experience led the interviewee to conclude that 'Intervention Orders are not focused on the rights of children or the safety of children.'³⁸⁰

As one Service Provider interviewee said:

The State tells women 'we want you to keep yourself and your children safe' but she can't do that if she has no information. Information is power. Everything you do to remove control from the perpetrator's life (like issuing an Intervention Order against them) will result in a retaliation. The victim will be in immediate danger. You have to have victim orientated approaches. You need to keep women in the loop. This also applies when men are released from jail.³⁸¹

Prioritising Police Training in Family and Domestic Violence and Trauma Informed Responses

Many research participants praised the efforts of police officers, court officials and other service providers who had demonstrated an awareness of the complexities associated with family and domestic violence, and displayed trauma-informed responses. As one Service Provider interviewee explained:

I've met a lot of good police. Collecting evidence of non-physical violence might be difficult, particularly for those on the front line. But what police might be able to do is to triage the situation using a checklist or a set of questions to explore the risk factors. If they see any indications of non-physical violence they can then refer this up the line to more specialist officers in the [Family Violence Investigation Section] for further investigation. By asking some questions at the time of first respond, police would gather some insight into what is happening and the nature of the relationships.³⁸²

³⁷⁴ Service Provider interviewee A7.

³⁷⁵ Lived Experience interviewee LE7.

³⁷⁶ Lived Experience interviewee LE7.

³⁷⁷ Lived Experience interviewee LE7.

³⁷⁸ Lived Experience interviewee LE7.

³⁷⁹ Lived Experience interviewee LE7.

³⁸⁰ Lived Experience interviewee LE7.

³⁸¹ Service Provider interviewee A9.

³⁸² Service Provider interviewee A9.

It is also important to remember that:

Often when police are called out to an incident, women are afraid, they have been exposed to violence for a long time, often they are not in good shape. Those at the front line could at least start asking the right questions, and then it could go up the line.

I know all of this means more work and police know this means more work. So often if you've been out to a house for so many times, you become less certain that anything you are doing is going to make a difference. But we do need to get in early. That frontline work is critical. We need to get eyes on children and women at risk. And if we don't get it right the first time, women lose confidence in the system that is designed to protect them. They stop looking to the police to provide them protection. This reinforces the messages they are getting from the perpetrator that the system is against her and will not protect her.

As a community we need to think about how we design a system that puts the victim at the heart of it and provides her with wrap around support. In the current system, it is difficult to even encourage women to apply for an Intervention Order, particularly those with multiple experiences of violence. They just think what is the point?³⁸³

A Service Provider interviewee who works in a regional area highlighted the need for resources to support specialist police officers. The interviewee explained that:

Resourcing in regional areas is a big thing. Having Indigo outreach has been amazing, apart from COVID [an Indigo Officer] would have come every six weeks. That is great. Just someone who understands the law and the DV and the police.

And having some more senior FVU police officers here to help correct the behaviours happening in the senior ranks of the regional police force would be great too, supporting the younger ones who have had the training.³⁸⁴

This aligns with the views of many lived experience interviewees who placed a strong priority on police training and resources as a top priority for reform. As one interviewee said:

I think police having proper training about in relation to domestic violence issues. I know that they've got family violence sections, but I think they've probably pretty under resourced.

I think that's probably the main issue. I think they probably just don't have the resources, even if they think that there's merit in it, to take on all the applications for intervention orders. I really just think it's a matter of training them in relation to domestic violence awareness.³⁸⁵

Another interviewee explained:

More training for police and more understanding of domestic violence and mental health and narcissism. D can present so charming to people, they see me all natural, like this, and they hear him say "she's crazy", and they go "yep, we're out of here." Police have no idea. They need to be trained. Why send police to respond to domestic violence when they don't know what to do?

Every time they walk away it makes it worse. Because they make him feel like he is untouchable. And the police confirm that for him.³⁸⁶

As one service provider interviewee explained, this first interaction between a victim survivor and the police can define the person's future experience with the Intervention Order system:

³⁸³ Service Provider interviewee A9.

³⁸⁴ Service Provider interviewee A11.

³⁸⁵ Lived Experience interviewee LE2.

³⁸⁶ Lived Experience interviewee LE1.

Some clients find it very difficult to interact with police when reporting a domestic violence incident or other disturbance. For example, if there's a disturbance at somebody's house and police officers attend the disturbance there can be real mix between those police officers who have had trauma-informed training or domestic violence training in the way that they interact with victims of domestic violence compared to police officers who might not have had that training. Some police officers can dismiss acts of abuse or violence and that moment of being told that the abuse is not significant enough can have a long term impact on how that woman interacts with the rest of the legal system.³⁸⁷

This aligns with feedback received from one of the service provider focus groups which explained that

There is a problem in the South Australian Police and the Magistrates court when it comes to training. There is a need for more [Family Violence Investigation Section] officers – in secure full time positions, not just part time shared positions with people often on leave due to stress or job sharing after returning from maternity leave. This is a cultural issue within the police, that can only be addressed by training.³⁸⁸

Police need to be able to identify and understand what domestic violence is – descriptions of abuse are set out in the Act, but not necessarily understood by police. They need training to help identify what domestic abuse is. The specialist Domestic Violence Court needs to continue. The training process is so important. Until we get 'fresh blood' coming through a lot of attitudes are coming from the top down. There are also incidences of police officers being perpetrators of domestic violence themselves.³⁸⁹

The same focus group also observed that:

Often the officer at the front desk of the police station is a person on citation for poor performance. They may not have received appropriate training to respond effectively to domestic violence victims, women from culturally or linguistically diverse backgrounds (CALD), or First Nations women. If you are a woman from a CALD background or a First Nations woman or a recent victim of crime you are going to be in a highly vulnerable state when you approach the police station to report domestic violence or abuse. These women deserve respect and support. Often they are given little support, sometimes they are laughed at, ridiculed or mocked. Sometimes they are told to "Calm down". They are told they can't be helped. Sometimes they are told they can't have an interpreter. They are effectively left without a means of communication. Sometimes First Nations women cannot explain what has happened to them if they are in a traumatised state.³⁹⁰

Another Service Provider interviewee said that:

The most important things to keep in mind I think would be that for some women it's taken so much, so many years potentially, and so much violence to get to the point where they're bravely showing up in a police station, they're not always going to present as a perfect victim, or they might be a bit impatient or a bit scared.

So I think, sometimes police can be fairly black and white in their communication and sometimes I hear a client speak of very mixed experiences at the front end, of going to police station and talking about intervention orders. Often I hear stories where women have to speak through the fairly low level Constable at the front desk, and they're not given that support.

It would be nice for clients to be able to speak to a female senior officer, specifically trained perhaps in trauma informed and DV responses to give that person time and energy, to really

³⁸⁷ Service Provider interviewee A4.

³⁸⁸ Service Provider interviewee A4.

³⁸⁹ Service Provider interviewee A5.

³⁹⁰ Service Provider interviewee A5.

acknowledge what a big step it is they're taking to be showing up in police station like that, ready to talk.

...

When women's stories don't always line up perfectly, which can be trauma related of course, there can be a lot of judgement, starting to blame the victim. Even my correspondence with police at the end of last year, they're like, "Well, she's not giving us the same information as you, she needs to get her story straight."

I think there's some training that goes on with newer cadets ..., but I think much more trauma informed care practices could be implemented. I think most women would prefer to speak to a woman and a more experienced, compassionate female Constable or, you know, senior Sergeant to begin with, someone that they can trust and go back to. Not feel rushed or forced to do anything they don't feel comfortable with yet. And to have maybe a mobile number for them to follow up in a non-crisis if they want, or when they are ready to make a statement or an affidavit or whatever.

Some police can be really caring, and provide compassionate responses, and I've heard some women say that has made all the difference to the woman feeling empowered and confident in taking it to the next step - they'd built a really good working relationship with that detective and or police officer involved. And it can go really, really well.³⁹¹

The need to make sure training is accessible for all front line responders, including police and court officials in regional areas, was also identified as a particular priority. For example, one Service Provider interviewee said that:

It would be important to look the differences in experiences between victims and police in regional and urban areas. We know that domestic violence is more prevalent in regional areas. We also know that it can be harder for police officers in regional areas to access relevant training. But also, police in regional areas can come from the community they serve- they may know the parties involved, they can have a conflict of interest. I feel quite passionately about this. If we are serious about keeping women safe in regional areas, and we know more people die in these areas, we really need to get the police response right.³⁹²

An Aboriginal controlled group also observed that:

We need more Aboriginal recruitment of police officers and police must use interpreters when dealing with Aboriginal people. Police must allow anyone that is being questioning the opportunity to get an Aboriginal support person and this is particularly important when speaking to Aboriginal women about family and domestic violence. Aboriginal people should be in the [Family Violence Investigation Section] with police. They should be directly involved in training the police. A group like the Grannies Group should be directly involved in training police about the impacts of domestic violence on Aboriginal women.

There also needs to be much greater understanding among police about the different cultural laws and issues within different Aboriginal communities, including the cultural impacts of Intervention Orders.

It's important to understand the intersection between Intervention Orders and bail and other criminal issues.

Paperwork in these matters is slow difficult for people to understand.

Lawyers are often not aware of the different Intervention Orders or other intersecting legal proceedings that might be in play between parties, particularly when they are called to attend

³⁹¹ Service Provider interviewee A8.

³⁹² Service Provider interviewee A9.

domestic violence issue. Lawyers are often not well versed in the cultural impacts of these intersecting laws.³⁹³

This focus on police training and improving the consistency of police response to reports of violence and breaches of Intervention Orders was also evident in the responses to the REDCAP Service Provider Survey where the following comments were shared in response to a question seeking ‘top priorities for change’:

Train South Australian Police staff in treating victims of domestic violence better . Change South Australian Police policy so they can issue Intervention Orders if any act of abuse has occurred, not just physical violence
make [domestic violence] training in police more comprehensive at the academy.
Police resourcing and police officer cultural change to take [domestic violence] seriously.
The South Australian Police’s involvement, response and treatment. Training for the entire sector (courts, law enforcement, lawyers, intake, court staff).
Police to take more action on all forms of violence which are already offences under the current legislation
Improved enforcement of Intervention Orders by police. As far as I can tell the ideas and principles that were posited at the time these laws were proposed have not been fully implemented in practice.
more training and accountabilities for the general police. [Family Violence Investigation Section] isn't the 1st responder, women just call police. perpetrators were really charming when police came, they didn't believe and were wondering why the= women made stories up. assumption: small and calm men couldn't be violent. women are in distress, uncalm, not being rational. police are very judgmental. no evidence: no choice to get police assistance - no use of reporting. once police leave, they become more violent, feel untouchable.
Police education
as stated before, enforcing Intervention Orders through harsher penalties for breaches. Even minor breaches needs consequences to encourage compliance

As one service provider interviewee summarised:

One of the big issues is how women in distress are responded to and supported in the first instance. This can have a big impact on the victim’s subsequent decisions and engagement with the legal system and other support services. ³⁹⁴

The first response team is critical. They must have appropriate training. ³⁹⁵

Continuity of service and support is also important, including from police. If the police teams change (e.g. between first response, investigation, initial court proceedings, confirmation or breach proceedings) the applicant is experiencing a whole lot of different police officers and they can make decisions made along the way that ignore the bigger picture. Continuity between pre-trial and trial proceedings is important and that's often what woman would get if they have a lawyer making the application for them. ³⁹⁶

This aligns strongly with the priorities for reform identified by one of the service provider focus groups who recommended the following actions be taken:

Improve the point of contact between client/victim and police.

Improve the quality and flow of information between the client/victim and the police

³⁹³ Service Provider interviewee A13.

³⁹⁴ Service Provider interviewee A4.

³⁹⁵ Service Provider interviewee A4.

³⁹⁶ Service Provider interviewee A4.

Change Police practice to improve alignment between the scope of the legislation and the response of police to incidences of physical and non-physical forms of domestic abuse

Specific training in the area of domestic violence is needed for Magistrates, Police Prosecutors and Police, as well as Court officials /registry staff

Increased penalties for breaches and improved responses to reports of breaches of IO.

Victim impact statements should be mandatory when sentencing Ds for breach of Intervention Orders.

Assistance with evidence collection particularly for CALD and First Nations women is needed.

Improve the quality of the first contact between client/victim and court.

Improve the accessibility of public information about IO and duties of police and the courts³⁹⁷

The need for a clear, accessible and effective complaints process was also noted by a Lived Experience interviewee who had experience attempting to complain about the conduct of the police in response to her reports of violence and abuse by her former partner, who was also a police officer.³⁹⁸ The interviewee had attempted to complain through the internal South Australian Police system and through the Office of Police Integrity, but found the experience insufficient and unsatisfactory:³⁹⁹

the system is seriously flawed. It is a system where police investigate each other and there's nowhere further to go. It gives rise to a risk of corruption. It means that complaints, including serious and substantiated complaints, can be dismissed without investigation.⁴⁰⁰

Other Specific Suggestions:

One Lived Experience interviewee recommended that a domestic violence or family violence hospital / health care approach be implemented that would look holistically at providing support for victim survivors. The type of support that could be provided could include:

- Social worker support.
- Access to child psychologists.
- Domestic violence police officers.
- other forms of health care.⁴⁰¹

With this support team, the victim survivor could be encouraged to develop a strong recorded, accumulative evidence case. And these other professionals could be empowered to confront the defendant about the harm that he is causing to his partner, and in many cases also to his children.⁴⁰²

In this model, it would be about focusing on the health impact of the violence and abuse, rather than forcing the victim survivor to navigate and potentially ongoing court process or police process that has the potential to be manipulated or used as a weapon of coercive control by the defendant, and which also has the risk of creating multiple points in the

³⁹⁷ Service Provider interviewee A5.

³⁹⁸ Lived Experience interviewee LE7

³⁹⁹ Lived Experience interviewee LE7

⁴⁰⁰ Lived Experience interviewee LE7

⁴⁰¹ Lived Experience interviewee LE6.

⁴⁰² Lived Experience interviewee LE6.

process where the victims survivor is told that her experience of abuse and violence is not serious enough to warrant the authority's attention.⁴⁰³

Other specific suggestions for reform include:

- Exploring the potential use of section 114 (of the *Family Law Act*) which provides for an order to grant an injunction for personal protection and so the police have the power to arrest if that order is breached.⁴⁰⁴
- Ensuring that orders that are in place automatically roll over with the new criteria e.g. social media as the world becomes more modern an applicant should be protected with a current order without having to have the opportunity to be contested.⁴⁰⁵
- Quick referral to court process – where the facts can be determined by the Magistrate and orders can be made to protect parties and people can get to safety.⁴⁰⁶
- Ensuring that all first responders clearly communicate the fact that existing laws cannot be used to prosecute protected persons from aiding and abetting a breach of the Intervention Order.⁴⁰⁷
- Increased focus on Magistrate's providing clear reasons about why they are dismissing or adjourning an application to the applicant of a private Intervention Order⁴⁰⁸
- Improving the clarity of forms for private Intervention Order, including for people of varying levels of education.⁴⁰⁹
- More detailed options for conditions in Intervention Orders including conditions that can provide exclusive use of a home or car owned by both parties, and more discretion for Magistrates to provide remedies such as restitution to cover medical costs or property damage caused by the abuser.⁴¹⁰
- Consideration of the use of electronic tracking bracelets, such as those prescribed for persons in home detention, particularly for repeat offenders.⁴¹¹
- Improved training for “young lawyers about what it’s like at the grass roots, and the way the laws impact on people on the ground. These lawyers should have a much better understanding of the impact of some of these laws and the cultural impacts for Aboriginal people.”⁴¹²
- Call out options for Aboriginal women “Aboriginal women should have the right to call someone in their family if they're considering an Intervention Order or at the time that police are issuing Intervention Orders. They should be able to contact

⁴⁰³ Lived Experience interviewee LE6.

⁴⁰⁴ Lived Experience interviewee LE2.

⁴⁰⁵ Lived Experience REDCAP Survey respondent.

⁴⁰⁶ Lived Experience interviewee LE1.

⁴⁰⁷ Lived Experience interviewee LE2.

⁴⁰⁸ Service Provider REDCAP Survey respondent.

⁴⁰⁹ Service Provider REDCAP Survey respondent.

⁴¹⁰ Service Provide REDCAP Survey respondent.

⁴¹¹ Service Provide REDCAP Survey respondent.

⁴¹² Service Provider interviewee A13.

someone from their family or perhaps with the [A13 organisation] to talk to the police. This should occur in the child protection area too.”⁴¹³

- Improved support for perpetrators:

Young Aboriginal men also need a lot of support to understand different aspects of the legal system. This is because the whitefellas legal system never seems to protect Aboriginal people. Aboriginal people always end up in jail. Always end up cut off from services. The system is even more confusing for people in the APY Lands. They don't see the law as a tool to protect them or serve them. Instead, Intervention Orders just become a power play for police. They take everything away from people, all their identity, all their decision making. They give all the control to the police. The Aboriginal person feels like the only response they can make is ‘Yes Sir’.⁴¹⁴

- Stamp duty relief for protected persons.
- Provision of secure, private areas for victim survivors to interact with Centrelink and Medicare offices:

Medicare and Centrelink offices are often located at the same place, however there is no privacy, so it can make people feel very vulnerable. Hence, there needs to be a secure area away from the public where people can feel safe and protected and not be fearful of people overhearing ones’ private business. In addition, the staff there need to be alerted, so they can respond appropriately.⁴¹⁵

- An education program for Police where people with lived experience are involved to share about family and domestic violence and coercive control and being listened to.

Get more survivors together and have people listening and taking notes and asking questions. We are the ones that should be panellists. Not other people. They are advocates, but they don’t know what it’s really like.”⁴¹⁶

- The provision of specialist training programs and high degree certificates for victim survivors.

UniSA can be part of the helpful life-changing solution by providing resources for DV survivors and supporting people to rebuild their lives. The university could offer courses that can support DV survivors to update their skills, re-enter the workforce, gain financial security and have social life. UniSA could also offer employment opportunities for DV survivors, especially graduates of UniSA.⁴¹⁷

- Survivors of domestic abuse should be recognised as people with disability due to their mental health challenges, such as post-traumatic stress disorder, depression, anxiety and stress, as a result of the years of abuse. Other survivors have additional physical injuries and complex issues to overcome while the perpetrators go off in search of their next victim. However, it should be noted that survivors are not expecting sympathy, but results.⁴¹⁸
- Family and domestic violence survivors should be employed to provide professional skills and expert support for women at risk because they can do life

⁴¹³ Service Provider interviewee A13.

⁴¹⁴ Service Provider interviewee A13.

⁴¹⁵ Lived Experience interviewee LE9.

⁴¹⁶ Lived Experience interviewee LE9.

⁴¹⁷ Lived Experience interviewee LE9.

⁴¹⁸ Lived Experience interviewee LE9.

coaching, education and give all sorts of other practical experience instead of just following the bureaucratic approach.⁴¹⁹

- Many research participants also recommended that ‘Registrars should openly explain that people with financial hardship can apply for fee to be waived for Intervention Order’⁴²⁰ and that there be ‘no fee for a private Intervention Order as no one should have to pay the court to feel safe from their abuser’.⁴²¹ It is noted that since commencing this research, and in response to suggestions from Uniting Communities and the researchers, the filing fees for private Intervention Orders have been waived for all applicants.

COVID impacts

Service providers responding to the REDCAP Survey were asked whether the COVID-19 pandemic has had any particular impacts on the services they provide or the role they play within the Intervention Orders system. Most respondents said ‘no’, they continued to provide the same types of services to clients, however many noticed an increase in demand for their services relating to an increase in the incidence of family and domestic violence during the pandemic. Some respondents noted that:

Limited face-to-face appointments and facemasks have impacted victims ability to connect with workers or police which has impacted trust and amount of disclosure.⁴²²

[Domestic violence] has increased and so has trauma presentations where survivors are triggered by past trauma by remaining in isolation or due to prolonged uncertainty and sense of helplessness around their lives due to the pandemic outbreak, restrictions and constant change of rules.⁴²³

⁴¹⁹ Lived Experience interviewee LE9.

⁴²⁰ Service Provider REDCAP Survey respondent.

⁴²¹ Service Provider REDCAP Survey respondent.

⁴²² Service Provider REDCAP Survey respondent.

⁴²³ Service Provider REDCAP Survey respondent.

Themes Identified in the Comparative Legal Analysis

The table in Appendix A attempts to summarise some of the key features of the legal frameworks across Australian jurisdictions governing civil orders designed to address family and domestic violence, which are described variably as Intervention Orders, Domestic Violence Orders, Personal Safety Orders and Apprehended Violence Orders.

Each of these frameworks is complex and detailed – often reflecting a series of reform efforts that have taken place over more two decades to modernise and consolidate older laws and to respond to the growing demand within the Australian community to use the law to intervene and protect individuals and families from domestic abuse. The South Australian experience is considered to be ‘best practice’ in a number of areas, including when it comes to the unlimited duration of Intervention Orders and the ability of Magistrates’ to make tenancy orders as part of the Intervention Order process.⁴²⁴ However, in other areas, interstate regimes have been described as offering potential improvements, particularly when it comes to providing flexible, victim-survivor-led options for Intervention Order design and enforcement.⁴²⁵

While it is beyond the scope of this Report to describe these interstate regimes in detail, and great care must be taken before extrapolating specific provisions from their broader legislative context, many of these laws provide useful indicators as to the legislative options available when contemplating reform in South Australia. Moreover, a number of the interstate provisions are directly relevant to, or align with, the suggestions for reform identified in the qualitative data analysed in this Report.

These include:

The use of preambles, object clauses and statements of principle to acknowledge the complex causes and serious impacts of family and domestic violence and to assist courts, prosecutors, police and other users in the interpretation and application of the substantive provisions.

The Preamble and section 4 of the *Domestic and Family Violence Protection Act 2012* (Qld) provides a useful model for South Australia to consider. It provides:

- (1) This Act is to be administered under the principle that the safety, protection and wellbeing of people who fear or experience domestic violence, including children, are paramount.
- (2) Subject to subsection (1), this Act is also to be administered under the following principles—
 - (a) people who fear or experience domestic violence, including children, should be treated with respect and disruption to their lives should be minimised;
 - (b) to the extent that it is appropriate and practicable, the views and wishes of people who fear or experience domestic violence should be sought before a decision affecting them is made under this Act;

⁴²⁴ See for example, Lorana Bartels, Patricia Easta, & Shannon Dodd, *Review of the Implementation of the Family Violence Act 2016 (ACT)*, Report prepared on behalf of the ACT Government, (2021) 40, 74; Australian Law Reform Commission (ALRC) and New South Wales Law Reform Commission (NSWLRC), *Family Violence – A National Legal Response Final Report Family Violence* (Report 114, 2010) 375-376. Mayumi Waddy, 'Family Law Restraining Orders and Domestic Violence' (2000) 11(1) *Journal of Contemporary Legal Issues* 87.

⁴²⁵ See e.g. Samantha Jeffries, Rachael Field and Christine EW Bond, 'Protecting Australia's Children: A Cross-Jurisdictional Review of Domestic Violence Protection Order Legislation' (2015) 22(6) *Psychiatry, psychology, and law* 800.

(c) perpetrators of domestic violence should be held accountable for their use of violence and its impact on other people and, if possible, provided with an opportunity to change;

(d) if people have characteristics that may make them particularly vulnerable to domestic violence, any response to the domestic violence should take account of those characteristics; Examples of people who may be particularly vulnerable to domestic violence— • women • children • Aboriginal people and Torres Strait Islanders • people from a culturally or linguistically diverse background • people with a disability • people who are lesbian, gay, bisexual, transgender or intersex • elderly people

(e) in circumstances in which there are conflicting allegations of domestic violence or indications that both persons in a relationship are committing acts of violence, including for their self-protection, the person who is most in need of protection should be identified;

(f) a civil response under this Act should operate in conjunction with, not instead of, the criminal law

Adopting a provision like this would help respond to feedback from research participants that reforms to the South Australian legislation are needed to centre the needs and rights of victim survivors, and recognise the gendered nature of family and domestic violence; acknowledge the seriousness of non-physical forms of abuse and coercive control; and describe the broader impacts of family and domestic violence on the community.

The inclusion of positive duties on police officers and community members to report incidents of family and domestic violence and to facilitate applications for Intervention Orders.

An example of this type of provision can be found in *Family and Domestic Violence Act 2007* (NT) s124A. It provides:

(1) An adult commits an offence if he or she:

(a) believes on reasonable grounds either or both of the following circumstances exist:

(i) another person has caused, or is likely to cause, harm to someone else (the victim) with whom the other person is in a domestic relationship;

(ii) the life or safety of another person (also the victim) is under serious or imminent threat because domestic violence has been, is being or is about to be committed; and

(b) as soon as practicable after forming the belief, does not report to a police officer (either orally or in writing):

(i) the belief; and

(ii) any knowledge forming the grounds for the belief; and

(iii) any factual circumstances on which that knowledge is based.

Adopting a provision like this would help respond to feedback from research participants that proactive responses are needed to protect and promote the safety of victim survivors and protected persons who may face a range of barriers when considering reporting family and domestic violence to police or applying for Intervention Orders.

An explicit legislative commitment to the paramountcy of the safety of protected persons and children in proceedings relating to Intervention Orders

An example of this type of provision can be found in *Family Violence Act 2016* (ACT) s36 which provides that:

In deciding the conditions to be included in a family violence order, a court must give paramount consideration to the safety and protection of the affected person and any child directly or indirectly affected by the respondent's alleged conduct.

Adopting a provision like this would help respond to feedback from research participants that

Recognition, within the provisions of the legislation, of the nature of certain forms of domestic abuse, which can be viewed as minor or trivial if considered in isolation, constitute serious abuse when contributing to a pattern of controlling behaviour.

Such a provision could be based on s34(2) of the *Family Violence Act 2016* (ACT) which provides:

When making final order, if some or all of the respondent's alleged behaviour in relation to which the application is made appears to be minor or trivial when viewed in isolation, or appears unlikely to recur, the court must still consider whether the behaviour forms part of a pattern of behaviour by the respondent from which the affected person needs protection.

Section 65 of the *Family Violence Act 2016* (ACT) also clarifies that when deciding whether to issue an intervention order, the Magistrates Court 'may inform itself in any way it considers appropriate'. Adopting a provision like this would help respond to feedback from research participants that on occasion, Magistrates and prosecutors fail to fully recognise the harmful or violent impact of perpetrator behaviour that can take the form of a cumulative series of events or actions rather than a single physical act.

Including presumptions in favour of ensuring that the protected person is able to remain in the family home.

Such a provision could be based on *Family and Domestic Violence Act 2007* (NT) s20 which provides that:

(1) This section applies if:

(a) the defendant and protected person normally live in the same home with a child (whether or not the child is also a protected person); and

(b) in deciding the conditions of a DVO, the issuing authority imposes a restraint on the defendant having contact with the protected person or child.

(2) The issuing authority must presume the protection of the protected person and child are best achieved by them living in the home.

Adopting a provision like this would help respond to feedback from research participants that potential Intervention Order applicants may, on occasion, be dissuaded from seeking an Intervention Order if they fear that they and/or their children will be removed from their family home as a result of an Order being issued.

Establishing a system of Family Safety Notices to enable police to provide temporary protection for victims and those at risk of harm, but permit longer term conditions of orders to be negotiated at a later date.

Such a reform could be modelled on *Family Violence Protection Act 2008* (Vic) s24 which provides that

A police officer who responds in person to an incident involving family violence may apply to another police officer, who is of the rank of Sergeant or a higher rank, for a family violence safety notice if—

- (a) the police officer has reasonable grounds for suspecting the respondent is an adult; and
- (b) the police officer has no reasonable grounds for suspecting the respondent has a cognitive impairment; and
- (c) the police officer has no reasonable grounds for suspecting there is a Family Law Act order or child protection order in force that may be inconsistent with the proposed terms of the family violence safety notice, after making reasonable enquiries of the respondent, the affected family member and any other adults at the scene of the incident; and
- (d) the police officer believes on reasonable grounds there is no family violence intervention order in place between the affected family member and respondent; and
- (da) the police officer has no reasonable grounds for suspecting there is a community correction order under the Sentencing Act 1991 in force that may be inconsistent with the proposed terms of the family violence safety notice; and
- (e) the police officer believes on reasonable grounds that, until an application for a family violence intervention order can be decided by the court, a family violence safety notice is necessary—
- (i) to ensure the safety of the affected family member; or
- (ii) to preserve any property of the affected family member; or
- (iii) to protect a child who has been subjected to family violence committed by the respondent.

This type of provision could be further supported by amending the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to enable the court to indicate that a specific condition in a family violence order may have effect for a period shorter than the period of the rest of the order, based on *Family Violence Act 2016* (ACT) s42.

Consideration could also be given to amending the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to put in place a system of mandatory preliminary conferences conducted by the Registrar prior to Intervention Order hearings by the Magistrate, (with discretion for the Registrar to terminate the conference if needed to promote safety of protected persons) having regard to the *Family Violence Act 2016* (ACT) Division 4.2.

These suggested changes would help respond to feedback from research participants who identified a clear need to empower Intervention Order applicants to have greater control over the content and duration of key terms of the Order, and to provide space - supported by robust legal safeguards - to negotiate longer-term arrangements that could facilitate the repair of important family relationships.

Discussion of Key Findings

Interaction with the System

The Intervention Order system overlaps with the Child Protection system and the Family Law System in complex ways. This can reduce the effectiveness of the Intervention Orders system as a tool for addressing family and domestic violence and can prevent people from seeking an Intervention Order.

There is a need to undertake additional research into the State/ Federal complexities associated with Intervention Orders, particularly in the context of Family Law orders and related Family Law proceedings. This includes further consideration of the Family Dispute Resolution process under the *Family Law Regulations 1984* (Cth) 25(B) and the extent to which this process interacts with the Intervention Orders system.

When considering the experiences of Aboriginal people interacting with the Intervention Orders system, consideration must be given to the ongoing trauma caused by colonisation and the historical injustices and neglect perpetrated by State authorities against Aboriginal people. The Royal Commission into Deaths in Custody is a powerful document that recounts some of that history.

Accessing or Providing Information and Support

A range of high-quality specialist services – engaging a broad range of professionals with expertise and experience in trauma informed care, legal advice, health care, mediation services and social services – are available to people experiencing family and domestic violence in South Australia.

Many respondents have identified these services as providing high quality, personalised and effective responses to their needs. Others have expressed the view that while initially without access to support, once they connected with one of the specialist family and domestic violence services in South Australia, their experience with the Intervention Orders system significantly improved. However, not all victim survivors are aware of and/or able to access support and many experience family and domestic violence for years before connecting with or being referred to specialist services.

Good quality information about Intervention Orders has been produced but is not always available to victim survivors. In addition, not all information accurately explains the realities of the process of applying for an Intervention Order, and the consequences for the protected persons if an Intervention Order is issued and potentially breached.

Many people only learn about the Intervention Orders system in the context of experiencing trauma, violence or abuse which can limit their ability to absorb and understand key information. Often Intervention Orders are discussed or considered in the context of other legal proceedings, including child protection proceedings, Family Court proceedings or criminal law proceedings, leading to potential confusion about how the different systems intersect.

Many Aboriginal and CALD people are not able to access culturally appropriate support or information in their first language, despite the best efforts of specialist services.

First responders (including police, lawyers, health care providers, and other service providers) vary in the quality of support and information they provide to victim survivors and in their understanding of family and domestic violence and the Intervention Orders

system. Not all first responders are displaying evidence of clearly understanding the existing IO laws or the complex causes and consequences of family and domestic violence. The experience a victim survivor has when she seeks the assistance of a first responder can define her subsequent participation and experience within the Intervention Orders system.

Interacting with Police and Courts

Many research participants noted with respect the important and often extremely challenging role police officers play in the system and the South Australian response to family and domestic violence. There was an acknowledgement of the many individuals within the system who are working tirelessly to protect women, children and others from harm often in the context of limited resources and threats to personal safety.

For most respondents, police play the central role in the Intervention Orders system. Their response to incidents or reports of family and domestic violence, requests for information about Intervention Orders or requests for Intervention Orders to be issued often defines people's experiences of the Intervention Orders system.

An overwhelming number of research participants described substandard police responses to family and domestic violence and a lack of understanding of the Intervention Order laws and of family and domestic violence by police officers. Some of these accounts were particularly traumatising. However, some respondents have said that police officers (particularly those within the Family Violence Investigation Section) provide high quality responses and treat applicants and protected persons with respect and care.

Some court staff provide high quality services and demonstrate understanding of family and domestic violence, but in-court experiences for victim survivors and protected persons are variable and can sometimes be traumatic, particularly if the protected person does not have access to specialist legal advice or other support.

Some in-court experiences for victim survivors and protected persons are positive and the court process for issuing or confirming Intervention Orders is generally valued as a forum to confront the perpetrator with the impact of their behaviour.

Court mediation services, such as those provided by Centacare, are important forums to help clients interpret and understand and to help facilitate conversations between parties about their children, who may also be protected under the orders.

The collection and presentation of evidence to support Intervention Order applications can be problematic particularly for victim survivors who have or are still experiencing trauma, are not represented by specialist legal practitioners and/or when the family and domestic violence is non-physical.

The family and domestic violence Specialist Courts can provide a positive experience for victim survivors, particularly when it comes to providing evidence and understanding the process. These courts tend to utilise the full range of provisions contained in the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) that are designed to facilitate Intervention Order hearings that respect and support the rights and interests of protected persons. However, not all Magistrates demonstrate an awareness or willingness to utilise these provisions in IO related matters.

Complex family and community relationships within Aboriginal and CALD communities can influence the extent to which individuals experiencing family and domestic violence

are able to access support services, report abuse to police and apply for Intervention Orders. Some individuals may have had negative experiences with child protection authorities and/or with police, or may face isolation from their communities if they seek to engage with the Intervention Orders system. However, when specialist, culturally appropriate support is provided, individuals within these communities have been able to speak out against family and domestic violence and access legal protections for themselves and their children.

Process and Criteria Applied when Granting and Approving Intervention Orders

The current legal test for granting an Intervention Order is generally seen as appropriate, however the pathways for accessing an interim Intervention Order are very different and give rise to different experiences for victim survivors and protected persons.

- Police-issued Intervention Orders can lead to a lack of control for the victim survivor and can demand a higher threshold of evidence of abuse or violence.
- Private Intervention Orders can facilitate more victim survivor control over the process and a more positive experience if high quality, specialist legal advice can be accessed. Although filing fees have now been waived, cost issues may still arise when applicants require private legal representation in circumstances where specialist legal services are limited.

The data above suggests that withdrawal of Intervention Order applications can be a sign of success – the victim survivor or protected person may have found another way to achieve safety (such as a Family Law settlement or alternative housing or independent income). However, withdrawals of Intervention Order applications can also be a sign of protected persons experiencing difficulties collecting and presenting evidence, especially in the context of police issued Intervention Orders. The issue of what counts as admissible evidence of family and domestic violence should be reconsidered to ensure it is victim-focused and trauma informed.

There are also underlying issues surrounding the role of Intervention Orders in the context of family or relationship breakdowns. For example, the ability of the parties to the order to negotiate or develop meaningful, targeted conditions can vary greatly with flow-on implications for compliance and utility of the order. Often what the applicant is looking for is immediate protection from harm, but as the immediate threat subsides, there can be a need to reconsider the nature of the conditions imposed and the impact they may have on repairing family relationships. If ‘standard’ conditions are used without careful consideration, this can give rise to breaches of the order by both defendant and protected persons. The process of varying an order can be difficult for certain applicants to understand and access, particularly if the initial order was initiated by police.

Breaches of Orders and Penalties

There is a general lack of awareness among research respondents as to the current maximum penalties for breaching an Intervention Order. However, almost all respondents indicated that current approaches to enforcing Intervention Orders and promoting compliance with Intervention Orders are ineffective.

While some police officers and other first responders provide high quality responses to reports of breaches of Intervention Orders, research participants have explained that reporting breaches to police can be problematic due to the high threshold generally

applied by police to establishing patterns of abusive behaviour and the need to establish evidence of non-physical violence and/or coercive control.

Police and prosecutions' responses to reports of breaches are inconsistent and often inadequate, with some exceptions where police and prosecutions officers have received specialist family and domestic violence training. In particular, data considered above suggest that there appears to be an 'unwritten policy' being applied by some police when it comes to breaches of Intervention Orders, where instances of non-physical violence abuse are not considered as violence and/or taken seriously and/or perpetrators are given warnings for 'minor' breaches instead of being referred to court.

While custodial penalties are considered to be an important optional component of an effective response to breaches of Intervention Orders, particularly in the case of repeat offenders, there is a need to ensure the court retains discretion to tailor penalties and consequences to meet the needs of protected persons, prioritising short term and long term safety of protected persons.

There is also a lack of evidence that maximum penalties are being/have been imposed by courts or sought by prosecutions. Often sentencing for breach of an Intervention Order occurs concurrently with sentencing for other criminal matters including substantive criminal offences like assault and/or breaches of parole or bail or home detention conditions. This makes it difficult to isolate and evaluate the impact on any Intervention Orders related component of the total sentence.

Court issued behavioural change programs and other perpetrator intervention programs are highly valued in theory, but their practical utility and effectiveness can be undermined when there is a lack of detailed feedback provided to or sought by the court about the quality of the participant's engagement with the program and the likelihood that the participant will cease offending in the future.

Existing behavioural change programs and other perpetrator intervention programs require regular, independent evaluation to determine their effectiveness at meeting the needs of participants, having regard to best practice.

Data and Information

The collecting and sharing of information relating to Intervention Orders needs to be undertaken with extreme caution and the safety of the protected person/s and/or victim survivors must be the paramount consideration.

However, there is a strong need to make more de-identified information about the Intervention Orders system publicly available in order to be able to monitor the success and effectiveness of different components of the system. This includes information about:

- How many people sought information about Intervention Orders from police and specialist legal services?
- Of the applications for Intervention Orders made, how many related to intimate partner domestic violence compared to other forms of domestic violence?
- Of the applications for Intervention Orders made, how many related to non-physical forms of family and domestic violence compared to other forms of family and domestic violence?
- How many applications for Intervention Orders were withdrawn and at what point in the process this occurred?
- How many reports of breaches of Intervention Orders were made and, of these, how many breaches were considered by the courts?

- What types of breaches were reported and what consequences or penalties were imposed for those breaches (as distinct from penalties that might have been imposed for other offending)?
- How many defendants who were referred to behaviour change programs reoffended following completion of the program?

Many respondents expressed the view that evaluating the effectiveness of the system is about reinstalling hope for others. If the system is successful for some people, we want to know about the successes and give people hope so that the system can work and encourage people to use that system. When it is not working, we need to know why.

Detailed Recommendations

A. Improve awareness and understanding of the complex causes and serious impacts of family and domestic violence within the community, and the role Intervention Orders can play in responding to family and domestic violence. Ensure that everyone understands that all forms of family and domestic violence - including coercive control - are unlawful.

1. Recognise and value the lived experience of victim survivors, police officers, lawyers, family mediators, social workers and others within the system who are committed to ensuring s provide meaningful protection for South Australians experiencing family and domestic violence in South Australia.
2. Publicly acknowledge and celebrate the work of dedicated police officers, court officials and other service providers that has saved lives and promoted the rights of women, children and others experiencing family and domestic violence.
3. Criminalise coercive control and clarify that Intervention Orders can be issued in response to experiences of coercive control.
4. Amend the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to include key principles that:
 - a. centre the needs and rights of victim survivors, and recognise the gendered nature of family and domestic violence;
 - b. acknowledge the seriousness of non-physical forms of abuse and coercive control; and
 - c. describe the broader impacts of family and domestic violence on the community.

The Preamble and section 4 of the *Family and Domestic Violence Protection Act 2012* (Qld) provides a useful model for South Australia to consider.

5. Amend the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to make it clear that it is everyone's responsibility to prevent and respond to family and domestic violence, not just victim survivors.
 - a. This could take the form of a legal duty to report family and domestic violence to police in certain circumstances, such as that contained in the *Family and Domestic Violence Act 2007* (NT) s124A.
 - b. Additional provisions could also be considered that require police to make application for order in certain circumstances, for example if a police officer investigating the matter concerned suspects or believes that domestic violence offence has recently been or is being committed, based on the equivalent provision of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW).
6. Identify champions and leaders from all walks of life who can develop and disseminate tailored public awareness campaigns that:
 - a. recognise that family and domestic violence is gendered, and that non-physical violence and abuse can be equally and often more harmful than

physical violence. Emotional violence, and other forms of coercive control, can have debilitating and severe long term consequences for victim survivors that can erode their quality of life for decades.

- b. recognise the rights and needs of Aboriginal and CALD communities and explain the role Intervention Orders can play in providing protection from abuse and harm in culturally sensitive ways.
 - c. acknowledge that while effective legal interventions are necessary to ensure safety, many individuals experiencing family and domestic violence want to maintain or repair important relationships and may not wish to commence legal proceedings.
 - d. recognise the practical barriers faced by many community members when it comes to interacting with police and/or courts and accessing legal information and legal advice.
 - e. identify practical options for victim survivors to access safe housing, health care and financial support.
 - f. contextualise Intervention Orders within the broader family and domestic violence context – recognising their effectiveness is heavily dependent on addressing the drivers and complex causes of family and domestic violence.
7. Develop and disseminate accurate and clear information to service providers about Intervention Orders and the role these orders play in the broader response to family and domestic violence. This could consolidate and build upon the excellent materials already produced by the South Australian Police, Legal Services Commission and Women’s Safety Service and take the form of a “one stop shop” of information that is available online and in brochure format to police, lawyers, social workers and other service providers.
8. Empower and support Aboriginal and CALD communities in regional and remote areas to design community based responses to family and domestic violence issues, in line with the key principles and objectives set out in the *Intervention Orders (Prevention of Abuse) Act 2009* (SA). This recommendation should be subject to further research and community consultation, preferably in partnership with leading Aboriginal and CALD organisations including the Aboriginal Legal Rights Movement and other community partners such as Uniting Communities.
 - a. Consideration could be given to a model based on the Nargneit Birrang Framework: Aboriginal Holistic Healing Framework for Family Violence, which aims to guide the flexible design, funding, implementation and evaluation of Aboriginal-led holistic healing programs for family violence in Victoria.⁴²⁶
9. Undertake a follow up research project evaluating the alignment of police/court personnel training currently received in DV and what is lacking as per research/lived experiences

⁴²⁶ Victorian Aboriginal Child Care Agency, *ThinkPlace*, & *Family Safety Victoria*, (2019) Victorian Government, 17 . See also H Blagg, T Tulich, V Hovane, D Raye, T Worrigal, and S May *Understanding the role of Law and Culture in Aboriginal and Torres Strait Islander communities in responding to and preventing family violence* (ANROWS Research report, 19/2020).

10. Undertake additional research into the State/ Federal complexities associated with Intervention Orders, particularly in the context of Family Law orders and related Family Law proceedings.

B. Improve the quality and consistency of ‘first responses’ to incidents or reports of family and domestic violence and requests for Intervention Orders - including by police, lawyers, court officials and other service providers

1. Commit to resourcing regular, proactive risk assessments to identify existing and potential family and domestic violence in vulnerable communities in consultation with community leaders and established service providers, including health care providers and police.
2. Mandate family and domestic violence and trauma-informed response training for all first responders, including all police and all Magistrates Court staff, and require regular public reporting on compliance. Focusing training on the Family Violence Investigation Section within the South Australian Police or family and domestic violence court is important but insufficient.
3. Consider the experience of comparative jurisdictions around Australia and overseas when designing and implementing training programs and recruitment strategies. For example, consideration could be given to the recruitment and training of more female police officers, and more police officers from Aboriginal or CALD backgrounds.
4. Require police and court officials to provide immediate referrals to specialist support services for victim survivors and defendants at time of first report of family and domestic violence or request for an Intervention Order.
5. Design and evaluate a pilot program that would provide holistic, trauma informed services to potential/existing Intervention Order applicants, protected persons and defendants in a health care setting at the time of first report of family and domestic violence and/or at the time of breach. Such a program could be based on successful models developed and implemented by First Nations and CALD peoples and in overseas jurisdictions (as documented in the Report) and should:
 - a. ensure that all parties are able to access culturally appropriate, specialist health care (including psychological care and mental health care) and can document the impact of family and domestic violence on their lives and wellbeing.
 - b. include referrals to other specialist services including legal services and housing services.
 - c. include a follow up phone call from a female police officer who is trained in family and domestic violence to any enquiry made by a victim survivor at a police office or court counter when there is no active case or investigation commenced.
 - d. include a 24 hour a day ‘call out’ option for Aboriginal women to access anytime they are interviewed by police in the context of a domestic or family violence offence, that would ensure Aboriginal women have access to culturally appropriate support.

6. Invest in increased service provision for victim survivors and defendants including:
 - a. Specialist legal services
 - b. Specialist court services
 - c. Specialist health services (including mental health services)
 - d. Access to crisis accommodation and longer term housing

C. Clearly identify and streamline the different pathways for obtaining an Intervention Order and empower and support applicants to exercise control over the conditions of the Intervention Order, the process of collating and presenting evidence, and the service of Intervention Orders and the duration of Intervention Orders.

1. Ensure that all first responders are able to provide accurate trauma informed information about Intervention Orders (police issued and private) to all applicants and potential applicants, that includes information about their rights, likely outcomes and alternative options – as well as accurate information about the relevant legal tests for assessing risk or threats of harm.
2. Ensure clear information is shared with potential applicants about the range of existing specialist support services and free legal advice services (including those provided by Uniting Communities, Legal Services Commission, Women’s Legal Services and Women’s Safety Service and the Women’s Court Assistant Service).
3. Continue to fund and support a family and domestic violence duty solicitor to provide support for unrepresented Intervention Order applicants and defendants at Magistrate’s court hearings, particularly on the ‘special family and domestic violence’ listing days regularly scheduled in the Adelaide, Elizabeth and Christies Beach Magistrates Court.
4. Increase the number of family and domestic violence trained interpreters available to police, courts and lawyers particularly in suburban and regional areas.
 - a. Training should include a requirement to declare conflicts of interest if the interpreter is known to the client or the client’s immediate or extended family.
5. Remove the filing fee for all Intervention Order applications (this has already been progressed).
6. Require police officers to notify a victim survivor in advance of service of an Intervention Order on a defendant.
7. Permit online lodgement of Intervention Order applications.
8. Invest in trauma informed training for police and other service providers to enable victim survivor accounts to be safely documented and supported with medical and other evidence at the time of report or when applying for an Intervention Order.
9. Amend the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) make it clear that when determining Intervention Order applications:
 - a. the safety of affected person and any children is paramount (as per *Family Violence Act 2016* (ACT) s36);

- b. the Magistrates Court may inform itself in any way it considers appropriate (as per *Family Violence Act 2016* (ACT) s 65).
- 10. Amend the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to include a provision to ensure that victims accounts of violence and abuse, and the risks they face, are considered carefully and taken seriously by police and courts, having regard to the impact of trauma.
 - a. Such a provision could be based on s34(2) of the *Family Violence Act 2016* (ACT) which provides: “When making final order, if some or all of the respondent’s alleged behaviour in relation to which the application is made appears to be minor or trivial when viewed in isolation, or appears unlikely to recur, the court must still consider whether the behaviour forms part of a pattern of behaviour by the respondent from which the affected person needs protection.”
- 11. Amend the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to include a presumption in favour of ensuring that the protected person is able to remain in the family home. Such a provision could be based on *Domestic and Family Violence Act 2007* (NT) (s20).
- 12. Undertake training for Magistrates and prosecutors to:
 - a. encourage use of witness protection/victim protection provisions in Intervention Order hearings currently contained in sections 28A and 29 of the *Intervention Orders (Prevention of Abuse) Act 2009* (SA);
 - b. consider the use of expert psychological assessments of defendants, particularly in cases where non-physical violence or coercive control is alleged.
- 13. Consider amending the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to enable police to issue Family Safety Notices in response to family and domestic violence incidents to provide temporary protection for victims and those at risk of harm, but permit longer term conditions of orders to be negotiated at a later date.
 - a. Such a reform could be modelled on *Family Violence Protection Act 2008* (Vic) s24.
- 14. Consider amending the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to enable the court to indicate that a specific condition in a family violence order may have effect for a period shorter than the period of the rest of the order, based on *Family Violence Act 2016* (ACT) s42.
- 15. Undertake an audit of existing Intervention Orders to ensure that victim-survivors have been informed about any variations that might have been made without their knowledge and consent, and provide any relevant victim-survivors with the opportunity to contest the varied terms of the Order.
- 16. Allocate additional funding to existing specialist service providers, including Uniting Communities and the Women’s Legal Service, to establish and maintain support groups for individuals with lived experience of family and domestic violence that could also be used as a source of information for others about where to go to get help, about legal advice, where to go to get food.

17. Work with universities and other higher education providers to develop and implement scholarships and other training related opportunities for victim survivors, and integrate lived experience perspectives into current courses relating to legislative and non-legislative responses to family and domestic violence.

- a. This could include a program based on the recently released Monash University Graduate Certificate of Family Violence Prevention, which provides 24 scholarships for family violence victim-survivors. These scholarships have been supported in recognition of the need to increase opportunities for victim-survivors to pursue academic qualifications with the goal of entering family violence policy, practice or advocacy roles. These Graduate Certificate scholarships are funded as part of a Victorian Government program of research led by the Monash Gender and Family Violence Prevention Centre (MGFVPC).

D. Proactively promote compliance with Intervention Orders by: streamlining processes for varying the conditions of Intervention Orders; empowering protected persons to report breaches of Intervention Order; improving the quality and consistency of police responses to reports of breaches and tailoring penalties to address recidivism and promote behavioural change

1. Action the recommendations set out above to improve the quality and consistency of first responses to reports of breaches of Intervention Order and to support protected persons and victim survivors to recount, document and collect evidence of breaches, particularly breaches relating to non-physical family and domestic violence.
2. Recognise the complexities of needs presented by protected persons, applicants and defendants and increase funding to counselling and mediation services to support parties who wish to rebuild relationships to negotiate variations of Intervention Orders with appropriate safeguards.
3. Consider amending the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to put in place a system of mandatory preliminary conferences conducted by the Registrar prior to Intervention Order hearings by the Magistrate, (with discretion for the Registrar to terminate the conference if needed to promote safety of protected persons) having regard to the *Family Violence Act 2016* (ACT) Division 4.2.
4. Undertake training for Magistrates and prosecutors to raise awareness of the recently changed maximum penalties for breaches of Intervention Orders, share evidence about the court's general reluctance to impose custodial or other serious penalties for breaches of Intervention Order and the impact this has on victim survivors, and reflect on the nature and effectiveness of behavioural change programs and other perpetrator intervention programs.
5. Amend the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to require the Magistrate (or the victim if they elect) to read out the Victim Impact Statements in all proceedings relating to breaches of Intervention Orders, to hear the impact of the violence or the abuse on the victim and/or any other protected persons.

6. Amend the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to include a presumption in favour of referring perpetrators who breach Intervention Orders to participate in behavioural change programs and other perpetrator intervention programs.
7. Amend the *Intervention Orders (Prevention of Abuse) Act 2009* (SA) to clarify that when imposing a penalty for breach of an Intervention Order, the court has the discretion to:
 - a. design a rehabilitation package that would include qualitative reports from behaviour change program providers about the nature of the defendant's participation in those programs, as well as attendance.
 - b. make changes to a person's parole or home detention requirements following positive engagement with a behaviour change program.
8. Undertake an independent evaluation of the effectiveness of existing behavioural change programs and other perpetrator intervention programs and make this information available to prosecutors and Magistrates.
9. Make more de-identified information about the Intervention Orders system publicly available in order to be able to monitor the success and effectiveness of different components of the system. This includes information about:
 - a. How many people sought information about Intervention Orders from police and specialist legal services?
 - b. Of the applications for Intervention Orders made, how many related to intimate partner family and domestic violence compared to other forms of family and domestic violence?
 - c. Of the applications for Intervention Orders made, how many related to non-physical forms of family and domestic violence compared to other forms of family and domestic violence?
 - d. How many applications for Intervention Orders were withdrawn and at what point in the process this occurred?
 - e. How many reports of breaches of Intervention Orders were made and, of these, how many breaches were considered by the courts?
 - f. What types of breaches were reported and what consequences or penalties were imposed for those breaches (as distinct from penalties that might have been imposed for other offending)?
 - g. How many defendants who were referred to behaviour change programs reoffended following completion of the program?

Appendices

Appendix A: Comparative Table of Australian laws

LEGAL FRAMEWORKS FOR INTERVENTION ORDERS (APPREHENDED VIOLENCE ORDERS) IN AUSTRALIAN JURISDICTIONS

The following table attempts to summarise some of the key features of the legal frameworks across Australian jurisdictions governing civil orders designed to address family and domestic violence (described variably as Intervention Orders, Domestic Violence Orders, Personal Safety Orders etc).

While care must be taken before extrapolating specific provisions from their broader legislative context, the below table provides some useful indicators as to the legislative options available when contemplating reform in South Australia, a number of which align with the qualitative data analysed in this Report.

Legislation	Type of Order	Police Issued	Court Issued	Evidential Issues	Duration	Penalties / Consequences	Implications for the South Australia
Victoria							
Family Violence Protection Act 2008	Family Violence Orders Personal Safety Intervention Orders Family Violence Safety Notices	Police Officers (who respond in person to an incident involving family violence) can issue Family Violence Safety Notices under s24 (this will then be taken to be application for family violence intervention order s31) Police officers can also apply for Personal Safety Intervention Orders (s44) Police officers can also apply for Interim Family Violence Orders including via electronic application (s60B)	Interim Family Violence Orders and Personal Safety Intervention Orders can be made by the Magistrates Court and the Children's Court (s43) including via electronic application (s58) Safety of affected person and children paramount in deciding conditions s80 Court can issue Family Violence Order on own motion in certain circumstances (s60C) The Court can also issue counselling orders (Part 5)	Meaning of family violence s5 broadly defined to include range of non-physical abuse Adversarial hearing but alternative arrangements for proceeding can be made s69 Court may inform itself in any way it thinks fit, despite any rules of evidence to the contrary. S65 Special rules for cross-examination of protected witnesses s70 Safety of affected person and children paramount in deciding conditions s80	Duration of order can be set by court s99	Contravention of family violence intervention order s123 : Level 7 imprisonment (2 years maximum) or a level 7 fine (240 penalty units maximum) or both. Same penalty applies for contravention of Family Violence Safety Notice (s37) Contravention of order intending to cause harm or fear for safety s123A Level 6 imprisonment (5 years maximum) or a level 6 fine (600 penalty units maximum) or both. Protected person not guilty as abettor s125 Persistent contravention of notices and orders (s125A) attracts penalty of Level 6 imprisonment (5 years maximum) or a level 6 fine (600 penalty units maximum) or both.	A number of respondents to the qualitative interviews suggested that the Victorian model could provide a model for South Australia, particularly if supported by the additional resources identified above as essential to improving the implementation of legal frameworks in this area. Key areas for consideration include issue of Family Safety Notices by police

Legislation	Type of Order	Police Issued	Court Issued	Evidential Issues	Duration	Penalties / Consequences	Implications for the South Australia
New South Wales							
Crimes (Domestic and Personal Violence) Act 2007	Apprehended Personal Violence Order (Part 5) Apprehended Domestic Violence Order (Part 4) Apprehended Violence Order	Interim orders can be made by Senior Police Officer or Court or Registrar with consent (Parts 6 and 7) The Act also sets out circumstances in which police must make application for order, for example if a police officer investigating the matter concerned suspects or believes that domestic violence offence (s 13) has recently been or is being committed Interim apprehended violence orders must be made on charge for certain offences (s40)	The Court may make apprehended domestic violence orders or apprehended personal violence orders. If an application for an apprehended personal violence order is made to a court, the court when considering whether to make the order—is to refer the protected person and the defendant for mediation under the <i>Community Justice Centres Act 1983</i> unless it is satisfied that there is good reason not to do so, and at any other time—may refer the protected person and the defendant for mediation under that Act. Apprehended violence order may be made in care proceedings <i>Children and Young Persons (Care and Protection) Act 1998</i> (s40A)	Matters to be considered by court (Focus on safety of protected persons) (s17) Protected persons have right to presence of supportive person when giving evidence (s46)	An apprehended personal violence order remains in force for such period as is specified in the order by the court. If the court fails to specify a period in the order, the order remains in force for a period of 12 months after the date that the order is made. Apprehended domestic violence orders may be of indefinite duration (s79B)	A person who knowingly contravenes a prohibition or restriction specified in an apprehended violence order is subject to a penalty of imprisonment for 2 years or 50 penalty units, or both. (s14)	In response to concerns raised in qualitative interviews relating to police inaction with respect to the issue of intervention orders, a provision similar to s13 could be considered that requires an application for an Intervention Order to be made in certain circumstances. The provisions relating to mediation may also be useful.

Legislation	Type of Order	Police Issued	Court Issued	Evidential Issues	Duration	Penalties / Consequences	Implications for the South Australia
Queensland							
Domestic and Family Violence Protection Act 2012	Police Protection Orders Domestic Violence Orders (include protection orders, temporary protection orders)	<p>An application for a protection order can be made by a police officer (s100)</p> <p>Police officers may issue police protection notice (s101) and must issue police protection notice in certain circumstances (s101A). Provisions also prevent 'cross notices' being issued (103). 'Cool down' conditions also apply (107)</p> <p>A police protection notice is also taken to be application for a court-issued protection order (112)</p>	<p>A court can make a domestic violence order (s23) - this includes a protection order (s37); or a temporary protection order (44). Criteria for issuing protection order set out in s37. If court convicts a person (the offender) of a domestic violence offence, the court may, on its own initiative, make a protection order (s42)</p> <p>The Children's Court can also make or vary order against parent of a child (s43).</p> <p>Special considerations also apply to conditions limiting contact between parent and child (s69)</p> <p>The Court can also make a 'voluntary intervention order' requiring the respondent to attend an approved behavioural intervention program.(s69). The Court can also impose 'ouster conditions' relating to protected person's usual place of residence (s64)</p>	<p>Hearings of applications can occur without appearance of respondent (s39)</p> <p>DVOs require written explanation by police and court (s84, 85)</p>	<p>Duration of domestic violence orders -5 years maximum s97 (Division 11, s97)</p>	<p>Under section 100, police officers <i>must</i> investigate domestic violence offences in certain circumstances</p> <p>Contravention of domestic violence order 5 years or 3 years (s117)</p> <p>Contravention of police protection notice – 3 years (s178)</p>	<p>A number of respondents to the qualitative interviews suggested that the Queensland model could provide a model for South Australia</p> <p>The Preamble and section 4 Principles align well with the key principles outlined as important by respondents.</p> <p>Other features of the Queensland legislation that align with qualitative material include: ouster provisions; requirement that police issue protection notices in certain circumstances, requirement that police investigate domestic violence, and court-initiated orders.</p>

Legislation	Type of Order	Police Issued	Court Issued	Evidential Issues	Duration	Penalties / Consequences	Implications for the South Australia
Tasmania							
Family Violence Act 2004	Police Family Violence Orders (Part 3) Family Violence Orders (Part 4) Restraint order, interim restraint order or telephone interim restraint order	A police officer of the rank of sergeant or above, or authorised by the Commissioner of Police, may make a PFVO and issue it to a person if the officer is satisfied that the person has committed, or is likely to commit, a family violence offence. (s14) Police officers can also apply for a FVO (s15).	A court may make an FVO if satisfied, on the balance of probabilities, that –(a) a person has committed family violence; and (b) that person may again commit family violence. (s16) At any stage during proceedings under this Part, a court may make an interim FVO, whether or not it is satisfied of the matters set out in section 16(1) . (s23) Can make tenancy agreement orders (s17)	Procedure in relation to hearing and determining applications (s31) Specific provisions about ‘Emotional abuse or intimidation – course of conduct’ (s9)	PFVO operates for maximum of 12 months, as may be specified in the PFVO (s14) An FVO remains in force for as long as court considers necessary to ensure the safety and interests of the person for whose benefit the order is made.(s35)	Contravention of FVO or PFVO (first offence) 20 penalty units or to imprisonment for a term not exceeding 12 months. In the case of a second offence, a fine not exceeding 30 penalty units or to imprisonment for a term not exceeding 18 months. In the case of a third offence, a fine not exceeding 40 penalty units or to imprisonment for a term not exceeding 2 years. In the case of a fourth or subsequent offence, to imprisonment for a term not exceeding 5 years. (s35)	Consideration could be given to including specific provisions about ‘Emotional abuse or intimidation as a ‘course of conduct’ (s9)

Legislation	Type of Order	Police Issued	Court Issued	Evidential Issues	Duration	Penalties / Consequences	Implications for the South Australia
Western Australia							
Restraining Orders Act 1997	Restraining orders (Part 1A) Family Violence Restraining Orders (Part 1B) Behaviour management order (1C) Violence restraining order (Part 2)	Police officers may make police orders in response to family violence (s30A) – criteria for issue set out in s20. Matters to be considered by police officers set out in s30B.	Court can issue Family Violence Restraining Orders (FVROs) (s10D) Applications for FVROs can be made by persons over 16 and by police officers (s24A) Matters to be considered by the court generally set out in s10F Courts can also make Violence Restraining Orders (s11A) – NB VROs not for persons in family relationship (12A) Court can also issue behavioural change order (s10J) The Court can also make restraining orders during other proceedings (s63) and FVRO and VRO can be made if certain violent personal offences committed (s63A)	Applicant can choose whether to have hearing in absence of respondent (26) Applications can be made via telephone result in 72 hour maximum order (s17) Rules of evidence not to apply in certain circumstances (s44A) Special conference procedures can apply at the request of the court or on the registrar's initiative (s49D)	FVRO or VRO generally lapse after 2 years or any shorter period specified in the order (s16)	Breach of FVRO or VRO or a police order attracts a fine of \$10 000 or imprisonment for 2 years, or both (s61)	Consideration could be given to the use of telephone orders for 72 hours to deal with 'after hours' situations.

Legislation	Type of Order	Police Issued	Court Issued	Evidential Issues	Duration	Penalties / Consequences	Implications for the South Australia
Australian Capital Territory							
Family Violence Act 2016	Family Violence Orders (Part 3) Special Interim Family Violence Orders	A police officer may apply for an after-hours order (s99)	Magistrates court can issue interim and final orders (Part 3) Court can also make a special interim order if there is a related charge outstanding in relation to the respondent (s22)	A system of preliminary conferences applies (s49) The Magistrates Court may inform itself in any way it considers appropriate in a proceeding for a family violence order (s 65). Safety of affected person and children paramount (s36) Matters to be considered—family violence orders (s14) When making final order, if some or all of the respondent's alleged behaviour in relation to which the application is made appears to be minor or trivial when viewed in isolation, or appears unlikely to recur, the court must still consider whether the behaviour forms part of a pattern of behaviour by the respondent from which the affected person needs protection; (s34(2))	After hours orders apply for 48 hours (s106). Interim orders have a maximum duration of 12 months (s24) Final orders have a duration of 2 years, regardless of whether it is stated in the order (s35) A condition in a family violence order may have effect for a period shorter than the period of the order. (s42). If general interim order ends, will end or it can be extended for a period of 6 months (s206)	Contravention of a Family Violence Order attracts 500 penalty units, imprisonment for 5 years or both.	Preamble offers useful model for SA. Many other features of the ACT legislation also align with suggestions made during qualitative interviews including: definition of family violence s8; broad discretionary approach to evidence; guidance provided in section 34(2) about apparently minor behaviour, section 42 approach to duration could be useful to counter any concerns about indefinite orders in SA. It is also noted that the ACT legislation was reviewed in 2021..

Legislation	Type of Order	Police Issued	Court Issued	Evidential Issues	Duration	Penalties / Consequences	Implications for the South Australia
Northern Territory							
Domestic and Family Violence Act 2007	Personal violence restraining order Domestic Violence order	Police officers can make an order if necessary to ensure safety or in urgent circumstances (s41) Registrar can issue order on behalf of the court in some circumstances (33) eg with consent of the parties (s38)	Young persons (15-18 years) can apply for an order (with leave of the court) (s28) Court can make order in absence of defendant. Court can order defendant to undertake rehabilitation program (s24)	Grounds for making an order set out in s18 with legislative note about circumstances in which protected person gives no evidence. Presumption in favour of protected person with child remaining at home (s20) Protected person's residential address not to be included in Order (s25)	Duration of DVO (s27) Can be set by the court.	Penalties (s21) If an adult is found guilty of an offence against section 120(1), the person is liable to a penalty of 400 penalty units or imprisonment for 2 years. The court must record a conviction and sentence the person to imprisonment for at least 7 days if the person has previously been found guilty of a DVO contravention offence. Penalties for failure to report domestic violence to police in certain circumstances, 200 penalty units (s124A)	Many features of the NT legislation align with suggestions made during qualitative interviews including presumption in favour of protected person with child remaining at home (s20); protected person's residential address not to be included in order; requirement to record conviction and impose imprisonment for certain repeat offences; penalty provisions for failing to report domestic violence (124A).

Appendix B: Comparative Table of Overseas laws

LEGAL FRAMEWORKS FOR INTERVENTION ORDERS (PROTECTION ORDERS / NOTICES) IN INTERNATIONAL JURISDICTIONS

The table below provides the summary of several primary aspects of the legal frameworks across international jurisdictions regulating civil orders designed to address family and domestic violence (named differently as Domestic Violence Protection Notices / Orders, Domestic Abuse Protection Notices / Orders etc).

Attention is required prior to the extrapolation of particular provisions from their wider legislative context and the following table can indicate available legislative options in regard to the reform in South Australia, some of which relate to the qualitative data studied in this Report.

Legislation	Type of Order	Police Issued	Court Issued	Evidential Issues	Duration	Penalties / Consequences	Implications for the South Australian legislation
United Kingdom (England and Wales)							
Crime and Security Act 2010	Domestic Violence Protection Notices (DVPN) Domestic Violence Protection Orders (DVPO)	A member of a police force not below the rank of superintendent ("the authorising officer") may issue a DVPN under s24. If a DVPN has been issued, a constable must apply for a DVPO by complaint to a magistrates' court (s27).	The court may make a DVPO if conditions are met regarding the balance of probabilities of violence and if it is necessary to protect a person from violence (s28). The court must consider the welfare of any person under the age of 18 and for whose protection the DVPO would be made (s28).	A DVPN may be issued if the authorising officer has reasonable grounds for believing that there has been a violence and must take reasonable steps. Before making a DVPO, the court must consider the welfare of any person whose interests the court considers relevant and any opinion of which the court is made aware.	A DVPO must state the period for which it is to be in force (s28).	A DVPO must state that a constable may arrest a person without warrant if the constable has reasonable grounds for believing that the person is in breach of the DVPO (s28) A person arrested for a breach must be held in custody and brought before a magistrates' court. If the matter is not disposed of when the person is brought before the court, the court may remand the person (s29).	In order to improve the response to family and domestic violence, police forces may consider producing and publishing an action plan that stipulates their approach and steps in detail to protect survivors and witnesses.

Legislation	Type of Order	Police Issued	Court Issued	Evidential Issues	Duration	Penalties / Consequences	Implications for the South Australian legislation
United Kingdom (Scotland)							
Domestic Abuse (Protection) (Scotland) Act 2021	Domestic Abuse Protection Notices (DAPN) Domestic Abuse Protection Orders (DAPO)	A senior constable may make a DAPN if the constable has reasonable grounds for believing that there has been an abuse and it requires immediate action before the sheriff can make an interim DAPO or a DAPO (s4). A DAPN may be made without the consent of the victim.	The chief constable must apply to the sheriff for a DAPO in relation to a person to whom a DAPN is given (s8). It does not matter whether the abusive behaviour took place in Scotland or elsewhere. When determining the application, the sheriff must consider any views of the victim, any representations made to the sheriff by the chief constable or perpetrator, and the welfare of any child with relevant interests.	A DAPO requires a perpetrator to do, or prohibits the person from doing, a thing or things described in the order (s9). The sheriff has competence to make provision in a DAPO having effect in relation to conduct at places outside the sheriff's sheriffdom as well as at places within the sheriff's sheriffdom. The sheriff may make an interim DAPO (an "interim order") pending determination of an application by the chief constable only if the sheriff considers, on the balance of convenience, that it is just to do so (s10).	A DAPO has effect not exceeding two months (s9). The sheriff must hold a hearing in relation to a DAPO application not later than the first court day after the day on which the application is made and must be concluded on the day on which it begins (s11).	A person who commits an offence of breaching a DAPO is liable (s17) : (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).	Police and courts are to be granted with authorities to remove suspected perpetrators from victims' homes and prohibit them from re-entering, give victims of family and domestic violence space and time to seek support for longer-term safety and housing arrangement.

Appendix C: Lived Experience Online Questionnaire

Powerful Interventions Lived Experience Questionnaire

You are invited to take part in this research project, which is called Powerful Interventions: Improving the use and enforcement of Intervention Orders as a tool to address family and domestic violence in South Australia.

This research is looking at legal orders made under the Intervention Orders (Prevention of Abuse) Act 2009 (SA) that are issued by police against a person to protect adults and kids from violence or abuse (called Intervention Orders).

This survey includes questions about what it is like to ask the police to help you get an Intervention Order, and questions about going to court about an Intervention Order. We are not asking you to tell us about any violence, harm or abuse you or your family might have experienced. But we know that talking about these laws could mean thinking about really hard times and could bring back memories of abuse or violence. Answering our questions could cause you discomfort or distress. If you feel concerned about these risks, please do not participate in our research.

Remember, this survey is voluntary. You don't have to answer our questions and you can stop at any time.

If you decide you want to take part in the research project, we will do our best to keep you safe and minimise any discomfort or distress.

Should you feel distressed at any time please advise Dr Sarah Moulds (lead researcher) on sarah.moulds@unisa.edu.au or 0401132544. Sarah can assist you in accessing support services as required.

You can also call 1800 RESPECT [1800 737 732] a free confidential hotline that is available 24 hours 7 days a week.

The Domestic Violence Crisis Line - Women's Safety Services (p) 1800 800 098 (24 hours) and Lifeline Counselling Services (Ph: 13 11 14) can provide more help.

-
- 1) **Please use your finger or mouse to sign your name and indicate that you have read and understood the Participant Information Sheet.**
-

It is your choice to answer our questions. You can say no. If you decide to start answering questions, you can change your mind at any time and let us know that you don't want to take part.

If you decide to not take part or if you decide to stop at any stage it will not change the support you receive, and it will not affect your relationship with Uniting Communities, the University of South Australia or any other group or person involved in this research. No one else will find out that you decided not to be part of the research.

We know that talking about family and domestic violence could mean thinking about really hard times and could bring back bad memories. It might make you worried, or upset or uncomfortable. If you have felt upset, sad or unsafe when answering questions about domestic or family violence in the past we suggest that you don't participate in this research.

-
- 2) Please use your finger or mouse to sign your name and indicate that you have read the Consent form and that you consent to participating in this research.

Remember that you can withdraw your consent any time by contacting Sarah on sarah.moulds@unisa.edu.au or 0401132544.

I am consenting to this survey because I want to answer questions about Intervention Orders and how they work in South Australia.

I am happy to have my responses recorded and understand that I will have the chance to look at my answers before they are used.

I understand that the researchers will try their best to keep my information private, and separate my answers from any identifying information using a secure coding system.

I understand that answering questions will not change the support I get from anyone involved in this research. No one else will be told if I change my mind and decide not to take part.

I understand that answering questions could mean thinking about bad times and involve remembering times of abuse or violence in my life.

I understand that I can stop answering questions at any time and ask the researchers to delete the responses I gave.

We care about your well-being and want to make sure it is safe for you to complete this survey. Please answer the following screening questions before moving on.

- 3) This survey is only available to adult participants.
Are you over the age of 18?

☐ Yes
☐ No

- 4) Do you have a history of mental health issues that
could be made worse by thinking about past family or
domestic violence?

☐
☐ Yes
No

- 5) Have you felt really worried, sad or unsafe when
answering questions about past experiences of domestic
or family violence?

☐
☐
☐ Yes
No
☐

- 6) Are you involved in any legal disputes or matters
involving the police?

☐ Yes
☐ No

Part A: About You

- 7) Would you like to tell us your age?
- ☐ 18-25
☐ 26-35
☐ 36-45
☐ 46-55
☐ 56-65
☐ Over 65
-
- 8) What best describes your geographical location?
- ☐ Adelaide CBD
☐ Adelaide Suburbs (eg Hindmarsh, Magill, Marion)Outer Suburbs
☐ (eg Adelaide Hills, Southern Suburbs, Northern Suburbs)
☐ Regional Centre (eg Murray Bridge, Port Pirie)Regional
☐ Town (eg Clare, Loxton)
☐ Remote
-
- 9) If you would like to, please tell us a bit more about yourself. Do you identify with any of the following:
- ☐ Aboriginal or Torres Strait Islander
☐ Culturally or Linguistically Diverse BackgroundPerson with
☐ disability or disabilities
☐ LGBTIQ+
☐ Other
-
- 10) If you indicated 'other' above, or have some more information to share with us about your previous answer, please tell us here
-

Part B: Your interaction with the Intervention Orders System

Intervention Orders are legal tools designed to stop one person from abusing or harming another person, or from threatening to abuse or harm another person. Intervention Orders can stop a person from seeing, speaking to or contacting another person and can lead to a criminal penalty if they are not followed. You can get an Intervention Order by going to the police for help, or by asking for the court to make an order.

We want to know about your involvement or experience with this system.

- 11) What parts of the Intervention Orders system you been involved with? Have you:
- ☐ tried to find out information about how Intervention Orders work
 - ☐ helped someone else find out about or get an Intervention Order
 - ☐ gone to the police to get an Intervention Order
 - ☐ gone to the police because someone has breached (not followed) an Intervention Order
 - ☐ gone to a lawyer to get an Intervention Order
 - ☐ gone to court to get an Intervention Order
 - ☐ been involved in court processes about Intervention Orders (for example as a witness) been subject to an Intervention Order
 - ☐ been involved in some other way
 - ☐
- 12) If you indicated 'other' above, or have some more information to share with us about your previous answer, please tell us here
- 13) Is there something else you want to tell us about your experience with the Intervention Orders system?

Part C: Accessing or Providing Information and Support

The next few questions are about how a person might find out about how to get an Intervention Order from the police or the courts and how that person should be supported.

- 14) What do think is the most important thing to do to help someone find out about Intervention Orders?

- 15) How did you find out about the Intervention Orders system?
☐ Searched online
☐ Asked the police
☐ Asked a service provider eg counsellor at Women'sSafety Service or Uniting Communities
☐ Asked a lawyer
☐ Asked a friend
☐ Asked a family member
☐ Other

- 16) If you indicated 'other' above, or have some more information to share with us about your previous answer, please tell us here

- 17) Was it hard to find information? If so, please tell us what made it hard.

- 18) Did someone help you find information about Intervention Orders? If so, please tell us a bit about what type of help you got.

- 19) Have you ever helped someone else find out about Intervention Orders? If so, what kind of help did you provide?

- 20) When you got information about Intervention Orders did it help you to understand the system and make decisions? Can you tell us why or why not?

- 21) Do you have any ideas about what might help others find and understand information about Intervention Orders?

Part D: Interacting with Police and Courts and other Officials

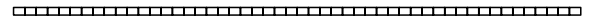
These next questions are about what its like to go to the police or the court to try and get an Intervention Order.

- 22) What are the most important things to keep in mind when someone goes to the police or to the court to askfor an Intervention Order? _____
-
- 23) Have you ever talked to the police, Magistrates, court officers, corrections officers or other people in the Intervention Order system? ☐ Yes ☐ No
-
- 24) If yes, please tell us who you talked to (tick allthat apply).
- ☐ Police
 - ☐ Court officials (eg people behind the counter atthe court registry office)
 - ☐ Magistrates or Judges
 - ☐ Prosecutors Corrections officers Other public officials
 - ☐ Prefer to not say
 - ☐ Not Applicable
 - ☐
-
- 25) If you indicated 'other' above, or have some more information to share with us about your previous answer, please tell us here _____
-
- 26) Please tell us what it was like talking to these people. For example, did they help you ? Did theyunderstand your situation? _____
-
- 27) If you had a positive experience, please tell us what made it positive. _____
-
- 28) If you had a negative experience, please tell us what made it negative. _____
-
- 29) When you were talking to people about Intervention Orders, was it difficult because of:
- ☐ Your ethnicity or cultural backgroundThe
 - ☐ language that was used
 - ☐ Your gender
 - ☐ Your age
 - ☐ A disability Where
 - ☐ you live
 - ☐ Your past involvement with law enforcement orpolice
 - ☐ Other
 - ☐ Not applicable
-
- 30) If you indicated 'other' above, or have some more information to share with us about your previous answer, please tell us here _____
-
- 31) What do you think could be changed to help make it easier to talk to police, Magistrates, court officials, corrections officers or others about theIntervention Orders system? _____
-

32) How willing would you be to attend a police station about an Intervention Order ?

Very willing

Not willing at
all



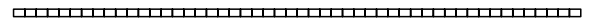
(Place a mark on the scale above)

33) Please tell us about your answer above. For example, would it make a difference if you could talk to the police in a different way like on the phone or online.

34) How willing would you be to go to court to give evidence about an Intervention Order?

Very willing

Not willing at
all



(Place a mark on the scale above)

35) Please tell us about your answer above. For example, would it make a difference if you could provide the evidence in writing or by video link from somewhere else.

36) Have any of your interactions with the Intervention Orders system involved children, for example, have you ever been involved in an application for an Intervention Order where a child was listed as a 'protected person'? If you feel comfortable, please tell us about the impact of the Intervention Orders system on children from your perspective.

Part E: Process and Criteria Applied when Granting and Approving Intervention Orders These questions are about how a police officer or a court decides whether to make an Intervention Order to limit a person's movements or conduct, or to stop them from contacting somebody else.

- 37) What are the most important things the police or a court should have in mind when deciding whether to grant an Intervention Order? _____
- 38) In your experience, do the police and the courts look at the right types of evidence when deciding whether to grant an Intervention Order? ☐ Yes ☐ No ☐ Not sure
- 39) Please tell us about your answer above. For example, what types of evidence do you think the police or court should consider? _____
- 40) If you have experience trying to get an Intervention Order from the police or the courts, did you ever consider withdrawing your application (stopping the process)? ☐ No ☐ Yes - I did withdraw my application for an Intervention Order ☐ Yes - I did consider withdrawing but I kept going with the process ☐ Prefer not to say
- 41) Please tell us about your answer above. For example, if you thought about withdrawing your application for an Intervention Order, what were the main reasons? _____
- 42) When a court or a police officer decides to grant an Intervention Order it has to be served (shown to) the person who will be subject to the order (the defendant). Have you ever had any worries or problems with the way an Intervention Order is served on the defendant (for example by the police or by corrections staff)? If so, please tell us what they were. _____
- 43) Do you think the person who wants the order (the applicant) should be told when the Intervention Order is being served on the defendant? ☐ Yes ☐ No
- 44) At the moment, once an Intervention Order has been granted by the courts in South Australia it continues without an end date (it keeps going forever) until the court makes an order that it be stopped. In other places, Intervention Orders have a set end date (like two years). Which approach do you think it better? Can you tell us why? _____

Part F: Breaches of Orders and Penalties

These questions are about what happens if a person who has been subject to an Intervention Order breaches the order, for example by contacting a protected person on the phone or going to their house or workplace.

- 45) What are the most important things the police or a court should have in mind when deciding whether to enforce an Intervention Order or punish a person for breaching an order? _____
- 46) Have you ever had to report a breach of an Intervention Order to the police? ☐ Yes ☐ No ☐ Prefer not to say
- 47) How did the police respond? _____
- 48) If a breach occurred, was the breach of the Intervention Order referred to the court? ☐ Yes ☐ No
- 49) If the breach was referred to the court, did you feel satisfied with the outcome? _____
- 50) What changes (if any) would you like to see made to the processes and practices associated with supporting people to report breaches of Intervention Orders? _____
- 51) In your view, what makes a breach of an Intervention Order serious? ☐ verbal contact with a protected person ☐ Physical contact with a protected person ☐ Electronic surveillance of the protected person ☐ Contact with the protected person's family ☐ Contact with the protected person's friends ☐ Contact with the protected person's workplace or school ☐ Other
- 52) If you indicated 'other' above, or have some more information to share with us about your previous answer, please tell us here _____
- 53) Can you please tell why this is a serious breach? _____
- 54) Do you think it is ever appropriate to put someone in prison for breaching an Intervention Order? ☐ Yes - it is always appropriate ☐ Yes - but only sometimes ☐ No - it is never appropriate ☐ Prefer not to say
- 55) If yes, how should the court work out the length of time someone should be in prison? _____

- 56) Please tell us a bit more about why you feel that way about putting people into prison for breaching an Intervention Order.
-

- 57) Do you think any of these other things should happen if someone breaches of an Intervention Order?
- ☐ Suspended sentence to be served in the community with conditions
- ☐ A fine
- ☐ Ongoing restrictions on certain activities or contact with certain people
- ☐ Compulsory rehabilitation/behaviour change and diversion programs
- ☐ Other
- ☐ None of the above
- ☐ Prefer not to say
-
- 58) Do you want to tell us a bit more about your answer above? For example, are there any specific behavioural programs you think would be good?
- _____
-
- 59) Do you have anything else to tell us about how breaches of Intervention Orders should be dealt with by the police or the courts?
- _____

Part G: Options for Improvement and Reform

This is the last set of questions. They are about how to make the current Intervention Orders system better.

- 60) Do you think it is a good idea to collect information about Intervention Orders and make this available to the public?
- ☐ Yes - lots of information should be collected and made publicly available
- ☐ Yes - but only certain information should be collected and made publicly available
- ☐ No - information about Intervention Orders should not be made publicly available.
- ☐ Prefer not to say.
-
- 61) If you answered yes to the above, what type of information should be collected and made publicly available?
- ☐ Information about applicant/s
- ☐ Information about the person who is the subject of the order
- ☐ Information about the circumstances that led to the order being applied for
- ☐ Whether an order was granted
- ☐ What criteria were considered when granting an order
- ☐ Whether an order was breached
- ☐ What the punishment or consequences were for the breach
- ☐ Other
- ☐ Prefer not to say
-
- 62) If you indicated 'other' above, or have some more information to share with us about your previous answer, please tell us here
- _____
-
- 63) Can you tell us what you would like to see improved about the existing Intervention Orders system? Please tell us your top priority and any other ideas that you think would help.
- _____
-
- 64) Did we forget to ask about something important in this survey? If so please let us know here.
- _____
-
- 65) So that we can tell you about how we intend to use your information in our research and to give you the chance to change your mind about your involvement please provide your email or other contact details here. We will not share this information with anyone else. You do not have to answer this question if you do not want to.
- _____
-
- 66) Are you happy for your answers to these questions to be used in our research? If so please sign your name here using your finger or your mouse. Remember you can change your mind at any time.
- _____
-
- 67) What other information would you like us to share with you about the Powerful Interventions research project?
- ☐ Full report
- ☐ Summary of key findings
- ☐ Short video explaining key findings

- 68) Are you feeling ok after answering these questions? If you are feeling worried or upset or stressed, please contact Dr Sarah Moulds on 0401132544. You can also call 1800 RESPECT [1800 737 732] (a free confidential hotline that is available 24 hours 7 days a week) or the Domestic Violence Crisis Line Phone 1800 800 098 (24 hours)
- ☐ Feeling ok ☐ Need some help or support

Appendix D: Service Provider Online Questionnaire

Powerful Interventions Service Provider Questionnaire

You are invited to take part in this research project, which is called Powerful Interventions: Improving the use and enforcement of Intervention Orders as a tool to address family and domestic violence (FDV) in South Australia.

This research is looking at legal orders made under the Intervention Orders (Prevention of Abuse) Act 2009 (SA) that are issued by police against a person to protect adults and kids from violence or abuse (called Intervention Orders).

The focus of this research is the law and on the process of effectively accessing and enforcing Intervention Orders. We are not asking you to disclose the details of any past experiences of violence or trauma. However, talking about processes or laws associated with domestic and family violence could mean thinking about really hard times and could bring back memories of abuse or violence. Answering our questions could cause you discomfort or distress. If you feel concerned about these risks, please do not participate in our research.

As you answer our questions, please do not identify any clients. If any client information is disclosed we will remove it from our research.

Participation in this research is voluntary. If you don't wish to take part, you don't have to. If you decide you want to take part in the research project, we will do our best to keep you safe and minimise any discomfort or distress. Should you feel distressed at any time please advise Dr Sarah Moulds on sarah.moulds@unisa.edu.au or 0401132544.

The questionnaire can be cancelled at any point and the researcher can assist you in accessing support services as required.

You can also call 1800 RESPECT [1800 737 732] (a free confidential hotline that is available 24 hours 7 days a week). The Domestic Violence Crisis Line - Women's Safety Services (p) 1800 800 098 (24 hours) and Lifeline Counselling Services (Ph: 13 11 14) can provide more help.

-
- 1) Before you start answering any questions, please use your finger or your mouse to sign your name and confirm that you have read and understood the Participant Information Sheet.
-

2) It is your choice to complete this survey. You can stop answering questions at any time. Please confirm

that you have read and understood the Consent Form and consent to participate in this survey.

By signing my name below, I confirm that:

I have read the Participant Information Sheet, and the nature and the purpose of the research project has been explained to me. I understand and agree to take part.

I understand the nature of my involvement in the project.

I understand that I may not directly benefit from taking part in the project.

I understand that my involvement in this project could include talking family and domestic violence or current or past legal proceedings that could cause discomfort or distress.

I understand that I can withdraw from the project at any stage and that this will not affect my status now or in the future.

I understand that my involvement (or non-involvement) in this research will not affect my relationship with or services provided by any organisation associated with the project and that no other party will be advised of who has (or has not) decided to take part.

I confirm that I am over 18 years of age.

I understand that while information gained during the project may be published, I will not be identified and my personal results will remain confidential, unless I consent to having specific comments attributed to me by name, or unless required by law.

I understand that if I participate in an individual interview the discussion may be audio recorded for transcription (note-taking) purposes only.

I understand that other data relating to this research (including answers to online surveys and interview transcripts/notes) will be re-differentiable (coded) and securely stored on the UniSA Research Data Storage before being destroyed after 7 years

I understand that non-identifiable/de-identified data will be made available through Open Access on the UniSA Research Data Access Portal under CC-BY licence.

I understand that I will be provided with summaries of the key findings of this research by Sarah Moulds by 30 June 2022 and that I can contact Sarah on sarah.moulds@unisa.edu.au.

We care about your well-being and want to make sure it is safe for you to complete this survey. Please answer the following screening questions before you move on.

- 3) Are you over the age of 18? ☐ Yes
☐ No
-

- 4) Do you have a history of mental health issues that could be relevant to recalling experiences of past family or domestic violence? ☐ Yes
☐ No
-

- 5) Have you previously experienced trauma, distress or discomfort when answering questions about past experiences of domestic or family violence? ☐
☐ Yes
No
☐
☐
-

- 6) Are you currently a party to any legal proceedings or legal disputes or matters involving the police? Yes
No

Part A: About You

- 7) If you would like to, please tell us a bit about yourself.
Do you identify with any of the following:
- ☐ Aboriginal or Torres Strait Islander
☐ Cultural and Linguistically Diverse background
☐ Person with a disability or disabilities
☐ LGBTIQ+
☐ Other
-
- 8) If you indicated 'other' above, would you like to describe?
-
-
- 9) What best describes your geographical location?
- ☐ Adelaide CDB
☐ Adelaide Suburbs (eg Hindmarsh, Magill, Marion)
☐ Outer Suburbs (eg Adelaide Hills, McLaren Vale)
☐ Regional Centre (eg Murray Bridge, Port Pirie)
☐ Regional Town
☐ Remote
☐

Part B: Your interaction with the Intervention Orders System

Intervention Orders are legal tools designed to stop one person from abusing or harming another person or from threatening to abuse or harm another person. Intervention Orders can stop a person from seeing, speaking to or contacting another person and can lead to a criminal penalty if they are not followed. You can get an Intervention Order by going to the police for help or by asking for the court to make an order. We want to know about your involvement or experience with this system

☐

- 10) If you would like to, please tell us a bit about your role in the Intervention Orders system in South Australia. For example, does your work involve any of the following:

- ☐ Providing legal advice or legal information to persons experiencing domestic or family violence
- ☐ Providing social-work services to persons experiencing domestic or family violence
- ☐ Providing cultural or linguistic support or services to persons experiencing domestic or family violence
- ☐ Court related services
- ☐ Other

- 11) If you indicated 'other' above, would you like to describe?

- 12) Have you ever tried to access an Intervention Order yourself as part of your role in supporting a service user, client or consumer? If so please tell us about that experience.

- 13) Would you like to tell us anything else about your role?

Part C: Accessing or Providing Information and Support

The next few questions are about how a person might find out about how to get an Intervention Order from the police or the courts and how that person should be supported.

- 14) What do you think are the most important things to keep in mind when providing people with information about Intervention Orders?
- _____
-
- 15) How easy is it for you to access information about how the Intervention Orders system works?
- Easy Hard
- _____
- (Place a mark on the scale above)
-
- 16) How easy is it for you provide other people with information about how the Intervention Orders system works?
- Easy Hard
- _____
- (Place a mark on the scale above)
-
- 17) Have you faced any particular difficulties or challenges when seeking to access information about Intervention Order system?
- _____
-
- 18) Have you provided any support or advice to someone engaging with the Intervention Orders system?
- ☐ Yes ☐ No
-
- 19) Would you like to tell us a bit about the nature of that support or advice? For example, was it predominately legal advice or social worker support or something different?
- _____
-
- 20) If you provided someone with support to engage with the Intervention Orders system, how easy was it for you to provide that support?
- Easy Hard
- _____
- (Place a mark on the scale above)
-
- 21) What changes (if any) would you like to see made to the processes and practices associated with supporting people to apply for and enforce Intervention Orders in South Australia?
- _____

Part D: Interacting with Police and Courts

These next questions are about what its like to go to the police or the court to try and get an Intervention Order.

- 22) What do you think are the most important things to keep in mind when police or court officials are talking to people who want to apply for or enforce Intervention Orders? _____
- 23) Have you had/do you have any interactions have with police officers, court officials or other public officials when interacting with the Intervention Orders system? ☐ No ☐ Yes
- 24) If you did/have interactions, were they with: ☐ Police ☐ Court officials
☐ Corrections staff ☐ Prosecutors
☐ Other public officials
- 25) Can please you tell us a bit about these interactions? _____
- 26) Are there any things about these interactions that you would like to change? _____
- 27) Would any of the following changes help improve your interactions with police officers, court officials or other public officials in the Intervention Orders system? ☐ Specific training to improve understanding of complex causes and experiences relating to domestic or family violence
☐ More time or resources to enable more meaningful interactions
☐ Improved understanding of your role and experience in the Intervention Orders system
☐ Improved understanding of your client's role and experience in the Intervention Orders system Other ☐
- 28) If you indicated 'other' above, would you like to describe? _____
- 29) Would you like to tell us anything else about interacting with police, courts and other public officials within the Intervention Orders system? _____
- 30) Have any of your interactions with the Intervention Orders system involved children, for example, have you ever been involved in supporting someone to obtain an order where a child is listed as a 'protected person' or where a child is asked to give evidence? If so, please tell us about the impact of the Intervention Orders system on children from your perspective. _____

Part E: Process and Criteria Applied when Granting and Approving Intervention Orders These questions are about how a police officer or court decides whether to make an **Intervention Order to limit a person's movements or conduct, or to stop them from contacting somebody else**

31) What do you think are the most important things to keep in mind when someone goes to the police or the court to apply for Intervention Orders?

32) What changes (if any) would you like to see made to the processes and practices associated with supporting people to apply for Intervention Orders?

33) What criteria do you think are currently applied by the police or the courts when deciding whether to issue or approve an Intervention Order?

34) Do you have any thoughts about this criteria?

35) What do you understand to be the key factors that should be considered by the courts when deciding whether to enforce an Intervention Order?

36) Do you have any thoughts about whether these considerations are appropriate or not?

37) What do you think are the main considerations leading to applicants withdrawing Intervention Order applications?

38) When a court or a police officer decides to grant an Intervention Order it has to be served (shown to) the person who will be subject to the order (the defendant). Do you have any thoughts on how this should happen and who should be told about it?

39) At the moment, once an Intervention Order has been granted by the courts in South Australia it continues without an end date (it keeps going for ever) until the court makes an order that it can be stopped. In other places, Intervention Orders have a set end date (like two years). What approach do you think is better? Can you tell us why?

Part E: Breaches of Orders and Penalties

These questions are about what happens if a person who has been subject to an Intervention Order breaches the order, for example by contacting a person on the phone or going to their house or workplace.

- 40) What do you think are the most important things the police or a court should have in mind when deciding whether to enforce an Intervention Order or punish a person for breaching an order? _____
- 41) Have you had experience supporting a person to reporting a breach of an Intervention Order? ☐ Yes ☐ No
- 42) Please tell us about that experience. For example, if you interacted with police in the context of a breach of an Intervention Order, how did the police respond? _____
- 43) Do you feel like the current police and court processes adequately support people to report a breach of an Intervention Order? Can you tell us why? _____
- 44) In your view, what makes a breach of an Intervention Order serious? ☐ Verbal contact with a protected person
☐ Physical contact with a protected person
☐ Electronic surveillance of a protected person
☐ Contact with the protected person's family
☐ Contact with the protected person's friends
☐ Contact with the protected person's workplace or school
☐ Other
- 45) If you indicated 'other' above, would you like to describe? _____
- 46) Is there anything else you want to say about what makes a breach of an Intervention Order serious? _____
- 47) Do you have experience supporting a person to give evidence about a breach of an Intervention Order? If so, please tell us a bit about that experience. _____
- 48) Do you feel like the current police and court processes adequately support people to give evidence about a breach of an Intervention Order? Can you tell us why? _____
- 49) What do you understand to be consequences (including penalties) that currently flow from a breach of an Intervention Order? _____
- 50) Do you have any thoughts about whether these consequences are appropriate or not? _____

51) Do you think it is ever appropriate to put someone in prison for breaching an Intervention Order? Can you
please tell us why you think that way, and what
criteria or considerations are important to your
decision.

**52) Court Administration Authority and the Department for
Correctional Services organise behavioural change**
programs for men issued with an Intervention Order to
provide protection to domestic and family violence
survivors. Do you have any thoughts about these programs and how they are used
by the courts?

**53) Do you think a different approach to penalties should be
employed for repeat offenders? If so, please tell**
us about what that should look like.

Part F: Options for Improvement and Reform

This is the last set of questions. They are about how to make the current Intervention Orders system better.

- 54) What strategies or changes do you think could strengthen the laws governing Intervention Order to improve efficiency and enhance protection? If you have a top priority for change, please tell us here
-
- 55) Do you have any other suggestions for changes for behavioural programs, training programs or other non-legislative programs to improve the effectiveness of South Australia's Intervention Order system?
-
- 56) Has the COVID-19 pandemic had any particular impact on the services you provide or the role you play within the Intervention Orders system? If so, please let us know here
-
- 57) Do you think it is a good idea to collect information about Intervention Orders and make this available to the public?
- ☐ Yes - lots of information should be collected and made publicly available
☐ Yes - but only certain information should be collected and made publicly available
☐ No - information about Intervention Orders should not be made publicly available
☐ Prefer not to say
-
- 58) What type of information should be collected about the use and enforcement of Intervention Orders in South Australia?
- ☐ Information about applicant/s
☐ Information about the person who is the subject of the order
☐ Information about the circumstances that led to the order being applied for
☐ Whether an interim order was granted
☐ What criteria were considered when granting an interim order
☐ Whether an interim order was approved by the court
☐ What criteria were considered when approving the interim order
☐ Whether an approved order was breached or enforced?
☐ What criteria were considered when an approved order was breached or enforced
☐ Other
-
- 59) If you indicated 'other' above, would you like to describe?
-
- 60) Is there anything else you would like to say about what type of information should be collected about the use and enforcement of Intervention Orders in South Australia?
-
- 61) Did we forget to ask about something important in this survey? If so please let us know here
-

62) So that we can tell you about how we intend to use
your information in our research and to give the you
the chance to change your mind about your involvement
please provide your email or other contact details here. We will not share this
information with anyone else.

**63) Are you ready to consent to your answers to this
survey being used in this research? If so, please sign**
your name with your finger or your mouse. Remember you
can change your mind at anytime by contacting Sarah
Moulds on sarah.moulds@unisa.edu.au or 0401132544.

**64) What information would you like us to share with you
about the Powerful Interventions research project?**

- ☐ Full report
 - ☐ Summary of key findings
 - ☐ Short video explaining key findings
-

65) Have any of these questions raised concerns or caused you distress?

If so please contact Dr Sarah Moulds on 0401132544. You can also call 1800 RESPECT 1800 737732 (a free confidential hotline that is available 24 hours 7 days a week) or the Domestic Violence Crisis Line Phone 1800 800 098 (24 hours)

☐ Yes ☐ No



University of
South Australia

Contact details:

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0401132544

Suryawan Rian Yohanesh

Rian.yohanesh@unitingcommunities.org

