
**The Role of Socio-Economic & Familial Factors in the Pursuit of
Final Violence Restraining Orders
For Women Subjected to Family & Domestic Violence**

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In collaboration with

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Executive Summary

The problems faced by the women who participated in this study are typical of those faced by most women who have experienced domestic and family violence. Their lives are characterised by fear, high levels of stress, depression and ongoing anxiety. This study has sought to illustrate the particular difficulties faced by women in their attempts to flee situations of domestic violence regardless of their decisions to utilise or otherwise the full extent of the legal system. It is hoped that the study will contribute substantially to the knowledge base necessary for effective policy review and legislative change in the area of family and domestic violence.

In the body of the report the following major issues are highlighted and discussed:

- Police intervention, including serving Violence Restraining Orders, Violence Restraining Order breaches and Department of Community Development involvement.
- Levels of fearfulness experienced by the women.
- Court related issues, including appearing in court, restraining order issues and family court issues
- Violence Restraining Orders and women's feelings of safety
- Interim and/or Final Violence Restraining Orders
- The importance of support and advocacy in the pursuit of restraining orders.

The report includes the following recommendations:

- Holistic approach to service provision: Police and Courts need to work more collaboratively with each other *and* non government domestic violence support and advocacy services to better serve the safety of women and children fleeing situations of domestic violence.
- Perpetrator programs: there is an urgent need for a substantial increase in the number of available perpetrator programs. It is recommended that the development and independent evaluation of perpetrator programs receive prioritised attention and ongoing secured funding. Such programs should be court ordered and mandatory, at least in the case of serial and serious abusers. Program development should also be mindful of cultural appropriateness and a 'one size fits all' approach should be avoided.
- Police intervention: Although participants expressed a general level of satisfaction with police intervention in domestic violence incidents, where there was dissatisfaction it appeared to be due to an officer specific attitude. This suggests that there is a need for

ongoing professional development for frontline police officers in all aspects of domestic violence.

- Courts and domestic violence: Court issues were the most problematic for the majority of the participants. Being in close proximity to their abusers in court, the hierarchical nature of the court system, and Magistrates with seemingly no sensitivity to the women's emotional fragility and levels of fearfulness were seen to be central and highly problematic. These issues are complex in nature and further research and discussion is called for.
- Aboriginal women and Violence Restraining Orders: The notion of, and the application process for, Violence Restraining Orders is culturally inappropriate within many Indigenous communities. Given that Aboriginal women are 45 times more likely to be victims of domestic violence than their non Aboriginal counterparts, it is recommended that policy and legislation in the area of domestic violence ought to be more responsive to the needs of, and less threatening to, Aboriginal people. In order to achieve this goal there should be extensive consultation and negotiation with Aboriginal communities to initiate the development of alternative methods of community and/or legal intervention in dealing with all aspects of domestic and family violence.

Preamble

Within this study domestic violence is defined as behaviour which results in physical, sexual and/or psychological damage, forced social isolation, economic deprivation, or behaviour which causes the victim to live in fear (Western Australian Family & Domestic Violence Information Kit, Family & Domestic Violence Unit, Department for Community Development WA).

This study seeks practical answers to the question of how existing forms of support and advocacy may be enhanced and adapted to better support women fleeing domestic violence during the Violence Restraining Order (VRO) process. It is acknowledged that the majority of applications for interim Violence Restraining Orders (IVROs) do not proceed to completion of final orders (Pearson 2002; Kraszlan & West 2001). A major aim of this study is to investigate this phenomenon. However, the proposal for this study was written prior to the Acts Amendment (Family and Domestic Violence) Act of 1st December 2004. This significant amendment to the Family and Domestic Violence Act seeks to provide improved protection to victims of family and domestic violence and to afford greater abuser accountability. Although the amendments to the Act did not alter the fundamental structure and interest for this investigation, the study also attempts to incorporate some sense of the effects of the policy and legislative reforms for victims of domestic violence. This is in addition to the original aim of investigating the factors which influence women's decisions to proceed or otherwise to final Violence Restraining Orders.

This study, which was conducted largely around the Rockingham area, builds upon previous research into issues surrounding domestic violence. The study focuses mainly on intimate partner abuse and seeks to extend existing West Australian innovations in service provision, advocacy and policy for women and children fleeing from situations of domestic violence. Existing local innovations, providing integrated services to women, include the Joondalup Family Violence Court (FDVC), the Armadale Domestic Violence Intervention Project (ADVIP) and the Rockingham based Family Abuse and Advocacy Support Team (FAAST). These projects are generally supported by participating agencies including Courts, Police Service, refuges and hospitals (Pearson 2002).

For the purpose of this study 'intimate partner' relationships allude to persons who: are or have been married; are living or have lived in de facto relationships; or those who have or have had an intimate or otherwise personal relationship of a domestic nature where the actions of one person affect the other.

Introduction

Domestic violence is a significant social issue for the West Australian community. Indeed, 'assault by partners, especially by previous partners, is the most common form of physical violence against Australian women' (Women and Crime 2007). Unsurprisingly, more than two thirds of applicants for Violence Restraining Orders are women. In light of this factor, this research seeks to address any gaps or weaknesses and identify particular strengths in current service provision and policy which impacts on the ultimate safety and well being of women and children fleeing domestic violence situations. This is particularly important, given that women leaving violent relationships are at significant risk of further and often escalating violence (Keys Young 1998; Roth 2007). For example:

Domestic violence shows a strong relationship to homicide for female victims, but not for male victims. During 2003-04, the majority (52%) of female homicides were intimate partner homicides... During 2003-04 there were 71 intimate partner homicides (Australia wide)... the majority involved a man killing his female partner... thirty five percent of women killed by intimate partners were beaten to death (Women in Australia 2007).

A history of domestic violence is common in intimate partner homicides with the homicide incident sometimes being 'the end result of a culmination of numerous prior incidents of domestic violence. A history of domestic violence was recorded in 38 out of the 66 intimate partner homicides (58%) that occurred during 2004-05' (Mouzos & Houliaras 2006). In addition to the social and emotional costs of domestic violence the economic costs are considerable. The total cost of domestic violence to the Australian economy in 2002-03 was \$8.1 billion. The annual cost per victim who had ever suffered domestic violence was \$4,570 and women bore the majority of the costs of domestic violence (Women in Australia 2007)

Violence Restraining Orders

It is claimed that Violence Restraining Orders (VROs) are one of the few concrete forms of defence available to women and children fleeing situations of domestic violence. The purpose of a VRO is to provide protection to an applicant from a respondent who is likely to commit a violent offence against the protected person or behave in a manner that will cause fear that they will commit such an offence (Pearson 2002). The respondent is the person who is bound by the order. Recent changes to service provision, policy and legislation to extend protection, support and advocacy to women seeking VROs in Western Australia has resulted in a significant increase in the numbers of women applying for interim VROs. However, Kraszlan and West (2001) report that the effect of these innovations does not appear to extend to the pursuit of final

VROs. That is, whilst 80 per cent of women offered some form of support seek an interim VRO, only one third of these applicants actually progress to final orders. This research project set out to investigate the underlying reasons for such a significant rate of attrition. Through a combination of quantitative (structured survey) and qualitative methods the factors which deter women from completing the VRO process were systematically investigated. In particular, the research examined the divergent expectations, reservations and experiences of women with varying levels of family responsibility, cultural expectations and financial dependence. The study sought to find practical answers to questions of how existing forms of support and advocacy might be enhanced to better support women throughout the VRO process.

Identified factors which influence whether women proceed to final VROs include but are not limited to the following: the extent of her economic dependence, her age, whether she has dependent children, her cultural background, her levels of fearfulness, and her experiences of support and advocacy. Other factors may also play a systematic role. For example, socio-economically disadvantaged women are said to be at higher risk of family and domestic violence and may be more socially isolated than women of higher socio-economic status (Arem et al 2003). Also, the extent to which women are responsible for the care of dependent children may play a role in determining whether a woman will pursue a final VRO. Women with dependent children are often faced with the dilemma of the need to protect their children from harm whilst trying to maintain the security of the family unit. Additionally, women who are the primary care givers for children face a series of unique logistical and economic challenges in determining whether they will leave abusive relationships and pursue a Violence Restraining Order.

What are Violence Restraining Orders?

One purpose of Violence Restraining Orders (VROs) is to protect women and children from further violence. Since the introduction of legislative reform, first in 1997 and subsequently in 2004, the number of VROs applied for and awarded has increased significantly.

Restraining orders are court orders designed to prevent acts of violence or misconduct by requiring a person to behave in certain ways, such as to maintain a prescribed distance from the applicant. A restraining order is worded to fit particular circumstances and breaching the terms of an order can result in a fine or imprisonment (Pearson 2002).

Subsequent to the introduction of the Restraining Orders Act 1997 two forms of restraining orders were introduced. These are: Misconduct Restraining Orders (MROs) and Violence Restraining Orders. This study specifically engages with Violence Restraining Orders which are designed to deal with incidents of personal and domestic violence and which receive greater priority than MROs, enabling confiscation of firearms, shorter periods of time before hearings and heavier penalties for breaches. Also, application for a VRO is a civil matter. Because of its civil status a VRO is easier to obtain than a criminal conviction as the standard of proof required is linked to a 'balance of probabilities' in line with civil matters.

The application process

In order to obtain a Violence Restraining Order, applicants must satisfy the Court that an act of abuse has occurred and is likely to occur again. However, the process of applying for a VRO can vary. When an application for a restraining order is filed the applicant may choose to attend the first hearing without the respondent's presence (ex parte hearing). The hearing may result in the issue of an interim order, the case may be adjourned for a mention hearing with the respondent present or the application may be dismissed.

Following an issue of an interim order at an ex-parte hearing the respondent has the opportunity to lodge an objection to the order within 21 days. If the interim order is not objected to, it will automatically become final and no further attendance is required by either applicant or respondent. Where an objection is lodged, both parties are notified to attend a contested hearing. At this hearing the interim order may be cancelled and the application dismissed, the matter may be adjourned to a final hearing or final orders may be made. At the final order hearing each party is able to submit evidence and may bring witnesses to testify on their behalf (Pearson 2002).

Methodology

Research design

Data for this study was collected in four main ways. These were:

1. An analysis of current service provision, policy and legislation relating to domestic violence.
2. Discussions with allied professionals.
3. Discussions with a focus group of women who have applied for Violence Restraining Orders (VRO) related to situations of domestic violence.
4. Extensive in-depth interviews with women who have experienced domestic violence and are at some stage of applying for a Violence Restraining Order. The focus group discussions and in-depth interviews constitute the major part of the study.

Analysis of service provision, policy and legislation

This involved:

- A review of national and international literature on the nature and dynamics of domestic violence.
- A review of national and international literature on ‘best practice’ service provision for victims of domestic violence.
- A review of Western Australian domestic violence legislation and policy.

Discussions with allied professionals

As an ongoing part of the study, discussions were held with professionals working with victims of domestic violence including police, lawyers, counsellors and social workers – from both government and non government agencies. Interview schedules were initially developed in consultation with the project steering committee, consisting of representatives from major stakeholder organisations. Their reflections have provided valuable input to the study. Information gathered during these interviews has allowed us to evaluate the impact of the local culture of support, advocacy and related service provision for women going through the VRO process. The project steering committee consisted of key stakeholders and industry professionals from the local branch of the Department of Community Development; Lucy Saw Refuge; Rockingham Women’s Health and Information Service, the Regional Domestic Violence Committee and SCALES.

Focus group of women

The focus group and research team held discussions on two occasions prior to development of the research questions for primary participants. The group's major concerns on specific issues were able to inform the researchers on questions and wording within the study. Information gathered during these sessions also proved valuable in informing the interviewer's approach.

In-depth interviews with primary participants

The interviews were semi structured, covering issues identified during focus group discussions and those issues already highlighted by the research team. All interviews were recorded and transcribed. It was unrealistic to attempt to return interview transcripts to all participants because of the difficulties involved in contacting them. However, where follow up interviews took place, transcripts of initial interviews were returned to participants for their scrutiny, to ensure accuracy.

Qualitative methodology

The primary participants in this research project are all women who have experienced domestic violence. This study examines issues of a sensitive and traumatic nature and so qualitative and feminist methodology has been used for the collection of primary source data. Kirby and McKenna (1989) claim that the two way flow of information inherent in feminist research effectively reduces the power differential between researcher and participant. Because of their vulnerable position and, in many cases, their ongoing efforts to escape situations of escalating violence, it was important to use a methodology which did not objectify either the women or their experiences. Feminist research methodology is based on the premise that the ways in which ordinary people view their everyday experiences should take precedence over other seemingly 'expert' interpretations. This is the philosophy that underpins the study.

The methodology used in this study involved in-depth interviews with female victims of domestic violence who were at some stage of the Violence Restraining Order application process. That is, the women either had applied for an interim order, were about to apply, had been granted an interim and/or final order, had been granted an interim order and had rescinded the application or had been denied either an interim or final order. There were two exceptions to this. These were the two Aboriginal women who, although repeat victims of domestic violence, were not at any stage of the process of applying for restraining orders. Several of the women who participated in the initial interviews also participated in follow up interviews. The main research instrument (see appendix 2) was conducive to the in-depth interview process and was used as a guide only to ensure that all relevant issues were covered. A short structured survey

(see Appendix 1) was also developed to collect demographic data such as age group; parental status; socio-economic background; ethnicity; levels of violence to self/children. The socio-economic and demographic data (structured survey data) collected during the initial interviews allowed the research team to ascertain whether any single factor or combination of factors systematically distinguished those women who did not proceed to final VROs from those who did. All interviews were conducted at a place selected by participants.

Initially it was anticipated that 60 women victims of domestic violence would be interviewed with an estimated drop off rate of 40 per cent for follow up interviews. As it turned out this number was unrealistic. In the end, 44 women were interviewed initially with 14 follow up interviews.

It was also anticipated in the original research proposal that participants would be recruited as they made application for interim VROs and would be reinterviewed after the final VRO was granted. With hindsight, this was also an unrealistic proposition. Given the nature of domestic violence situations, it was unlikely that we could enlist the help of women immediately they entered the VRO application process. At this stage domestic violence victims are often extremely traumatised, most fearful for their personal safety, confused, and emotionally vulnerable. Basically, the research team had to be guided by the SCALES lawyer and legal worker who were already assisting the women and who approached clients for their involvement with the project. In addition, the principle researcher spoke to several contacts who were also victims of domestic violence and asked for their assistance. Because of the difficulties involved it was impossible to select participants at specified stages of the process of VRO application. We simply spoke with women who were willing to talk to us at whatever stage of the application process they were. We asked questions related to their experiences of domestic violence and their subsequent dealings with police, lawyers and the court system. Several of the women interviewed in the first instance had already been granted final violence restraining orders so there was no need to conduct follow up interviews with them.

Most of the women were recruited through their interaction with the Rockingham based Southern Communities Advocacy and Legal Education Service Inc (SCALES). One participant was enlisted through Gosnells Community Legal Centre. The remaining participants were women recruited directly by the principle researcher, using snowball sampling methods. Snowball sampling is a method of selecting a sample by starting with a small group of participants and asking these for further contacts. Snowball sampling is used primarily in the collection of in-depth qualitative data on sensitive topics (Jary & Jary 1991). The two Indigenous

participants were also contacted by the researcher as SCALES had no Indigenous women clients seeking VROs during the time span of the project, although they had Indigenous women clients seeking assistance for other legal matters such as tenancy disputes. Pearson (2002) has noted that Indigenous people are reluctant to access violence restraining orders.

Difficulties recruiting and interviewing participants

SCALES staff were able to provide the research team with contact details of many women who, when approached, initially agreed to participate in the research project. However, because of the nature of domestic violence and the victims' levels of fearfulness and their need to be invisible to violent ex partners, it was not always easy to contact the women and this became a very time consuming exercise. Many of the women had only mobile phones, several changed their numbers regularly, some women kept answering machines switched on and monitored all calls that way in their efforts to avoid abusive and threatening phone calls. The researchers were reluctant to leave messages on answering machines because of concerns that ex-partners may somehow hear them. In any event, throughout the project researchers made several attempts to contact the women and, after several weeks of trying unsuccessfully, removed them from the contact list. Of those women able to be contacted, several had moved from the area and no longer wanted to participate and others made appointments to assist in the study but did not attend these appointments for many valid reasons. In several cases the women had appeared in court only days prior to the set appointments, were severely traumatised by the experience and simply could not bring themselves to talk about their situation. For example, on one occasion two women involved in a single case with the same abuser had attended a court hearing in the days prior to a scheduled interview. Their abuser was present at the hearing. On the day of the interview they were too traumatised to talk to the researcher and left the house in order to avoid reliving their situation. In addition to situations like this, several women were in the process of moving house because of escalating violence and research interviews were understandably low on their list of priorities.

Throughout the research process there were difficulties in contacting women. This was compounded by the high attrition rate when participants failed to attend appointments. More than half of the appointments made were either cancelled or simply not attended. In short, the original contact list was trimmed substantially by the research team's inability to contact some women. By the end of the initial interview phase the attrition rate was very high; less than one interview appointment was kept out of every two appointments confirmed. This was similar for follow up interviews and was again magnified by the problems associated with trying to find those who had participated in initial interviews. Many of the women had changed addresses and/or

telephone numbers and could not be readily located and, of those who were located, several declined to be re-interviewed. Longitudinal research with women escaping situations of domestic abuse has long been recognised as a delicate enterprise which is likely to yield a high rate of attrition (Relationships Australia Victoria 1999). This high ‘drop off’ factor remains a fundamental difficulty in research of this nature.

Involving the participants in the research

A major part of the study was to describe, analyse and understand the subjective reality of the participants in terms of their experiences of domestic violence, their attempts to escape violent relationships, and their thoughts on their subsequent engagement with the legal system. In essence, the study sought to better understand those factors which inhibit and those which better facilitate meaningful assistance and positive outcomes for women escaping violent relationships.

From the outset it was assumed that women who have experienced domestic violence and the surrounding legal processes could and should assist in the research project development. In order to accomplish this, the research team initially held discussions with a focus group of three women who were in the process of applying for Violence Restraining Orders through SCALES. Prevailing issues, themes and concerns were discussed, the researchers explained what the study hoped to achieve, and the women in the focus group were asked for their informed input. In this way, the women were able to identify questions and issues which were meaningful to them. Several of the questions in the research instrument (appendix 2) came from this group of women.

Research on the margins: exploitation and safeguards

Although feminist methodology claims to reduce the power differential between a researcher and those being researched, it also has the potential to be exploitative. In other words, the social isolation which often typifies women’s experience as victims of domestic violence can mean that the women may give away too much information in the often liberating environment of finding a safe space within which to tell their stories. Consequently, the feminist claim of establishing relatively equal power relationships may inadvertently increase the vulnerability of women already disempowered by years of domestic abuse. There are no strategies which can realistically claim to absolutely expel this concern but certain safeguards can assist in minimising the women’s susceptibility to exploitation during the research process. In this instance pseudonyms were used, identifying information was removed from transcriptions, and a domestic violence counsellor was available to talk with participants after interviews if necessary. Also, to ensure that the women were not further traumatised by sharing their stories, all interviews were conducted by a researcher experienced in doing research with emotionally vulnerable and/or

disempowered individuals. Comprehensive experience in this area allowed the researcher to gauge each individual situation and assess the appropriate way in which questions should be asked. Particular care was taken to follow all normal safeguards relating to the collection of sensitive material. During interviews any line of questioning which appeared to cause distress was ceased immediately and the participant was encouraged to lead the discussion in a way which was appropriate and comfortable for her.

The interviews

Each initial interview took between 45 minutes to 3 hours to complete. Follow-up interviews took around 30 minutes each. The interviews which took place at the SCALES office generally took around 45 minutes to an hour whereas the home based interviews were more drawn out. Home based interviews were typically treated more like social occasions by the women with cups of tea and biscuits being served. Several of the women interviewed in their homes admitted great relief at being able to freely discuss their experiences of domestic abuse. Also the interviewer, who felt privileged that the women so freely shared their stories, acknowledged the social and emotional isolation felt by many abused women and for the most part stayed on after these interviews for some general conversation.

All interviews were recorded. Interviews were then transcribed verbatim either by the principle researcher or her research assistant. Transcripts were then kept in a secured place.

Reflections on the research process

A primary consideration of studies of this nature is that researchers must ensure that they promise participants nothing they cannot deliver. Given this, it was important that the research team was at all times careful not to raise participant expectations regarding what the research project might do for them in terms of saving them from further violence or changing policy and/or legislation relating to issues surrounding domestic violence. However, several of the participants expressed some sense of empowerment at merely telling their stories and contributing to a study that might in some small way raise community awareness about the plight of women escaping situations of domestic violence.

Ethics

Ethics approval for the study was obtained from the Murdoch University Ethics Committee.

Western Australian domestic violence policy & legislation

Domestic Violence Policy in Western Australia

In 2004 the West Australian state government released a four year family and domestic violence strategic plan: 'A Balanced Approach: Prevention – Protection – Provision'. The policy agenda is based on the key principles of inclusiveness; engaging the community; building the capacity of individuals, families and communities; and collaboration and coordination (Department for Community Development 2004). This policy has initiated funding allocations directed towards areas such as; women's refuges, aged care, homelessness, and abuse in Indigenous communities. The primary policy strategy claims a holistic or interagency approach, expanding prevention and early intervention programs. For example, hospitals recently received an incentive grant to implement family and domestic violence protocols, and four West Australian hospitals now routinely screen patients for injuries related to incidents of domestic assault. An important aspect of the strategic plan is the coordination and communication of agencies at all levels of government so the efforts of one agency are not thwarted (albeit unintentionally) by another.

The strategic plan details the following current services available in Western Australia:

- The Family and Domestic Violence Unit
- 17 Regional Domestic Violence Committees
- Women's Council for Domestic and Family Violence Services WA
- Department of Health
- Department of Community Development
- West Australian Police Service
- Legal Aid
- Department of the Attorney General (previously named Department of Justice)
- Department of Education and Training
- Department of Housing and Works
- Ethnic Community Council of Western Australia
- Department of Indigenous Affairs
- Disability Services Commission

While most of these departments do not specifically and predominantly deal with domestic violence as their core business, each has developed policies around this issue with a stated will to enhance inter-agency cooperation.

Western Australian Domestic Violence Legislation: 2004 amendments

Acts Amendment (Family and Domestic Violence) Act 2004 came into force on 1st December 2004. The amendments were driven by community concerns around women killed or seriously injured in domestic violence situations and were designed to provide improved protection to victims of domestic violence and to afford greater abuser accountability. In addition, the inclusion of emotional abuse within the amended Act's definition of domestic violence acknowledges, for the first time, the menacing nature of emotional abuse and its deleterious effects on victims of domestic violence. It is important to note, though, that the amended Act does not spell out a clear definition of what exactly constitutes 'emotional abuse'.

Significant changes in the Legislation include:

- A clearer and broader definition of a 'family and domestic relationship' which is now defined as those who are; married, de-facto, related to one another, children, step children and those who have or have had an intimate or other personal relationship of a domestic nature where the actions of one person affect the other.
- Provision of greater protection for children in situations of domestic violence by acknowledging the deleterious long term effects on children who live within a domestic violence relationship
- 'Applicant', has been deleted and is now replaced by 'protected person'.
- The definitions of 'act of family and domestic violence' and an 'act of personal violence' have been broadened to include:
 - Assault/personal injury
 - Kidnapping/deprivation of liberty
 - Property damage, including killing/injuring animals
 - Intimidation, offence or emotional abuse
 - Having the person followed (pursued) with the intention of intimidation
 - Threatening to commit the first 3 acts
 - 'Personal Violence' further includes the person committing the act having an 'imagined relationship' with the victim (ie accused believes a relationship to exist, and therefore the act would be domestic violence if this belief were so)
 - The terms used have the same meaning as in the criminal code
- A restraining order may be taken out on behalf of a child who has been exposed to domestic violence and is not necessarily the recipient or even had direct involvement.
- Police Officers now have the power to make a police order if the criteria for a violence restraining order is met and the Officer believes an act of family/domestic violence has

taken place, or is likely to take place. The officer must consider a range of pertinent factors such as presence of children, protecting people from acts of domestic violence, accommodation needs, hardship, and may, using the order, impose restraints upon the perpetrator with the perpetrator bound to be removed from the house.

- 24 hour Police Orders can be imposed without consent of the person to be protected.
- 72 hour Police Orders require the consent of the person to be protected and cannot be extended by the same or a different Officer.
- Children cannot be restrained by police orders.
- Ex parte hearings for interim VRO applications now occur in a closed court. The applicant has the right to give evidence by affidavit and may choose to have support people present.
- A protected person can no longer be cross-examined by an unrepresented respondent, and questions must be asked through and approved by a judicial officer unless there is some problem with the Violence Restraining Order (for example, the court judges it not to be just)
- A child witness can no longer be cross-examined by an unrepresented respondent and questions must be asked through and approved by a judicial officer. Children are very rarely allowed to give evidence and leave must be given by the Court for this to occur.
- Consent is no longer a defence of a breach of a VRO. However, there are some new forms of defence, which in essence state that defence to breaching can be:
 - Involvement in dispute resolution out of court including counselling and mediation
 - Involves child welfare law
 - Involves an emergency
- The new range of police functions during the attendance of a situation domestic violence are as follows:
 - An officer can investigate, ensure no imminent danger and arrange assistance without a warrant
 - An officer can, after entering a premises with reasonable suspicion that an act of domestic violence has taken place or will take place, search the premises for evidence of assistance required, or of a weapon, can search a person for a weapon, and can seize the weapon without a warrant
 - May use reasonable force

- Police Officers attending domestic violence incidents must either, make a VRO application, make a PO application, or make a written record as to why neither of those things was done.
- Police Officers may detain the offender before and during the application for a VRO or a PO, and if the offender will not remain in the place designated for them the officer may arrest and detain the offender for up to two hours
- Circumstances which must be taken into account when sentencing for violent personal offences (an offence against section 283, 297, 325, 326, 327, 328 in the Criminal Code, and inserted into the Criminal Code in these amendments as part of Section 221. ‘Circumstances of Aggravation’):
 - The offender is in a family or domestic relationship with the victim
 - A child was present during the offence
 - The offender was breaching a restraining order already in place
- Addition of Section 221 ‘Circumstances of Aggravation’ including the above, plus the additional circumstance of a victim aged over 60 years.

It is important to mention here, however, that alterations to legislation are only as effective as how vigilantly and how well they are enforced. Cultural and attitudinal changes towards domestic violence also need to occur at community, police and court levels. Given this, one of the questions that this study seeks to explore is: ‘Do these legislative amendments precipitate positive changes that effectively enhance the safety of women leaving situations of domestic violence?’

Attitudes to domestic violence: community, police, courts

Community

Since the 1970s domestic violence has increasingly become a matter of public concern. Prior to the seventies domestic violence was generally considered to be a private matter; a legitimate disciplinary measure permitted within reason by husbands against wives (Buzawa & Buzawa 1990). Although women began to push for domestic violence to become a public matter which should be considered a criminal act and addressed as such, changing these ingrained perceptions within the public arena and within statutory bodies such as the police service and courts has been a continuing struggle.

A 'liberal' viewpoint still exists within certain circles in public perceptions of domestic violence, drawing a clear distinction between public and private arenas, tacitly implying that what happens in the home should stay in the home. Although this attitude appears to be less prevalent now, it still exists and serves to negatively influence the practical application of policy and legislation at the coal face. Add to this the notion of holding victims responsible for staying in violent relationships – the 'why didn't she just leave?' factor (Berns 2004). This factor serves to portray women who remain in violent situations as weak, stupid, blameworthy and, in some circumstances, bad mothers, effectively diminishing the responsibility of violent abusers. It also negates the importance of the high levels of fearfulness felt by women who dread the prospect of escalating violence which often follows attempts to flee situations of domestic abuse. Roth (2007) illustrates the dangers involved for women leaving violent relationships when he notes that women are three times more likely than men to be victims of spousal homicide, and:

In nearly half of the wife killings, the woman had either left or was in the process of leaving her husband when she was killed. In the majority of these cases, it was the consequence of separation that prompted the killing (Wallace cited in Roth 2007).

Policing domestic violence

Domestic violence policy is now enshrined in Australian legislation as a serious and legitimate problem with criminal ramifications when violence restraining orders are breached. While this is a step in the right direction, certain factors still influence the perception of domestic violence by the police force and the court system.

Policing domestic violence has historically been perceived with mistrust by abused women; the traditional machismo culture of the police 'force' and police 'men' effecting some police responses to reflect outmoded attitudes. In the early years of policing domestic violence incidents, callouts were often considered to be 'of limited occupational value' (Buzawa and

Buzawa 1990). This meant that domestic violence was not always viewed as a crime, rarely resulted in arrest and thus did not fit the definition of the traditional ideals of policing. In support of this notion, Debbie described her experiences of police intervention during several domestic violence incidents:

I have called the police on him several times. This last time I had to call them three times and it took them over an hour and a half to get there. On several occasions when I've called them out, I've felt that they think domestic violence incidents are not worth their bother, that they're not real police work.

In addition to this and in concert with some community perceptions, the notion that domestic violence is essentially a private matter between a man and a woman, is an issue the police force has had to combat. Even in instances where there is a pro-arrest and pro-charge policy currently in place (for example, the Northern Territory and more recently Western Australia) police officers have tended to advise victims that the responsibility for making a complaint is theirs and that police have no responsibility to charge a violent perpetrator with assault unless explicitly instructed to do so (Darwin Community Legal Service 1999). There is also some indication that even where women were willing to proceed with charges they were often advised not to by the police who claimed lack of evidence, therefore charging would be a waste of time (Darwin Community Legal Service 1999). Since acts of domestic violence usually occur 'with only two parties present' (Pat Thomas Memorial House 2007) evidence becomes an issue of the credibility of each party's account of events. However, recent legislative changes (2004) have extended police powers to deal more effectively with domestic violence incidents and, it is hoped that these changes might lead to accelerated attitudinal change. When asked about police attitudes to attending domestic disputes, a Police Domestic Violence Coordinator noted that 'the new Act is engendering a culture of change in the police force. It is causing attending officers to be more accountable and has provoked some proactive responses' (interview 2005).

There are now designated Police Domestic Violence Coordinators (PDVCs) in each West Australian metropolitan police district. PDVC's have received specialised training in dealing with situations involving domestic violence. When the attending officer is specifically trained to deal with domestic violence this can be reassuring for the victim and may strengthen their resolve to go through with a restraining order. However, PDVCs work in that designated position only on day shifts, Monday to Friday. Since the majority of domestic violence incidents occur out of office hours, at weekends and public holidays most incidents are dealt with by police officers who have received only general police training and who may not be as supportive and effective as they could be. As police are often the first point of contact for victims, the way they

handle the situation is vital for how the victim will subsequently feel about pursuing assistance through the justice system.

Courts

The attitudes in the court from Magistrates and court staff can also make a significant difference to a victim's willingness to pursue charges and/or a violence restraining order against an abuser. If the court's primary concern is that of reconciling families and favouring the male 'heads of households' (Wan 2000) this leaves abused women with little or no recourse. Various problems may arise for women appearing in court to apply for restraining orders. In Western Australia some of these issues have been acknowledged in legislation, such as the new amendment no longer permitting an unrepresented offender to directly question the victim as a witness. However, issues which may yet arise for women include: difficulty appearing calm and rational, difficulty discussing their abuse with strangers, finding the court system intimidating, finding Magistrates intimidating, fear of not being believed, and fear of seeing and being intimidated by the abuser and/or his family (Wan 2000). These factors can in turn affect the attitudes and behaviour of court personnel, as the manifestation of fear and irrationality in domestic violence victims may influence a Magistrate already predisposed to favour male behavioural traits (such as reasonableness, confidence and calm rationality) over these less well regarded female attributes. These factors often result in victims feeling that they were not able 'to give an adequate portrayal of their situation' or that the Magistrate was not listening to them (Pat Thomas Memorial House 2007). These aforementioned factors combined with often ingrained patriarchal attitudes within the court can cause abused women to be let down by the legal system which should protect them. Patricia's court experience over several VRO applications highlights this problem. She described her court experiences in this way:

I didn't get an order this time but other times I've been at court I've been terrified because each time he's contested the order and he's been physically close to me making hidden threatening hand signs. It's the most terrifying position to be in and he comes across so reasonable, making out that I'm just a hysterical woman with mental issues. The Magistrate (named Magistrate) twice refused me an order and told me off for wasting the Court's time. Now that really puts you off even thinking about applying for an order. Not only do you feel the most awful shame but it used to give him (partner) back up to continue his violent behaviour without any sort of punishment at all...He's contested every application and he would always be there in court. It was terrifying. My legs would almost give way with fear. I could hardly speak when questioned. It made me

look stupid with him being so reasonable and articulate. Anyway that's why I didn't even bother applying this time.

In addition to problems associated with VRO applications in the Magistrates' Courts, the Family Court was perceived to complicate situations as there was often a conflict of court orders relating to VROs and custody and child access orders. Family Court orders over-ride orders issued from Magistrates' Courts. Child handover for access visits would then be problematic when a VRO prevented the respondent from coming within 100 metres of the protected person. In this way, the Family Court order often placed the protected person at risk during child handover. Bella told of her experiences:

I'm furious with the way the Family Court runs. It's an absolute joke. It's like the police officers and the laws with the violence restraining orders try and help you and the Family Court doesn't care that you've been assaulted all those years. Who cares about that – this is the kids' dad and he has to see his kids – they don't want to know about all the assaults. We're talking about someone who's put me in hospital and they don't want to listen. Anyway, I took my mother to handover and he's pushed and shoved her to try and get to me. I've called the police and they've told me they can't do anything because the Family Court order says I have to hand over the kids. I had to reapply to the Family Court and they ordered his next four access visits to be supervised at Mother Hen but for all these other times I had to put up with him threatening me and pushing me around.

The participants

Forty four women participated in the study. Their ages ranged from 19 to 58 years. Most of the participants were enlisted through SCALES. That is, they were current or past clients who had received legal and other supports through the community legal centre. Because of the difficulties involved in attracting participants who have experienced or are still experiencing domestic violence, it was necessary to enlist the help of participants from other sources. One woman was enlisted from the Gosnells Community Legal Centre and several were enlisted through the principle researcher's own informal contacts. The two Indigenous women who participated in the project were enlisted in this way.

Family forms

- 20 of the participants had been or were still legally married to their abusers.
- 19 participants had been living in de facto relationships with their abusers.
- 5 participants were in other relationships with the abuser: 4 of these were mothers of victims and one was the sister of a victim; 3 of these had made VRO applications at the same time as their daughters; 1 made a separate application (the daughter did not apply for a VRO as her abuser was incarcerated).
- 22 participants had lived in nuclear family forms, having children in common with their ex partners only.
- 10 participants had lived in blended families with children in common with their abusers as well as children from other relationships
- 6 participants had lived in blended family forms with no children in common but children from former relationships.
- 6 participants had no children within the abusive relationship.

Ethnic background, employment & parental status

Of the 44 women who participated in the study, 2 were Indigenous Australians; 32 were non Indigenous Australians; 2 were born in New Zealand; 5 were born in England; 1 was born in the Philippines; 1 was born in Spain.

Three of the 44 participants were under 30 years with no children (7%); 9 were under 30 years with children (20%); 3 were 30 years or over with no children (7%); 29 were 30 years or over with children (66%). Collectively, the women were primary care givers for 70 children aged 16 years or younger. (All percentages in this section are in relation to the total number of participants).

Sixteen of the women were in paid employment (36%) and 28 women received some form of government payment (64%), such as sole parent pension or unemployment benefits. Of the sixteen women in paid employment, 12 reported being totally financially independent (27%) and 4 received income from other sources such as income support and/or child support payments. Of the 28 women who received welfare payments, 26 said they were totally welfare dependent (59%) and 2 received some form of income from another source.

The participant group was stratified in terms of parental status, age and socio-economic status in order to allow for comparisons and analyses to be made between the responses of women with or without dependent children, under or over 30 years and financially independent or welfare dependent.

Psychological issues; drug and alcohol use

'Partner violence has been associated with a larger number of stressful life events and higher stress levels, fear, depression, anxiety, increased use of psychoactive medication, suicidal thoughts, and deliberate self-harm' (Women in Australia 2007). In this study fifteen of the women (34%) reported that they had received medical treatment and/or counselling for issues related to their experiences of domestic violence. One woman reported that her child was receiving ongoing domestic violence related counselling. Seven women (16%) said that both they and their children were receiving counselling. In total, 23 families (52%) were receiving medical treatment and/or counselling which was directly related to their experiences of domestic violence. Zoe's situation is typical. She is receiving counselling and has been prescribed medication for clinical depression which she attributes to her experiences of domestic abuse. She said:

The fear is almost indescribable. He has brain damage and is psychotic from drug abuse so he's unpredictable so I live with my dad for safety but he's assaulted my father and put my brother in hospital. I'm on antidepressants and pills to help me sleep because of all this but I'm afraid to take them in case I don't wake up if he comes to get us.

Also, Diane described how her son has been emotionally affected by both living in an emotionally and sometimes physically abusive family situation and the aftermath of ongoing hostilities after his parents' separation.

My middle child goes to domestic violence counselling and it's only through the play therapy that I've discovered the emotional things that have been put on him. It's the result of the constant emotional blackmail from their father and their mother being in a

constant state of anxiety and fear but you don't think about all that when you're going through it. I suppose I was in denial about the effects on my children.

One woman acknowledged that she had an ongoing illicit drug problem. Several said that they were 'social drinkers' but did not have any alcohol related problems. Four of the women (9%) said that their abusive ex partners had serious illicit drug problems. Eighteen women (41%) reported that their abusers had serious alcohol abuse issues and 12 women (27%) said that their abusers used both drugs and alcohol in excess. All of these women considered that their ex partners' drug and alcohol abuse contributed significantly to domestic violence incidents. Lisa's experience typifies those women who said alcohol played a major part in the violence.

The violence was always worse after he'd been drinking. He's basically an alcoholic so it was pretty bad much of the time. He gets very violent when he's been drinking and even though we've been separated for 3 years he still comes around and threatens us from time to time.

Bridget also spoke of the part alcohol abuse played in her 15 year relationship which only ended after years of physical and sexual abuse. She spoke of her decision to finally leave:

He would get blotto and want me to watch porn with him. If I didn't he'd get abusive. Then he'd want to get into kinky sex. He'd smack me around and try to force me to have anal sex. He got really violent and sexually depraved when he was drunk. It got gradually worse over the years and I knew I had to leave.

Levels of violence

Levels of violence to participants and children were measured as follows:

- Verbal abuse/threats only – no physical violence
- Low level physical violence (pushing, shoving, damaging property, verbal abuse/threats)
- Moderate level physical violence (pushing, slapping, restricting movements, verbal abuse threats)
- High level physical violence (punching, kicking, sustained beating, use of weapons, threats to kill, hospitalisation, verbal abuse)

The questions about levels of violence were included in the initial structured survey form and were posed to participants before the in-depth questions. The women tended to underplay the levels of violence to self at this point. This became apparent, during the subsequent in-depth questions, when they described violent incidents. For example, one woman who answered 'low' when asked to estimate the level of violence to herself went on, later in the interview, to describe being picked up by her ex partner when she was 4 months pregnant and being thrown against a

wall so hard that she passed out, was admitted to hospital and miscarried. With her permission, the level of violence on the structured survey form was changed from 'low' to 'high'. This phenomenon occurred in several interviews and the levels of violence were altered to correlate to the aforementioned definitions for each level of violence. Alterations to this criterion were only effected with participant permission.

Only one woman reported verbal abuse and threats only; no physical violence. The remaining breakdown is as follows:

- 9 women (21%) reported experiencing low levels of violence (pushing, shoving and property damage – fists through doors/breaking things – as well as ongoing verbal abuse and threats of violence)
- 12 women (27%) reported experiencing moderate levels of violence (pushing, slapping, having their movements restricted – not being permitted to leave the home/bedroom)
- 22 women (50%) reported experiencing high levels of violence (punching, kicking, sustained beating, weapons used against them, threats to kill, hospitalisation)

Twenty three (52%) of the participants said that their violent ex partners had not been violent or threatening toward their children. Six women (14%) said that their children had endured verbal abuse and threats of violence. Five women (11%) reported moderate violence against their children and ten women (23%) said that their children had on occasion experienced high levels of violence from abusive partners.

Women's perceptions of escalating levels of violence

Regardless of perceived levels of physical violence in the relationship, each of the women who participated in the study reported being fearful that the violence would eventually escalate. For instance Hannah, who reported no physical violence but constant emotional abuse, spoke of her fears in this way: *'He never hit me or pushed me around physically but he was always angry and he was very threatening, implying what he could do to us. He controlled my life and kept me from family and friends. He was very intimidating and I was always scared that he would hit us'*.

Trish, who described low level physical violence in her relationship, also noted being worried that the violence towards her son was escalating. On her account:

He was not extremely violent so as to put me in hospital. It would always happen when he had been drinking. He would start pushing me around and threatening me. Then he started on my son who had a broken leg in plaster and had to use crutches. He had him

pinned up against a wall, threatening to break his other leg. He was drunk and I feared for my son's safety and I knew the violence was progressively getting worse so I called the police and they came and took him away.

The notion of continuously escalating levels of violence is also supported by those women who suffered extreme levels of violence. Their general experience was of initially controlling behaviours, ongoing verbal abuse, isolation from family and friends then progressively worse physical violence. Bella, who was married at seventeen, endured nine years of severe emotional and physical violence at the hands of her husband. She described the progressively escalating violence in her marriage in this manner:

There was controlling and manipulation and name calling from day one and he would threaten to kill himself, then he would destroy things, break doors, ovens and that. It didn't take long, maybe weeks, before he was pushing and shoving and then it just progressed to grabbing my face and smashing my head into tiles, the floor, punching, kicking and just beating me. I would try anything to avoid getting him in a bad mood. It was like always walking on eggshells and all the time the violence would get worse so I was in fear of my life all the time. The strain was unbearable. I'd try and call the police but he'd cut the phone cord or smash the phone. The last time it happened he nearly killed me. My daughter saw it happen and she went into shock. He didn't know I had the mobile under the bed so I was able to call the police. I had to be hospitalised that time. The police saw how badly hurt I was and advised me to take out a restraining order on him. That was the first time in nine years of violence that I realised that I could actually have some kind of protection from him.

Marie's story is similar. She described the first years of her marriage as more emotionally abusive with occasional incidents of low level physical abuse such as being pushed around. Then the name calling and threats of physical violence became continuous as her husband's alcohol and drug use escalated. She went on to illustrate the worsening situation:

His abuse got worse and worse as his addictions got worse and worse. I've been bruised to the point where there were doctors' reports. The time I went to the refuge I'd been kicked, punched and spat on and I was covered from head to toe in bruises. This last time – when I left him – well there's a hole and dents in the kitchen bench where he raised a hammer above my head and said "I'm going to kill you, you bitch", and brought it down within millimetres of my head. The kids were watching that day and I truly thought I was dead that day. He smashed up the cupboards and put his head through the asbestos wall. We fled and I took out the restraining order on him that very day.

Violence Restraining Order data

Of the 44 participants:

- 40 applied for Interim Violence Restraining Orders; 36 were granted; 4 were denied.
- 6 participants who applied for interim orders entered into mutual undertakings with the respondents; 5 did not proceed for other reasons; 7 were either still undecided about proceeding to final orders or their cases for final orders were pending.
- 2 had Police Orders taken out on their behalf by attending Police Officers but did not proceed.
- 23 proceeded to Final Violence Restraining Order hearings; 19 were granted; 1 was denied; 3 were pending court decisions at the time of interviews.
- In 10 cases assault charges were laid by police
- 23 participants reported breaching orders by police, many of these involved multiple breaches; 11 respondents received cautions; 12 were charged.

Notably, such charges most often resulted in what the participants described as insignificant fines at Court. Generally, the participants were unsatisfied with the low level of Court sanctions for VRO breaches. Pearson (2002) reported that ‘breaches of restraining orders were a major area of complaints about police procedures. Over 25 percent of all complaints associated with restraining orders were about alleged lack of police action in relation to reported breaches of restraining orders’.

In contrast to Kraszlan and West’s (2001) findings that only one third of women who apply for Interim Violence Restraining Orders then go on to obtain final orders, within the study’s participant group, 57.5 percent of the women who applied for Interim Violence Restraining Orders proceeded to Final Violence Restraining Order hearings. Nineteen of these received final orders, three were awaiting decisions and one woman, Diane, was denied a final order because she was deemed by the Court to have breached her interim order when she allowed her ex partner to enter her home. On Diane’s account, she felt intimidated by her partner’s presence when he arrived at her home to collect some possessions (this was initially a breach on his behalf which received no court sanction) and she claimed she let him into the house only to avoid further confrontation. In court, on her ex partner’s account, he claimed that she had invited him into the house and had no problem with him being there. In her turn, Diane was unable to persuade the Magistrate that she only let her ex partner into the house to avoid a confrontation in front of their children. Her application for a final VRO was then denied.

Aboriginal women and VROs: cultural implications

During the two year time span of the research project SCALES staff reported having no Aboriginal clients who had applied for violence restraining orders. Although staff reported that they had Aboriginal clients who sought advice on other matters such as tenancy disputes. Because this meant that there would be no Indigenous representation within the project and because the research team deemed it necessary to find out why this was the case, given the disproportionately high rates of domestic violence within Indigenous communities, the principle researcher sought out two Aboriginal women victims of domestic violence known to her. In addition, discussions were held with the domestic violence counsellor at SCALES. The domestic violence counsellor is an Indigenous woman who has extensive experience working with female victims of domestic violence in the Geraldton area.

Research demonstrates that Aboriginal women are less likely than their non Aboriginal counterparts to apply for Violence Restraining Orders (Pearson 2002; Ferrante et al 1996) This is of particular concern since research also demonstrates that Aboriginal women are more than forty times more likely to be victims of domestic violence and eight times more likely to be victims of homicide (HREOC Face the Facts, 2005). Most alarmingly, an analysis of hospital data (Ferrante et al 1996) showed that the rate of hospital admissions of Aboriginal women in relation to violent crime was 100 times that of non Aboriginal women. In relation to Aboriginal women's high victimisation rate and low reporting rate, Pearson (2002) noted that 'Indigenous people who invoke the legal system to stop domestic violence are often at risk of further violence from the respondent's family'. He went on to say that interviews with Indigenous people 'indicated that this continues to be a reason why restraining orders are not accessed'.

There are many complex reasons why Aboriginal women are reluctant to both report incidents of domestic violence and make legal application for Violence Restraining Orders. The threat of violent family retaliation is but one of these. The SCALES domestic violence legal worker pointed out several inter-related factors which simply make VROs culturally inappropriate for the protection of Aboriginal women living in violent relationships. She indicated that, since the December 2004 legislative amendments that give police the power to take out a 24 hour order (without victim consent) to remove the violent perpetrator from the home, Aboriginal women are reluctant even to report violent incidents. Where they do report and a 24 hour order has been initiated, they seldom proceed through the courts to apply for a VRO. Police initiated orders appear to provide the women with a 'cooling off' period in which things tend to calm down. Prior to the amended legislation being introduced, Aboriginal women tended to apply for VROs

immediately after an incident but then reconciled with their partners after a relatively short period of time.

The SCALES domestic violence legal worker also said that many Aboriginal women realised that the police now have the power to take their men away and they are unhappy with this situation due to (1) historical negative government interaction and police interference in their lives, and (2) payback from their partners because the women had called the police. She said that the women do not follow through with orders or even apply for a VRO because:

- They have returned to their partner and refuse to proceed.
- They are stressed about appearing in front of a magistrate with other people looking on.
- They are afraid that the perpetrator or his family will attend court.
- Getting to court is often too difficult because of lack of reliable transport.
- Aboriginal Police Liaison Officers (APLOs) often attend domestic violence incidents within Aboriginal families and they may be extended family members or known to the families. This presents difficulties when calling an APLO might result in further trauma to victims.
- A VRO is only a piece of paper and will not stop relationship violence.
- Lack of understanding of what to do once a VRO has been implemented. A lack of knowledge of what constitutes a breach on their part; answering a phone call or allowing the respondent into the family home.
- Getting into trouble from police for inadvertent breaches.
- Their situation ceases to be urgent and they resume the relationships so fail to appear in court and the order is dropped.
- The women are often transient and so documents from the court are missed.
- Most importantly, the women are fearful of the Department of Community Development being contacted and having their children taken away from them.

The two Indigenous women interviewed for the study confirmed what the SCALES domestic violence legal worker had noted. Hayley, a 30 year old Indigenous woman with 7 children, said that she had in the past (prior to the 2004 legislative amendments) taken out an interim violence restraining order against her husband after a violent incident but had not proceeded to a final order. She explained her actions in this way:

I didn't bother to go to court for two reasons – one was because he knew he would be in trouble for hurting the baby when he hit me and he took off over East so he was gone and I was safe, and the other reason is that it's just not what we do. I only took the interim

order out because the police sergeant told me he'd have to report what happened to the baby to Family and Children's Services and I was worried that they'd take her from me. When he went over East I just dropped it.

(Has he been violent towards you since that time?)

Yes. Last time a neighbour called the police when she saw him kicking me, and the police took out a 24 hour order and took him away even though I asked them not to... I knew I'd have his family round threatening me and my own family wouldn't be right pleased either. My Nan was part of the stolen generation, brought up in Sister Kate's, she was taken from her mother for no reason and none of us really trust the police or Family and Children's Services. Anyway, now that the police can take out an order without my permission, we wouldn't even ring the police now. It's just not worth it.

Carol's story is similar. She has experienced several violent relationships and has been hospitalised twice after severe and sustained beatings from an ex partner. In Carol's case, a neighbour called the police during a violent incident with her current partner which spilled out onto the street. She described what happened:

I never called the police but they took out a police order on him and took him away. I didn't want them to because I was hoping we'd get back together. I hit him first and we'd been 'speeding' (using methamphetamines) and was both pissed so it was as much my fault as his. What's an order anyway but a piece of paper? How's a piece of paper going to save me from a flogging? My last bloke put me in hospital and a piece of paper wouldn't have stopped him because he was psycho.

Although none of the 42 non-Indigenous participants reported initiating physical violence during domestic violence incidents, both Hayley and Carol reported often initiating physical violence during domestic arguments. They said that their men would retaliate and the violence would then escalate. Interestingly, out of the 66 intimate partner homicides that occurred in Australia during 2004-05, 16 (24%) involved either an Indigenous victim or offender or both an Indigenous victim and offender. 'Most of the Indigenous intimate partner homicides also involved the victim, offender or both under the influence of alcohol (87%; n=14), whereas only 21 percent of non-Indigenous intimate partner homicides involved the consumption of alcohol' (Mouzos & Houliaras 2006)..

Discussion: women's experiences

The interviews with industry professionals, key stakeholders, the women victims of domestic violence and discussions with the focus group of women brought to light a number of key issues shaping the women's experience of domestic violence, decisions to leave violent relationships, engagement with service providers, government departments and the legal system. Each of these affected the women's experiences in terms of their feelings about their situation and their decision making processes. This chapter is devoted to the discussion of these issues and the women's thoughts on each issue. This section is heavily dependent on the women's narratives.

The major issues:

1. *Police intervention; serving orders; breaches; Department of Community Development (DCD) involvement*
2. *Levels of fearfulness*
3. *Court issues; restraining order issues; family court issues*
4. *Violence Restraining Orders, abusers' bizarre behaviour and feelings of safety*
5. *Interim/final violence restraining orders*
6. *The importance of support & advocacy in pursuing restraining orders*

Through the in depth interviews with primary participants several important themes were identified. These have been ordered 'somewhat chronologically' rather than in any order of importance. For example, the **police** were most often the first step towards seeking assistance. Then help was usually sought through application for restraining orders via the court system. **Levels of fearfulness**, the second theme, was prevalent throughout the women's experiences from the beginnings of abusive behaviour throughout the court process and, for many of the women fear still continues; hence the prioritised thematic position. Issues related to **attending court and court processes** is situated next in the order of things. Then, the discussion highlights the women's own **perceptions of the effectiveness of Violence Restraining Orders** in relation to their feelings of safety. Next the question of what factors impact on women's decision to proceed or otherwise **from interim to final violence restraining orders** is addressed. Finally, the discussion goes on to address the **importance of advocacy and other supports** throughout the entire process.

1. Police intervention, serving orders, breaches and DCD involvement

Police intervention at domestic violence incidents

Women most often seek police intervention to incidents of domestic violence as a means of immediate protection for themselves and/or their children. It is usually victims, their family

members or neighbours who call for police assistance. The discussion in this section is primarily based on interview material relating to the women's perceptions of police intervention at domestic violence incidents. Of the 44 women interviewed 20 (46%) said that they were generally happy with the police response at the scene, feeling that response time was adequate, they were provided with information about appropriate services and were given information about the VRO application process. For example, when asked to describe how the police handled her situation, Amy said: *'They were very good. They took me seriously and spoke to my ex and made sure he knew what would happen if he came back. They made sure he left and they came back a couple of hours later to see that everything was okay.'* Abby also felt that the police response was helpful, saying: *'The police came and took him away. They told me I should get a restraining order. They told me what to do and where to go and they gave me some numbers to call and get some help'*. Bella's experience with police intervention was also positive. She had endured a sustained and severe beating at the hands of her husband when the police attended her home. She described her experience in this way:

I was very lucky. The police officers, a man and a woman, were very sensitive to me. I mean I was an irrational mess and they just talked to me to try and calm me down. If it wasn't for them calming me down I don't know what would have happened to me. I was a big mess and they helped me to cope with the situation. They told me that I could get protection from him and I should apply for a restraining order. Before that I never knew I could get legal protection from him.

In these cases the police validated the women's experiences, gave them reassurance regarding their safety and provided helpful information. In several cases they also provided follow up visits which effectively diminished the women's fears of immediate threats of further violence.

Then again, ten women (23%) said that they were sometimes happy with the police response and sometimes they were not. This was normally an officer specific issue. That is, the women felt that some police officers were empathetic to their situation while others were not. When asked if she felt the police were empathetic and understanding about her situation, Lisa explained:

Mostly they seemed to be understanding, but not always, because they were called out to us so often. They probably thought – well she keeps taking him back so why bother? It wasn't until they actually took him away and I knew I could stay here in the house and he wouldn't be allowed back that I got up the courage to take out a VRO. Before that time the police would take me and the kids to a refuge.

Patricia also felt that police intervention was inconsistent and usually dependent on individual officers. She noted that:

Some were sympathetic and helpful and some gave me the impression that I was just a bloody nuisance for calling them out. I know they thought 'why does she keep going back to him? In more recent times, though, I think they've become more understanding. I've been going through this for 15 years on and off.

The women in this group tended to feel a general level of mild dissatisfaction and frustration because of the lack of consistency with police responses and attitudes.

In stark contrast to the first group of women who were happy with police intervention, twelve women (31%) said that they were very unhappy with their experiences of police response to domestic violence incidents. These women had issues with lack of timely response to incidents, police stating that they had to attend other more serious incidents (therefore more worthy of police attention), lack of follow up and offering no appropriate information regarding locally available support services. Frieda told me she has had to call the police more than thirty times to deal with her abuser. When asked how she felt the police had responded to her calls for assistance, she responded in this way:

Horrendously, I've had an official apology from one of the times when he (abuser) broke into my daughter's unit and held her and another family member at knifepoint for more than 2 hours...It took the police 3 hours to respond to our repeated triple zero calls. 3 hours. The police just can't protect us from him... Another time he came to my business threatening to trash my business and assault me so I've run to my car and locked myself in, frantically dialling triple zero and the person on the other end is asking me if I have a current restraining order out on him. All this is going on and I'm supposed to remember what date it expired. Apparently it had expired a few days beforehand so he came around to terrorise me... It's always taken the police at least an hour to respond. If it ever happens again I'm going to say there's a murder happening, someone's being murdered. That way I'll know they'll get here quickly.

Elaine also felt that police responses to her calls for assistance were not taken seriously enough. When asked whether she felt the police were empathetic, she said: *'Not at all. They had made up their minds when they spoke to him. They sided with him. They were all blokes after all'.*

Ingrid also felt that police did not handle the situation well. She put it this way:

I've found them to be consistently obstructive, not wanting to charge him. Some police were okay but I think the majority can't be bothered dealing with domestic violence incidents – even with a serial offender like my ex. I mean he has followed me around to over four different addresses and countless workplaces – how many times before this is classed as stalking?

In support of Ingrid's claim that the police do not take domestic violence incidents seriously enough, Pearson (2002) found that 'an arrest was made in only 9 percent of cases... Some applicants and support workers experienced reluctance by police to intervene to lay charges unless clear physical evidence of violence was available. Even where violence was evident there have been cases where police have laid no charges'.

Serving orders

When a protected person is issued with a Violence Restraining Order it does not become effective until it is served on the respondent. Since police do not routinely advise applicants of the progress of service of restraining orders, this places the applicant in the potentially dangerous position of believing they are under the protection of a restraining order when in fact they are not (Pearson 2002). Within this study two women reported that their restraining orders had never actually been served. Hannah said: *He's never actually been served. It's now nearly two years since I was granted the order but the police haven't been able to track him down. The police had eventually to go to court to inform them that they couldn't serve the order because he couldn't be found.*

Olivia also noted that her ex partner had never been served with the order. She outlined her experience thus:

He would never have been served with the order because it took the police more than 3 weeks to go around to his place and try to charge him with assault after he slammed me into the wall and I had photographic and documented evidence of my injuries from the hospital. He had done a runner interstate so he never got served at all.

Only 58 per cent of Violence Restraining Orders are served within 4 days. Pearson (2002) notes that: 'Police data indicate that the average time for service of restraining orders was 44 days. This average was impacted by a minority of orders where there is significant delay in service... Police data (also) indicate that, even with orders with a service delay of over 100 days removed, the average time for service was 18 days'.

Breaches

A person who breaches a Violence Restraining Order commits a criminal offence which can be punishable by a fine or imprisonment. In general terms, those persons who breach VROs are likely to make multiple breaches (Pearson 2002). This was supported by the information given by the participants. Several women reported numerous breaches of orders. Also, reporting breaches of restraining orders and subsequent police inaction was one of the main reasons for

women's dissatisfaction in this area. However, it ought to be mentioned that proving breaches of restraining orders is problematic. In the first instance restraining orders must have been served and they must be current. Where an applicant reports a breach, she must be able to provide evidence which most often requires verification. Such evidence could be from a reliable eye witness, recorded telephone messages, text messages, some form of written correspondence or an admission from the abuser. A restraining order breach constitutes a criminal rather than a civil matter and sufficient evidence is crucial to obtain a conviction in court. Because of this police officers may be reluctant to act on allegations with insufficient evidence. That factor notwithstanding, such unsupportive responses from police officers clearly diminishes the effectiveness of restraining orders, increases the victim's feelings of disempowerment and ability to move forward out of victim-hood and decreases their feelings of safety (Pat Thomas Memorial House 2007).

Twenty three (52%) of the women in this study reported that their Violence Restraining Orders had been breached, some on numerous occasions. An individual who is bound by a Violence Restraining Order and breaches that order is subject to criminal sanctions which include fines and imprisonment. However, the participants noted that only 11 of these breaches (some of which were multiple breaches) resulted in charges being laid and the heaviest court imposed sanctions for these criminal offences were fines. Twelve abusers received only cautions. Lisa registered her frustration with police inaction when her husband repeatedly breached the restraining order:

He gets very violent when he's been drinking and even though we've been separated for over 3 years he still comes around and threatens us...three weeks ago he came around pissed out of his brain, threatening us. He tried to kick the door in and he was screaming that he was going to kill me and the kids. I phoned the police and they must have been able to hear his threats but it took them over an hour and a half to come. I had to ring them 3 times. He has breached these orders so many times and he's been taken to the lock up but he's never ever been charged with the breach which is a criminal charge. He got off every breach.

Diane also told of numerous breaches:

He breached under the telecommunications and wireless Act. Sometimes he would leave up to 16 SMS messages a day. Sometimes up to 20 phone calls which all went on the answering machine. I kept a written record of everything. It was very hard though, I mean you're trying to feed the kids and his voice comes on the answering machine,

shouting and raving. You just retreat into a black hole. Anyway, I reported all the breaches but he was never charged to my knowledge.

Department of Community Development involvement

When police respond to a situation of domestic violence they record certain information on a database. This information includes the names of the abuser, victim and any children present. An audit is then carried out on this data to assess the seriousness of the situation. This usually relates to physical damage. If two reports of physical violence are made in the same household within a 12 month period the police are required to inform the Department of Community Development. The family is then classified as 'at risk' (interview: Police Domestic Violence Coordinator 2005).

Within this study 38 of the participants were primary carers for minor children, most of whom were present during one or more incidents of domestic violence. Only one of the women reported being contacted by the Department of Community Development after a domestic violence incident. However, because a question relating to this issue was not included in the interview schedule, it is not known whether this was because (a) the police did not inform the Department of Community Development of the children's presence during domestically violent incidents or whether (b) the police did inform the Department of Community Development who then did not proceed to any contact with these families.

2. Levels of fearfulness

One of the more sinister aspects of domestic violence is the climate of fear it instils in those who become victimised by it. Within this study, high and often paralysing levels of fearfulness were a major issue for all of the participants. This was true regardless of whether the violence was perceived to be of low, moderate or high levels, whether it was relatively infrequent or a regular occurrence – the fear that the violence will reoccur and escalate was ever present. Such all encompassing, pervasive fear is psychologically debilitating to victims and, whereas fear is often the trigger that motivates women to take action to leave violent relationships, excessive fear may also have the opposite effect. Melissa, for example, spoke of her ex partner's threats in this manner:

He's mad. A VRO is just a piece of paper and he's told mum and me that a bit of paper won't stop him killing us. I didn't leave him when he first hit me because I was terrified of what he'd do to me. He told me he'd shoot me if I ever left him.

Lynn, who described her ex partner as excessively controlling with occasional bursts of low level violence, spoke of living with high levels of stress and fear on a daily basis. She said:

You'd always be walking on eggshells. I don't think I ever did anything to trigger his moods. He'd do things like kick the oven door, rip the phone out of the wall, he would shout and swear. He was very loud. He even thought I was seeing someone and he left and then he wanted to come back and he would write scary letters with things like "have a happy life and death". Anyway he wanted to see my daughter on Christmas day and I was terrified he was going to do a murder suicide on Christmas day so I got a VRO because I was living with that fear every day'.

Whether Lynn's belief that her ex partner would kill their child and himself was justified is open to question, but her profound fear was genuine and of such potency that she felt compelled to take preventative action. In the event her husband was hospitalised and diagnosed with bipolar disorder. He was also served with an interim order. Lynn was granted the interim order and then a final VRO.

3. Court issues

Women who apply for Violence Restraining Orders speak of feelings of anxiety and fear regarding the court process. The entire legal process is viewed as problematic, most often occurring at a time when women have made a decision to leave an abusive relationship or during times of escalating violence after separation. Zoellner (2000) notes that, 'the average battered woman makes up to five attempts to leave her partner before she actually ends the abusive relationship' and that 'leaving itself does not ensure the end of violence'. As a result, at the time of initial application for a VRO in court, these women are often at their most emotionally vulnerable. All of the women in the study reported feeling very anxious during the court process. For several of these women the anxiety was compounded by fear of being in close proximity to their abuser and/or his family. Melissa outlined her experience in court in this way:

He was there with his mum and dad. I was terrified. He kept trying to stare me down. He fought the VRO and his mum and dad supported him even though they'd seen my bruises and knew he hit me. I don't think the abuser should be allowed in the same room as the victim. He was clear and articulate in court and I was a nervous wreck and forgot what I had to say every time he looked at me.

Ingrid's relationship with her abuser ended more than 17 years ago but he has continually harassed both her and her family over the years. He has been charged under the telecommunications act for phone threats to her parents. She described her frustration with the court system regarding the many times she applied for restraining orders and was refused:

I tried on several occasions over the years to get VROs out against him. At that time that woman Magistrate (named Magistrate) just used to tell me to get over my paranoia and refused me several applications. I felt like no one believed me and they thought I was a nutter. When the applications were refused he used to be all triumphant and he'd carry on harassing and threatening me until it would all get out of hand again and I'd go back to court for another application. Then he tried to assault me and set his dog on me when I was working as a crossing attendant at a school. He did this in front of school children and parents and at last I managed to get a VRO which was only specific to the school crossing.

(Was that the same Magistrate?)

Yes. That kept him away from where I worked for a while but he would just drive past in his friend's car and swerve towards me, being a pratt and very intimidating.

(How many times did this particular Magistrate refuse your applications?)

Five all up.

Ingrid now has a five year final VRO against her ex partner. She claimed: *'he has made my life a nightmare for the past 20 years. That's a long prison sentence for just making a bad decision and picking the wrong partner'*.

Kayla also felt let down by the court system. She had applied for a violence restraining order but her application was denied. She said:

I don't have an interim order. I applied for an interim violence restraining order when I got back here but the Magistrate was of the opinion that we should be able to sort this out between ourselves and because it was mostly emotional stuff and bullying and a bit of pushing and shoving he remanded his decision for 7 months. Can you believe that? Seven months. So I never felt safe and in the end I never went back to court to see if he would grant me the order. I even told the Magistrate that the night before I left he'd thrown me into a wall and nearly knocked me out. He did this in front of his baby son – but the Magistrate discounted all that and said we should sort it out.

Several women said that they had previously applied for violence restraining orders and subsequently dropped these orders prior to their current applications. They felt that this factored in to the Magistrate's treatment of them in court. For example, Debbie said: *'No the Magistrate wasn't helpful at all because I'd made application and dropped orders before. He was really difficult and I felt like a fool'*. Debbie eventually obtained an interim order and proceeded through the system to get a final order. Sylvia also experienced this when she decided not to proceed to a final order as she and her ex partner had reached a mutual agreement. On her

account, the Magistrate said: *'I hope you don't come to my court in the future to apply for another order'*. In this way the Magistrate invalidated Sylvia's need to remain protected from violence as well as her decision to try to negotiate some consensus with her ex.

4. Violence Restraining Orders and feelings of safety

Although it can be argued that current Western Australian Domestic Violence legislation is the most stringent nation wide, within this study 32 (73%) of the participants said that a Violence Restraining Order did not make them feel safe. Only 12 women (27%) reported feeling safer with restraining orders or some form of legally binding mutual undertaking in place.

Christine's response typified those of the women who felt protected by the VRO. She said that she was still somewhat scared but went on to clarify:

My husband is a successful businessman, well known around here and I think he's reluctant to break the order because he'll be aware that it's a criminal charge if he does. He wouldn't want a criminal record to muck up his unblemished reputation. He travels overseas all the time so he doesn't need that to restrict him. That's the only thing that stops him though, I know it. But it does make me feel safer.

Each of the women who reported feeling safer had similar responses, saying that their ex partners were, by and large, law abiding citizens and that the threat of a criminal record was the major deterrent to VRO breaches and further violence.

Several women said that they felt somewhat safer but not completely safe. Elaine's comments were typical of these women:

I have a final order for 2 years and I feel a bit safer but not really safe. I've changed the locks on the family home so I'm conscious that he could appear and try to get in. I can't say that I'm no longer fearful because I have the order but I feel that the order means the police would respond quicker because of it, but I have to be constantly alert because if he had a drug and alcohol cocktail, as he's done in the past, I don't think a restraining order would stop him at all.

On the other hand, most of the women felt that the VRO was more or less ineffective as a tool of real protection from ongoing emotional and physical abuse. Yvonne noted that her VRO:

Wasn't worth the paper it was written on because it just made him more mad. The first time it made him so mad that I was more scared than I had been before. It took the police that long to find him to serve him with it anyway and he's broken the order twice. He got

breached the last time and that's a criminal offence and he needs police clearance for his work so now he blames me for that too. This is what's stressing me out.

Ingrid has a final order for 5 years but claims:

It doesn't make me feel any safer. It's only a piece of paper and he knows how to work it. For example, when I went to court with the lawyer from SCALES and the order was granted, outside of court he stood directly between us and the SCALES office. He just stared at us and was very threatening without speaking. We had to wait for half an hour to be escorted back to the office. Then, when I was leaving the office, he stood near my car so I couldn't approach my car without breaching my own order. He does that sort of thing all the time and he laughs at the authorities.

Rosie also spoke of her fears in this way:

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

Several of the women who participated in the study said that their abusers had been or were currently in prison. Indeed, research has found that 69% of VRO respondents have a criminal record and 'many have multiple restraining orders taken out against them, making it unlikely that this group of respondents will change their behaviour in accordance with the terms of a restraining order' (Pearson 2002).

5. Interim to final violence restraining orders: why women do or do not proceed

This study originally set out to systematically investigate the socio-economic and familial factors which might deter women from proceeding from interim to final violence restraining order applications. Certainly, the percentage of women in this study proceeding from interim to final applications for violence restraining orders is higher than previous research indicates (57.5% in the current study compared to 33% reported by Krazslan & West 2001; Pearson 2002). This factor may in part be attributed to the recent changes in domestic violence legislation (December 2004) which gives police greater powers, to the introduction of specially trained Police Domestic Violence Coordinators (PDVCs) who have served to initiate some positive cultural and attitudinal change towards domestic violence intervention within the police force and to a more agency integrated approach to supports and service provision.

Economic factors

Within the study 40 of the 44 women interviewed made application for interim violence restraining orders. Of these 40 applicants, 36 were granted interim orders and 19 women went on to obtain final violence restraining orders. Only six women (15% of the 40 original applicants) said that financial considerations were a major factor in delaying their decisions to leave their violent or otherwise abusive relationships. Three of these women were under 30 years and three were over 30 years. Each of these six women had children living with them at the time they fled their relationships. Four of the women had final orders in place, one had just recently applied for an interim order and the remaining woman had been granted an interim order but did not proceed to a final order because she had entered into a mutual agreement with her ex partner.

Although, for the majority of participants financial consideration was not the major deciding factor, for these six women financial concerns caused considerable anxiety and resulted in them delaying decisions to leave violent situations and consequently delaying applications to the court for restraining orders. Bella said that she was worried about how she would survive financially as a single parent with two small children to support and a mortgage to pay. In the event she left the relationship anyway and ended up with a \$16,000 legal debt and a caveat on her house after seeking legal advice relating to custody issues with the Family Court. Elaine also explained how her financial circumstances initially impacted negatively on her decision to leave:

Money or the lack of it has several times stopped me from making the decision to leave. When you're so scared and confused it's difficult to get past your fear to actually think logically about where to go for practical help and how you might manage financially.

In her turn, Zoe said: *'Finances impacted on my decisions a little bit but the decision to move away from him was really because of what happened with him'*. Christine, on the other hand, lived a wealthy lifestyle with her husband and was initially reluctant to *'downgrade my lifestyle. Also, I had no money of my own. I used his credit card to do the shopping and buy everything else I wanted. I didn't think I would qualify for sole parent's benefit'*. Iris also stayed in a bad relationship because of her financial situation. She explained: *'Lack of money made me hesitant to leave. I was lucky to have the support of the refuge who got me financial counselling'*.

Lisa described her financial dilemma in this way:

If I could've afforded it I would've left him years before I did. But I never had a cent to myself. He kept all the money and only gave me enough to buy basic food. I stayed for years. I just didn't think we could make it financially because I couldn't afford rent, a

bond and we would have had no furniture... the ironical thing is that now we've got more financial independence and I'm on a sole parent's pension.

In contrast, the majority of the women in the study claimed that, although lack of money was often a serious concern, it was not a major contributing factor in their decision to leave violent relationships and seek help through the courts. Indeed, several of the participants said that, although they were now dependent on some form of welfare payments, they were financially better off than when they lived with their ex partners who had, by and large, denied them any control over family finances.

For most of the women in the study it was the debilitating effects of constantly living in fear of violent attacks that at some point triggered the decision to leave the abusive relationship. Then, having separated from their abusers, ongoing violence, threats of violence and/or the fear of these, encouraged the women to pursue protection through the legal system. Yvonne illustrated this point clearly:

No, money wasn't the deciding thing. We had put up with so much after finally leaving and he was constantly tormenting us, making threats. I was scared and me and the kids we locked ourselves in my bedroom for weeks – every night we'd sleep in my bedroom with furniture up against the doors, scared out of our wits. I'd be staying awake all night and taking the kids to school the next day not having had any sleep. In the end I just thought "that's it, I'm not putting up with this shit anymore. I just had to get out of there and there was no going back. Then I went to SCALES and got help to get a restraining order.

Jackie, too, said that money was not the trigger for her decision:

It was the constant abuse and the violence was getting worse, more pushing and shoving. My boys were old enough to make some decisions for themselves and so I told them I wanted to separate and they said they wanted to live with me and that's when I made the decision. Before that I was terrified of losing my sons. I had stayed because I thought he would take them from me.

At the time of the interview, Jackie's 2 year final order had just run out and she was considering applying for another as her ex husband had started making threatening phone calls and had sent her abusive and threatening letters.

Status of orders in the study: interim versus final

At the time of the interviews seventeen of the women who were granted interim violence restraining orders had not obtained final orders. Three of these women were awaiting court decisions and hoped to receive final orders. Fourteen women did not go on to make application for final orders. Consequently, twenty three women or 57.5% of the violence restraining order applicants who participated in the study actually applied for final violence restraining orders. This is a substantially higher proportion than most research suggests (Kraszlan & West 2001; Pearson (2002).

Interim orders

Those women who did not proceed to application for final orders cited various reasons for not doing so. Six of the women had entered into legally binding mutual undertakings with their ex partners. In several cases, the ex partner had contested the application and the case had to return to court for a mention hearing. In these cases the women were extremely fearful of attending court and being in close proximity to their abusers and/or their families. This, they said, was a major contributing factor to their decision to drop the applications. The other major factor was the trauma involved in simply attending court and relating the details of their abuse to Magistrates whom they thought were less than sympathetic to their plight. Alternatively, several women did not proceed to a final order because, although they were extremely fearful of the violence, they also felt pity for their ex partners. Gemma explained her situation along these lines:

We had a restraining order. I went to the mention and a day before the hearing I dropped it because he rang me and he told me he loved me and our daughter and I had to tell him then that I'd lost the baby we were expecting and he burst into tears and I felt so sorry for him that I went round to his place to see him. So I breached the order and then I dropped it without getting legal advice. Then he tried to take an order out against me, do you believe that? Anyway I dropped the order but I didn't go back to him.

Rosie's case also clearly illustrates how the sympathy factor influenced her decision not to proceed with the restraining order:

For people like me who know that reporting causes escalating violence, the fear factor is huge. The fear can be paralysing. You can't think clearly at all and all that goes through your mind is that if he gets you this time you are going to die. He gets enraged so bad he can't see me. When he's been reasonable he's told me how it is. He literally sees red and has no power to reason. He doesn't think like a normal human being. Yet I've seen him in bed asleep in a foetal position sobbing for someone to stop – so you see I become torn.

On the one hand I want the violence to stop but on the other hand my heart breaks for the violated child that he was. It's him who actually needs serious help and no one has ever helped him except me.

Several women within the study reported that their abusive ex partners had themselves been physically and/or sexually abused as children.

Nicole did not apply for a final order primarily because her ex partner contested the application and she realised she would have to be within close proximity of him in court. This made her extremely anxious. She said:

I was terrified. It's so scary knowing that he's going to be there and I'm gonna have to see him and whoever else he brings along...it's terrifying for me to have to see him and his family. Look I knew he couldn't come and get me at court cos there's so many people around but it's just terrifying knowing that he can see me and I can see him. I couldn't handle it so I dropped it.

In some instances the women claimed to have been given conflicting information from various government and non government agencies. This caused confusion and, in at least one case, was the trigger for the woman to discontinue the violence restraining order process. Kayla described her situation:

When I sought help from various government departments and organisations when I first left I was given all the wrong information. I had no idea I could apply for a VRO because I didn't think my situation warranted it. I thought you had to display bruises, broken limbs and look generally beaten up to get a VRO. Anyway, the upshot of all the wrong information was that I tried to represent myself in court and didn't know what to do, what to say, or even who to say it to. It was only after I went to Social Security and they told me about SCALES but by then my application for an order had already been remanded for several months and I thought 'what's the point?'

The issue of conflicting and confusing information was particularly prevalent in relation to the Court of Petty Sessions where violence restraining orders were issued and Family Court where all access and custody matters are heard. The women felt that the sharing of relevant information between the two Courts was almost non existent and this resulted in the issuing of Family Court child access orders which put them at risk of further torment, threats and escalating violence. Following is Yvonne's experience of conflicting court orders:

Then it all got down to the confusion between the VRO conditions and the Family Court decision – one saying that he was to keep so many metres away from me and not to

approach me or contact me in any way. Now how did that pan out when I was dropping the kids off and picking them up at his caravan. Because of all these arrangements which were Family Court decisions I was regularly breaching the VRO too. I have been to the police station that many times asking them how I can work this all out without breaching the VRO. I need to know so that I can't get into trouble. The police said that the order is against him and not me but the new act says that we both have to keep the conditions set out in the VRO. So, basically, I've been the one taking the kids to him and picking them up because he hasn't got a car and I feel that I'm in breach of the VRO every time but if I don't do that he doesn't get to see the kids as ordered by the Family Court so then I'd breach that order. Do you see the dilemma?

Final orders

Those women who applied for and obtained final restraining orders had several factors in common. They were very fearful for their own and their children's safety because they felt the violence was escalating. Each of the women had dependent children and each had received information, ongoing support and advocacy from various government and/or non government agencies. Many of these women had left their abusive relationships and returned on several occasions before finally leaving permanently and proceeding with interim and final violence restraining order applications. Pieta, for example, endured her husband's abuse for more than twenty years, leaving him several times during that period when the violence escalated: She explained her situation in this way:

If you can believe it, I put up with his violence and threats for nearly 20 years before I realised I could get a restraining order on him. Oh, I knew there were things I could do but I was too scared and 'dumbed down' by him. I finally decided to leave when the boys were old enough to know what was going on, basically when he could no longer hold them over me as a threat. So I suppose it was knowing he couldn't take my boys from me and getting some help to organise everything I needed to do that spurred me on to leave him and take out the orders. If I couldn't have had the help I probably couldn't have gone through with it.

Yvonne had left her husband of ten years but he continued to threaten her and their children. When asked why she decided to complete the violence restraining order process, she said:

Well you know he just refused to get it, that we were permanently and forever over. He just thought we were his property and he kept on coming to my house and threatening us. I was always terrified when he tried to get into our house, too terrified to think really. And this went on for months on and off. Then I realised that my eldest son was starting to

act out and was getting a bit violent towards me and his brothers and I thought – shit – I have to do something about this. Even though I was scared to trigger more violence I went and got some legal advice from SCALES. It was the effect on my kids that got me to do it in the end. I didn't want my sons turning out like their dad.

Debbie had just been granted her third final violence restraining order. She explained that she applied for each order after particularly violent incidents where she feared for her life: *'It's my third order so he can't approach me. I've now also taken out an order where he can't approach my children either. That's since the incident 3 weeks ago. That was so terrifying. I really thought he was going to kill us'*.

Continuous threats and violence and their subsequent deleterious effects on children were most often the trigger for the women to search for solutions. Also, escalating violence and increased levels of fearfulness often prompted action. At this point, when the women were clearly motivated to act, the availability of support, advocacy and information were crucial in their decisions to proceed to final order applications.

6. Importance of support & advocacy in the pursuit of violence restraining orders

Well integrated supports and advocacy for women fleeing situations of domestic violence is vital to their feelings of safety, confidence in the legal process and their ability to move from victimhood to survivor of domestic violence. Within this study, those women who pursued final violence restraining orders each had adequate levels of advocacy and support services: legal advice and support; helpful service provision information; availability of ongoing counselling services.

Lisa spoke of the assistance she received:

The court volunteer helped me through my first court appearance. She told me to go to SCALES and (named lawyer) helped me with my VRO application. I've also been going to counselling and truly don't know how I could have gone through with the whole thing if it wasn't for my FAAST counsellor. I know I would've floundered if I hadn't had all this help. The court thing was so daunting for me.

Bella also said she would have been unlikely to have left her extremely violent marriage without extensive supports. She put it this way:

I am so grateful to so many people for helping me through this. I spent almost 9 years being constantly battered to the point of hospitalisation. I dread to think what would have become of me and my kids if I hadn't left. First the police helped me by telling me about

restraining orders and how to go about getting one. That was the first step and they were so kind to me. Ever since I applied for the restraining order I've had help from SCALES and court volunteers and I still get domestic violence counselling from my counsellor at FAAST. She has helped me so much to find the strength I never thought I had. It's still a struggle and I'm still scared of what he could do but at least I'm not living in constant fear of my life now and I know my life is so much better already.

Concluding comments

Domestic violence directly affects the victims, their children, their families and friends, employers, co-workers, and has repercussions for the quality of life in a local community. There can be far-reaching financial, social, health and psychological consequences. The impact of violence can also have indirect costs, including costs to the community of bringing perpetrators to justice or the costs of medical treatment for injured victims (Carrington 2005).

This study has focused largely on the issue of Violence Restraining Orders and the factors which might encourage women to make application for final orders. That issue has already been discussed in the previous chapter but merits further mention here - that Violence Restraining Orders do offer a level of protection to most women fleeing situations of domestic violence. However, it is also acknowledged that VROs represent a tertiary level of intervention. That is, VROs are issued *after* the violent assault or abuse and, although they are extremely important in preventing further harm, 'they do not prevent violence against women, as intervention occurs after the violence has occurred' (Carrington 2005). In terms of domestic violence prevention it has been suggested that there are three major areas within which to progress the prevention of violence against women. These are: (1) working with young people to break the intergenerational cycle of violence; (2) working with victims and perpetrators to break the cycle of violence; (3) working with communities to educate against violence (Current Perspectives on Domestic Violence 1999).

In conclusion, within this study the major issues in terms of effective intervention in the area of domestic violence, are as follows:

- Holistic approach to service provision
- Perpetrator programs
- Police and domestic violence
- Courts and domestic violence
- Cultural issues: Aboriginal women and Violence Restraining Orders

Holistic approach to service provision

Police and Courts 'need to work more collaboratively' with each other *and* non government domestic violence support and advocacy services to better serve the safety of women and children fleeing situations of domestic violence. There is much mention in domestic violence policy of the need for a 'whole of government approach' but little evidence of effective

interdepartmental collaboration at the coal face. This is most evident in the women's experiences of confusion and frustration in their dealings with Violence Restraining Orders issued in Magistrates' Courts and often conflicting orders related to access and custody issued by the Family Court. 'There is a clear tension between the women's needs and the Justice System's requirements' (Pat Thomas Memorial House, 2007). On the other hand, the non government agencies such as advocacy providers, counselling services and women's refuges, have demonstrated an efficient and effective collaborative strategy which appeared to serve the project participants well. Those women who proceeded to make application for final violence restraining orders had each received the necessary ongoing supports and services from non government agencies.

Perpetrator programs

Throughout the time span of the research project it became blatantly obvious that there is a real need for a substantial increase in the number of available perpetrator programs. *Breathing Space* was the only program mentioned by the project participants. Only three of the women reported that their abusive partners had attended part of this residential program. According to the women's accounts, none of their abusers had actually completed the program.

Within Western Australia, policy development focusing on male perpetrators of domestic violence appears to be ad hoc at best. It is therefore recommended that the development and evaluation of perpetrator programs receive prioritised attention and secured funding. It is further recommended that such programs are mandatory, at least in the case of serial and serious offenders.

It merits mention here that available perpetrator programs focus mainly on issues related to anger management. However, although some of the violence suffered by the women was related to their abusers' uncontrollable anger and rage, it is important to note that several of the women described their abusers as extremely restrained and self controlled in front of others, only resorting to violence within the intimate domestic situation. These men were described as manipulative, controlling and oppressing and made use of physical violence to claim power over their partners and/or families. Within this research project, these were generally the most violent of the abusers. This factor ought to be given some considerable thought when developing therapeutic programs for perpetrators of domestic violence. It is reasonable to assume that programs developed to deal with inability to control one's anger and rage will have little or no effect on those perpetrators who resort to extreme violence while in total control of their temperament.

Police and domestic violence

By and large there was a greater degree of satisfaction than dissatisfaction with police intervention in domestic violence incidents within this study. In addition, where there was dissatisfaction it often appeared to be an officer specific attitude. This suggests that there is a need for ongoing professional development for frontline police officers in all aspects of domestic violence, including the issue of cultural appropriateness. In addition, violence of a domestic nature should not be viewed as somehow 'less eligible' for immediate police attention, than other criminal activity. Moreover, it seems somewhat incongruous that the designated Police Domestic Violence Coordinators who are specifically trained to deal with situations of domestic violence only work in this nominated position Mondays to Fridays, 9am – 5pm, when most domestic violence incidents occur in the evenings, at weekends and during celebratory holidays.

In terms of police powers relating to Violence Restraining Orders, it is recommended that the police issued 72 hour order which requires protected person consent should immediately be recognised as an Interim Violence Restraining Order with the same process of response in Court. This would serve to minimise the trauma of court appearances for protected persons.

Courts and domestic violence

The process of application for Violence Restraining Orders in the Courts was viewed as the most problematic issue for the majority of the women participants in this research project. There were several reasons given for this:

- Magistrates were often perceived as lacking any real understanding of the levels of fearfulness and vulnerability of women applicants who were generally terrified of being in close proximity of their abusers in court.
- Magistrates often treated the women in a derogatory fashion, implying that they should be able to 'sort out' issues of a domestic nature, seemingly disregarding the women's fear and disempowerment within the violent relationship.
- The hierarchical structure of the Court was often reminiscent of the unequal power relationship with their abusers.
- Where Violence Restraining Orders were in place the Family Court often issued access and custody orders which required the women to be in breach of VRO conditions during child handover, thus placing the women at risk of further violence and abuse.

Cultural issues: Aboriginal women and Violence Restraining Orders

Throughout the time span of the research project it became apparent that, in general terms, Aboriginal women were reluctant to apply for Violence Restraining Orders. As previously mentioned, SCALES personnel reported no VRO applications from Aboriginal clients, although they had Aboriginal clients who sought assistance on other matters. In addition to this, most research in this area (Pearson 2002; Ferrante et al 1996) clearly illustrates that Aboriginal women are less likely than their non Aboriginal counterparts to seek legal help regarding domestic violence. This is most disturbing when it is acknowledged that Aboriginal women are forty five times more likely to be victims of family or domestic violence. Indeed, Aboriginal West Australians are over represented as both victims and perpetrators in incidents of domestic violence.

In short, Violence Restraining Orders, as they are currently constituted, are simply culturally inappropriate for Aboriginal women. Because of this the court system and prevailing domestic violence legislation and policy fail to offer any reasonable level of appropriate protection to Aboriginal women living in situations of family and domestic violence. It is therefore recommended that the following issues be addressed:

- Cultural awareness training to be provided to: service providers; police; all legal staff; Magistrates.
- There should be Aboriginal representation at all levels of domestic violence policy formulation
- Policy should be written in culturally appropriate language.
- Development of culturally appropriate men's programs.
- Government should engage in discussions with Aboriginal communities state-wide to initiate the development of alternative methods of legal intervention in dealing with domestic and family violence.

Policy and legislation in the area of domestic violence ought to be more responsive to the needs of, and less threatening to, Aboriginal people. For example, in the Northern Territory Aboriginal women who experience domestic violence can avail themselves of 'No Violence Orders' against their abusers. These orders can be issued by police officers attending domestic violence incidents. No Violence Orders permit the perpetrators to remain in the family home but deny them the right to either physically or emotionally abuse the protected person. Breaching a NO Violence Order constitutes a criminal act. This type of order was deemed to be more culturally appropriate for Aboriginal women who had concerns about their partners being taken away. It also effectively reduced the number of unintentional restraining order breaches.

Summary

As previously noted, the problems faced by the women who participated in this study are typical of those faced by most women who have experienced domestic and family violence. Their lives are characterised by fear, high levels of stress, depression and ongoing anxiety. This study has sought to illustrate the particular difficulties faced by women in their attempts to flee situations of domestic violence regardless of their decisions to utilise or otherwise the full extent of the legal system. It is hoped that the study will contribute substantially to the knowledge base necessary for effective policy review and legislative change in the area of family and domestic violence.

In concluding, I would once again like to thank the women participants who so generously shared their experiences.

Dot Goulding

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Appendix 1

Scales Project

Structured Survey Form Primary participants: cultural & demographic data

30 years and under no children	30 years and under with children
Over 30 years no children	Over 30 years with children
Cultural/ethnic background	
Employment status	
Socio-economic background	
Extent of financial dependence	
Drug/alcohol issues	
Family health/psychological issues	
Level of violence to self	
“ “ “ to children	

Appendix 2

SCALES PROJECT

Interview schedule: primary participants Initial interview

Initial structured survey: standardised written collection of detailed socio-economic, cultural & demographic data. Interviewer to ensure this is recorded on relevant form, indicating approximate income level, employment status, the extent of financial dependence, socio-cultural background, age group (under 30, 30+, with or without children), drug/alcohol issues, family health and psychological issues, level of violence/abuse to self and/or children.

Recorded semi-structured interviews: issues to be covered and relevant prompts.

- 1. Brief history of relationship:** I'd like to ask you about your relationship. Could you tell me
 - how long you were together
 - if you were married or living in a de facto relationship
 - if there were children involved in the relationship
 - do you have children in common
 - if there were children from other relationships were they yours/his?
 - how many children were involved, could you tell me their approximate ages
 - do you have a reasonably close relationship with your extended family – I'm thinking mum, dad, sister, brothers, aunts, cousins and so on
 - how would you describe your relationship with your (ex) partner?
- 2. Nature of the violence in your relationship:** I'd like to talk to you about the nature of the violence in your relationship. For example whether there was one isolated incident or whether violence/abuse happened regularly, whether your partner was controlling, what you felt triggered violent episodes, maybe ways in which you tried to avoid them – that sort of thing.
 - Would you describe your relationship as physically violent, otherwise abusive (isolated from your family/friends, kept without money, emotionally abusive etc) or both?
 - If you endured ongoing violence/abuse could you tell how violent incidents might start, what would happen, what you might do to try and protect yourself and if violence/abuse ever happened in the presence of your/his children?
 - Can you tell me what triggered your decision to get an Interim Restraining Order? Perhaps it was a particular incident or a build up of things, or it may have simply been that someone told you that you could.
 - Now that you have the IRO, do you still feel fearful for your safety or do you feel safer, more protected – could you tell me about this? Also, do you consider your relationship to be finished, or do you hope to reconcile eventually and, if so, what might your conditions, if any, for reconciliation.
- 3. Financial considerations and how they might impact on your decisions.** Some women have said that they felt they had no choice but to return to violent and otherwise abusive relationships because they had nowhere else to go: no money to move house, no bond for rental, no money to replace personal possessions such as furniture and other everyday

necessities. Can you tell me if this might be a major consideration in your decision to leave/return or otherwise? For example:

- If your (ex) partner left the family home were you able to cope financially with rent/mortgage payments, food, clothing and other household costs?
- If you left the family home were you able to afford appropriate accommodation, rent in advance, bond, essentials such as basic furniture etc?
- Did you have other costs associated with your situation? I'm thinking of legal costs if the Family Court was involved in custody issues. Could you describe how this affected your financial situation and would this have factored into your decision to remain separated or return to the relationship?

4. **Personal relationships and domestic violence:** Several women have said they felt very isolated when they lived in violent or abusive relationships. During your relationship did you tell any family members or close friends about the violence?

- No – can you tell me why you kept this from your close family/friends?
- Yes – can you tell me how your family/friends responded to this information? Were they surprised, helpful, supportive? Did they encourage you to leave/stay? Did they offer any practical help – if so – what sort of help?

5. **Police intervention:** I'd like to ask you about any times the police might have attended during or after a violent incident. For example:

- Who called the police; was it you, someone within the household or someone else – a neighbour perhaps?
- If you called the police, did they attend within a reasonable time span?
- Can you describe how the police handled the situation?
- Did you feel that they handled the situation well under the circumstances?
- Did the police offer advice regarding Violence Restraining Orders?
- Did you feel they were empathetic and understanding about your situation?
- Did the police remove your violent partner from the premises or did you leave?
- The new Domestic Violence Legislation requires police to report serious incidences of domestic violence to the Department of Community Development where there are children involved (living in the premises where the violence occurred), were you aware of this and how do you feel about it? (would it affect your decision to report violence?)

6. **Attendance at Court:** Many women experience going to court to apply for the restraining order as a very traumatic experience, particularly if the violent partner and/or his family are present. Also, some women said that the court set up and the way that magistrates and other court officials spoke to them made them feel intimidated. Can you tell me about your experience of going to court? Can you take me through the things that happened when you went to court? I'd like to know about things such as:

- Did you get any help from a court volunteer, duty lawyer or other court official?
- Did you know what was expected of you – where you should stand, how you should address the court, how you should refer to the magistrate, when you should or should not speak – these sorts of things.
- Did you feel that the magistrate was understanding in her/his dealings with you?
- Was your (ex) partner and/or his family at court? If so, can you describe how you felt about this?
- Were you at any time fearful for your/your children's wellbeing? Could you tell me about this?

- Do you think the court process, regarding domestic violence cases, should/could be changed? If so, in what ways?
 - Did you attend court only for a VRO or did you have to attend as a witness/victim of assault if your (ex) partner was charged by police? Could you tell me about this?
7. **What happened to your (ex) partner?** We've covered your experiences of the things involved in getting a VRO. I'd like to hear about what happened to your (ex) partner through this process. Things such as:
- Did the police remove him from the family home when they attended the DV incident?
 - Did he try to return or contact you in any way directly or indirectly?
 - Was he charged with any offence?
 - Are you aware if he has been ordered by the court to participate in any anger management, parenting or drug/alcohol related programs designed to address his behaviour?
 - If so, do you have any sense of whether these programs have been effective in modifying his behaviour towards you and/or your children?
8. **Bizarre behaviour:** Some women have spoken of various forms of bizarre behaviour employed by their (ex) partners after VROs have been taken out; ways in which they try to bend the rules of the VRO without specifically breaking them. For example, the VRO might stipulate that (ex) partner cannot come within 100 metres so he might hang around just outside that distance, watching. He might get his family or friends to drive by your home regularly, basically keeping you under a form of surveillance.
- Have you had experience of this or any other sort of bizarre behaviour that you can describe to me?
 - If so, what, if anything have you done about this?
 - Have the police or courts been able to help you? If so, how?
 - Do you feel the new DV Act protects you adequately against such behaviour?
 - Can you describe how you feel about this sort of behaviour?
9. **Children and the Family Court:** I would like to address the conflict that sometimes occurs between VROs and Family Court Orders.
- Have you had any experience of this?
 - Do you know which order has prevalence?
 - Could you describe how you may have dealt with this?
10. **Access visits:** Several women have spoken about high levels of stress and/or fear during handover of children immediately prior to and after access visits.
- Have you experienced any difficulties during handover of children?
 - If so, have you found ways to resolve this (eg handing children over at the police station, having a relative hand children over or using an agency to hand children over)?
 - Could you describe your situation regarding access handover and tell me how you feel about this?
11. **Family Court matters related to custody:** I'm interested to hear about your experiences with the Family Court regarding custody issues. I'm thinking about how you felt you were dealt with by Family Court staff – court officers, magistrates, counsellors etc. I'd also like to talk about any costs involved and how this has affected you financially.

- Do you feel that you were dealt with fairly?
- Can you tell me about your experiences and how you felt at the time?
- Have you incurred any costs related to Family Court matters?
- Can you tell me how this has affected you financially?

12. Restraining Order process:

- What stage in the VRO process are you currently at?
- Did you start the process under the old or amended legislation (December 2004)?
- Do you think you will continue with the process?
- Can you think of anything that might make this process more user-friendly for victims of DV?
- Do you think the amended legislation offers sufficient safeguards for you emotional and physical wellbeing?