



QUEENSLAND POLICE SERVICE

DOMESTIC VIOLENCE – REVIEW OF BAIL, STREET CHECKS AND FRONT COUNTER REPORTING

Ethical Standards Command

EXECUTIVE SUMMARY

In recent times, the QPS response to Domestic and Family Violence (DFV) related incidents has come under increased scrutiny particularly in relation to determining whether a defendant charged with a domestic violence offence should be refused or granted bail and secondly, when determining the most appropriate action to take when an aggrieved reports a DFV incident at the front counter of a police station. At the request of the Executive Leadership Team, the Inspections Teams, Integrity and Performance Group, Ethical Standards Command, conducted a review to examine officer compliance with Service policy and legislative requirements (1) when investigating DFV matters reported at a front counter, (2) the submission of street checks for recording DFV incidents, and (3) when making a determination about bail for DFV offenders.

The review was conducted as a desktop analysis. It was largely quantitative in nature and involved the state-wide analysis of various QPRIME datasets for the reporting period 1 April 2020 to 31 March 2021, in addition to the examination of relevant legislation and Service policy and procedure.

Almost 14,000 of the 120,985 DFV related incidents reported during the review period were received at a police station front counter making the front counter the fourth most common source for DFV related incidents.

The review highlighted a number of key findings in relation to front counter reporting:

- where an aggrieved, who didn't already have a domestic violence order (DVO) in place, attended the counter to report a DFV matter, almost half (49%, n=2,804) were finalised without the officer making application for a DVO;
- officers receiving a report of DFV at the front counter were slightly more likely to finalise the matter as *Domestic Violence – Other Action* when compared to all other sources;
- regional data identified an inconsistency in the way officers reported DFV matters received at the front counter across the State;
- within the one-month period following their attendance at the front counter, 319 aggrieved persons made a private DVO application at a courthouse, 200 of which were granted;
- discrepancies were identified in the information contained within the DFV Report and the associated private application. Namely, in 45 instances allegations of assault or property damage or the aggrieved being fearful of the respondent were recorded in the private application but not within the DFV Report; and
- there was little or no nexus between the proximity of a police station to a courthouse and the action taken by police.

The review also identified deviation from Service policy in the recording of reports of DFV in street check occurrences:

- in 357 instances, officers recorded DFV related information received at the front counter within a street check, instead of creating a *Domestic Violence – No DV* occurrence as per Service policy.

Within the review period, 6,867 defendants were charged with 15,052 domestic violence offences. The key findings identified pertaining to bail included:

- almost half (48%, 3,308) of the defendants charged with a domestic violence offence were released on bail in relation to 38% (n=5,758) of the charges as officers considered there to be no unacceptable risk associated with their release;
- regional data identified a significant disparity across the State in relation to the refusal of bail for domestic violence defendants and those charged with the more serious offences (arson, robbery, assault, sexual offences) did not necessarily have bail refused; and
- the requirement to provide a 'statement of reasons' for the release of a defendant in a 'show cause' position was complied with in 22% (n=700) of matters.

As a result of the findings, four recommendations have been preferred for consideration which adopt a whole of service view in the approach required to address them. The recommendations are provided in Appendix A.

Inspections Teams

Integrity and Performance Group

The content of this report is not to be released externally without approval.

SEPTEMBER 2021

DOMESTIC VIOLENCE – REVIEW OF BAIL, STREET CHECKS AND FRONT COUNTER REPORTING**RECOMMENDATIONS****RECOMMENDATION 1**

Assistant Commissioner, Organisational Capability Command to consider:

- (i) *State-wide awareness and training regarding the full capability of Axon body worn cameras, specifically relating to the performance of instantaneous playback to improve the timeliness of supervisor review.*

The Assistant Commissioner, Organisational Capability Command reports to the Assistant Commissioner, Ethical Standards Command by 31 December 2021 on any action taken.

RECOMMENDATION 2

All regional Assistant Commissioners to consider:

- (i) *Reinforcing the provisions of 4.4 of the DIRIE to ensure body worn cameras are activated when allegations of Domestic and Family Violence are reported at station counters.*

All regional Assistant Commissioners report to their respective Deputy Commissioner by 31 December 2021 on action taken, and forwards a copy to the Assistant Commissioner, Ethical Standards Command.

RECOMMENDATION 3

All regional Assistant Commissioners, consider:

- (i) *Ensuring the provisions of OPM 9.4.3 are complied with namely, that Street Checks are not to be used to record reports of Domestic and Family Violence and that such matters are properly recorded as Domestic Violence – Application Police, No DV or Other Action.*
- (ii) *Implementing processes to undertake regular audits of Street Checks to ensure all Domestic Family violence incidents are recorded correctly in accordance with OPM 9.4.2 & 9.4.3.*

All regional Assistant Commissioners report to their respective Deputy Commissioner by 31 December 2021 on action taken, and forwards a copy to the Assistant Commissioner, Ethical Standards Command

RECOMMENDATION 4

That the Assistant Commissioner, People Capability Command, reviews the suitability of current training to ensure adequate guidance and information is provided to all police officers in relation to making an informed determination about bail for a domestic violence offence, particularly where the defendant is in a 'show cause' position. That the Assistant Commissioner, People Capability Command reports the outcome to the Assistant Commissioner, Ethical Standards Command by 31st December 2021.

SENSITIVE

1. BACKGROUND

The Queensland Police Service (QPS) recognises Domestic and Family Violence (DFV) to be a serious problem within the community. In 2019-20, twenty-eight DFV related homicides were recorded in Queensland with this figure being the highest number recorded since 2014-15¹. On average, across Australia, one woman is killed by her current or former partner every week. This highlights the importance that people who are subjected to such incidents receive the maximum protection from abuse and violence the law, and those who enforce it, can possibly give.

The prevalence and seriousness of harm and consequences caused by DFV necessitates a strong policing response and whilst the QPS is just one part of a broad interagency DFV service response, frontline officers are often the only responding agency at the point of crisis and play a crucially important role in protecting victims and their children, as well as holding perpetrators to account.

The Service acknowledges, when investigating DFV related incidents, the actions and decisions of officers can have a marked effect on future violence which consequently poses a high level of risk to the Service and to the victims of DFV. Specifically, two aspects of the QPS response to DFV incidents that have come under increased scrutiny in recent times include:

- determining whether a defendant charged with a domestic violence offence should be refused or granted bail; and
- determining the most appropriate action to take when an aggrieved reports a DFV incident at the front counter of a police station.

When investigating DFV related incidents, it is the responsibility of the Service to ensure the provisions of the *Domestic and Family Violence Protection Act* (DFVPA) are complied with. The Service subscribes to the aims of the DFVPA which are to maximise the safety, protection and wellbeing of people who fear or experience domestic and family violence and minimise disruption to their lives, to prevent or reduce domestic violence and the exposure of children to domestic violence and to ensure that people who commit domestic violence are held accountable for their actions.

In accordance with this principle, Service policy as set out in section 9.4.1 of the *Operational Procedures Manual* (OPM) aligns with section 100 of the DFVPA which requires an officer who reasonably suspects domestic violence has been committed to investigate or cause to be investigated the circumstances surrounding the report and, if justified, take a course of action to immediately protect the aggrieved from further domestic violence. Service policy further states an officer who arrests a person for a domestic violence offence is to refuse the defendant bail and place the defendant in a show cause situation when the provisions of section 16 of the *Bail Act 1980* apply.

The purpose of this review was to examine officer compliance with Service policy and procedure and legislative requirements when investigating DFV related incidents. This was achieved by providing an independent evaluation of the appropriate application of Service policy and procedure when making a determination about bail and when investigating DFV matters reported at a station front counter. The review also aimed to identify any deficiencies and discrepancies

¹ Queensland Police Service (QPS) 2021. *Discussion Paper 1 'Options for legislating against coercive control and the creation of a standalone domestic violence offence'*. Brisbane: QPS.

in Service policy, procedure and practices whilst providing opportunities or strategies for the improvement of same.

2. METHODOLOGY

This review was conducted as a desktop analysis of relevant Service policy, documents and records. No field work was undertaken. The review included quantitative and qualitative elements.

Qualitative assessment comprised examination of relevant legislation and Service policy and practice directly related to charging a defendant with a domestic violence offence and the requirement to consider the risk of the defendant committing further domestic violence if granted bail. DFV related matters reported at police front counters and the requirement to investigate and assess the situation to maximise the safety, protection and wellbeing of the aggrieved was also explored.

The analysis of QPRIME occurrences related to a DFV incident² reported between 1 April 2020 and 31 March 2021 formed the basis of the quantitative aspect of this review. A number of datasets were extracted and analysed to identify the extent to which domestic violence defendants were refused bail and to assess the appropriateness of the action taken and compliance with Service policy when a victim of a DFV incident attended a police front counter for assistance.

2.1 Limitations

This review was largely quantitative in nature and subjective to the extent that the review team had to make a judgement or assessment of the standard of the QPRIME DFV related occurrences and the appropriateness of the officers' actions.

For the purpose of this review, the QPRIME datasets examined were limited to those occurrences associated with a DFV incident, namely all occurrence types with a DV indicator of 'Yes'. It was beyond the scope of this review to re-investigate the matter or to conduct inquiries with officers who had reported and/or investigated the DFV incident. As such, only the information recorded in QPRIME was considered.

Whilst it is acknowledged that DFV incidents are often multi-faceted, for the purpose of data collation, occurrences were categorised according to the primary reason provided to support the officers' course of action and why the officer deemed it inappropriate to apply for a domestic violence order (DVO). It is also recognised an area of potential concern in relation to police station front counters is the non-reporting of matters in QPRIME, specifically when an aggrieved attempts to report a DFV matter but is turned away or diverted to a courthouse by the front counter officer. The failure to record such matters makes the identification and measurement of these events extremely difficult and was beyond the scope of this review.

The datasets required for this review were extracted and analysed prior to 16 August 2021. Consequently, the data may not necessarily align with the changes to the QPS organisational structure that came into effect on that date.

² Occurrence recorded with a DV Indicator of 'Yes' as the victim and suspect are in a relevant relationship and domestic violence has occurred.

3. FINDINGS

3.1 Service policy, procedure and legislation

Analysis of Service policy contained in the OPM provided clarity and guidance with respect to the following issues subject of this review:

- Street Checks (s. 1.6.10);
- Directing a person to a courthouse to make a private application (s. 9.3.3);
- Police action re domestic violence (s. 9.4.1);
- Police action to be taken where applying for a protection order, a police protection notice or temporary protection order is not appropriate (s. 9.4.3); and
- Prescribed Police Officer's (PPO) responsibilities (s. 16.20.2).

Examination of the provisions and legislative requirements as contained in relevant legislation was conducted to inform this review:

- Domestic and Family Violence Protection Act 2012 (ss. 51, 100, 177(2));
- Bail Act 1980 (s. 16); and
- Criminal Code Act 1899 (s. 1).

Additional Service documents and records were analysed to provide further context and clarification with respect to the issues subject of this review:

- QPRIME User Guide 'Window Descriptions', 'Custody/Charging/Bail' and 'Domestic Violence';
- Criminal Law Bulletin 297; and
- QPS Operational Advisory Note 02/2021.

3.2 Police station front counter reporting

During the review period 120,985 occurrences related to a domestic violence incident³ were reported in QPRIME. Officers became aware of the incident primarily via Computer Aided Dispatch (CAD) (36%, n=43,637) closely followed by police reported (22%, n=26,145) and mobile device (21%, n=25,508). The police front counter (12%, n=13,972) was the fourth highest source for DFV related incidents.

This indicates that in almost 14,000 (12%) of all DFV related incidents across the State, the person affected by domestic violence attended the front counter of a police station or establishment to request the assistance of police. Of those, 5,687 incidents⁴ were finalised in QPRIME as a specific domestic violence occurrence type, namely *Domestic Violence - Other Action [1374]*, *Domestic Violence - Application Police [1372]*, or *Domestic Violence - No DV [1375]*. These occurrence types were the focus of analysis as they are used by officers to record relevant information where domestic violence has been alleged and the aggrieved seeks protection as there is no DVO or release conditions in existence. Table 1 provides

³ The DV Indicator has been ticked 'Yes' as the victim and suspect are in a relevant relationship and domestic violence has occurred.

⁴ Of the remaining 8,285 matters, 53% (n=7,451) were finalised as Domestic Violence (Contravene DFVPA) and 6% (n=834) were all other occurrence types.

an overall illustration of these occurrence types used by officers to finalise domestic violence related incidents reported at the front counter, compared to all other sources.

TABLE 1: DFV related incidents reported at the front counter vs all other sources and their associated domestic violence occurrence type.

Occurrence type	Counter		All other sources	
	Count	% of subtotal	Count	% of subtotal
Domestic Violence - Application Police	1,826	32%	18,156	29%
Domestic Violence - No DV	1,057	19%	16,360	26%
Domestic Violence - Other Action	2,804	49%	27,783	45%
Subtotal	5,687		62,299	

Section 9.4.1 of the OPM, 'Police action re domestic violence', outlines the responsibility of police where a person attends a police station or establishment to report a domestic violence incident which includes:

The officer is to prioritise the receipt of the initial report and commence an investigation. Where the officer reasonably believes after the investigation:

- (i) *domestic violence has occurred;*
- (ii) *it is necessary or desirable to protect a person from domestic violence; and*
- (iii) *there is sufficient evidence to a civil standard – 'balance of probability'.*

the officer is to take appropriate action to immediately protect the aggrieved and named persons from domestic violence.

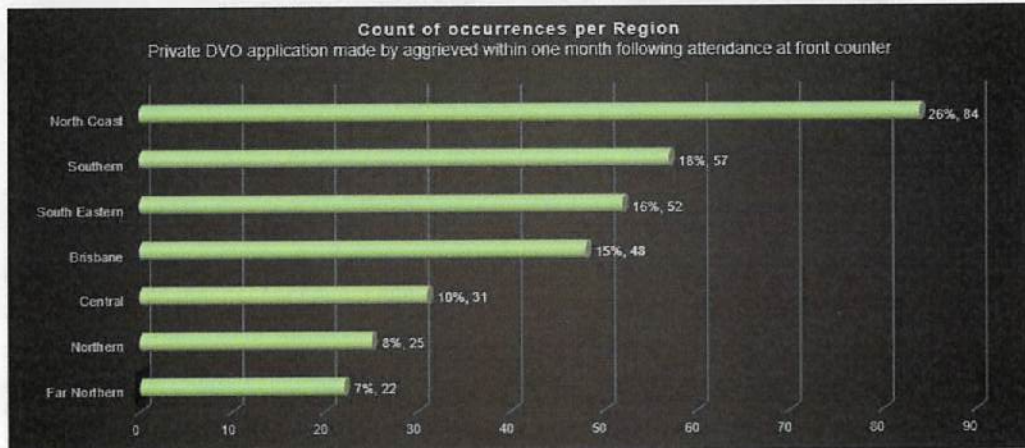
Whilst the data does not indicate a significant difference between the source type and the associated occurrence type used by officers to finalise the matter, Table 1 confirms the officer fulfilled their responsibility within the framework of the DFVPA to immediately protect the aggrieved from further domestic violence by making application for a protection order in 32% (n=1,826) of the 5,687 matters reviewed. However, almost half (49%, n=2,804) of the matters were finalised as *Domestic Violence – Other Action* which was a slightly higher percentage when compared to all other source types (45%, n=27,783). This finding was also reflected in the data at a regional level (Appendix A refers) with the proportion of matters finalised as *Domestic Violence – Other Action* ranging from a minimum of 43% (n=187) in Far Northern Region to a maximum of 53% (n=585) in South Eastern Region.

In instances where a matter has been finalised as *Domestic Violence – Other Action*, domestic violence, as defined in the DFVPA, has occurred or is suspected to have occurred but at the conclusion of the investigation, the officer has made the determination there is insufficient evidence to support an application for a protection order. In accordance with section 9.4.3 of the OPM, the officer is to obtain authorisation from a supervising officer to finalise the incident without taking any action and is then to advise the involved parties of the process for making a private DVO application. Section 9.3.3 of the OPM further stipulates the officer should advise the aggrieved there is insufficient evidence to support a police application for a protection order but may advise the aggrieved to attend a courthouse to make a private application.

Further analysis was conducted of *Domestic Violence – Other Action* occurrences reported at the front counter where the aggrieved has then, within the following

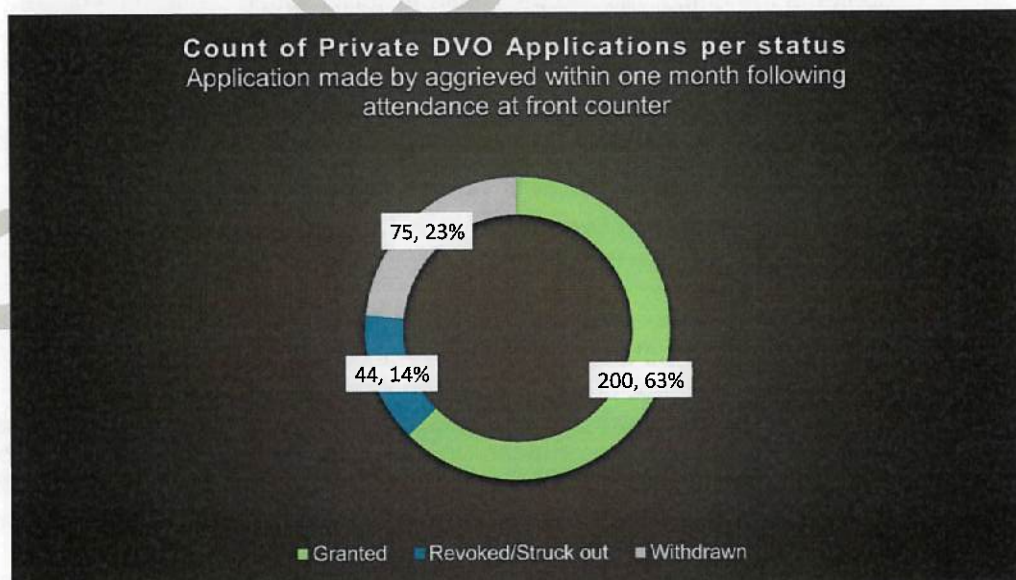
one-month period, attended a courthouse to make a private DVO application. For the purpose of analysis, only those applications involving the same domestic or family relationship⁵ were included in the dataset.

GRAPH 1: Count of *Domestic Violence – Other Action* occurrences reported at front counter and private DVO application made within the following month.



A total of 319 occurrences were recorded in QPRIME within the review period and Graph 1 provides the number of occurrences reported per region. As depicted, North Coast Region attributed to over one quarter (26%, n=84) of the occurrences across the State. Closer analysis revealed the majority of those were reported within Moreton District (n=48). The lowest number of occurrences were recorded within Capricornia District with a total of only 8 occurrences and Mt Isa District recorded nil. A detailed summary per district has been provided in Appendix B.

GRAPH 2: Status of Private DVO applications made within one month following the attendance at the front counter of the aggrieved.



As depicted in Graph 2, the majority (63%, n=200) of the private applications resulted in a DVO being granted in Court. Nearly one quarter (23%, n=75) of the

⁵ Same aggrieved and respondent linked to both *Domestic Violence – Other Action* [1374] occurrence and *Domestic Violence – Application Police* [1372] occurrence.

applications were withdrawn by the aggrieved and only a small percentage (14%, n=44) of applications were revoked or struck out.

It is recognised, due to the complexity and dynamic nature of DFV matters, the circumstances of the aggrieved may have changed in the time elapsed between his/her attendance at the police station and subsequent attendance at the courthouse, particularly if those events did not occur on the same day. In order to assess any change in those circumstances and the level of compliance with Service policy, a sample of occurrences was analysed where a DVO was granted from a private application after no action was taken by police.

A total of 124 occurrences were examined by reviewing the information provided in the DFV Report and the grounds of the private application. In 20 of the 124 matters, the private DVO application was made by the aggrieved on the same day he/she attended the police station. Data confirmed in the majority (64%, n=79) of cases the DFV report and private application contained the same information. In the remaining 36% (n=45) of matters discrepancies in the information recorded were identified.

As per section 9.4.3 of the OPM, officers are to include sufficient information in the DV occurrence to justify why no action was taken and the supervising officer is to, where practicable, overview the investigation to ensure the decision and reasons for not applying for an order are in the best interest of all persons involved. Table 2 outlines the reasons provided by officers for not making application for a protection order however, the same grounds resulted in a private DVO being granted. It should be noted, the standard of proof required for both police and private applications is based on the balance of probabilities. Further, section 51 of the DFVPA, stipulates where the respondent consents to the making of the DVO and the Magistrate is satisfied a domestic violence relationship exists, the Magistrate may grant the order without having to consider whether DFV has occurred. Consent of the respondent is not recorded in QPRIME and as such, this review has been unable to quantify the proportion of the private DVOs that were granted without the Magistrate giving consideration to the grounds of the application.

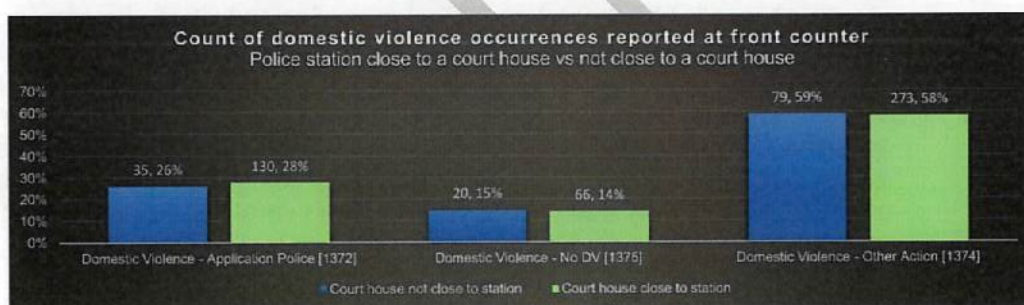
TABLE 2: the reason provided to support *Domestic Violence – Other Action* where the same grounds resulted in a private DVO being granted.

Reasons provided	Count	% of total
Insufficient evidence - nil visible injuries, nil property damage, nil threats, nil assault	15	19%
Nil imminent need to protect the aggrieved	12	15%
Aggrieved not fearful of the respondent	10	13%
Insufficient details provided by the aggrieved (including corroborating evidence and independent witnesses)	10	13%
Conflicting versions	6	7.5%
Nil previous DV history/DV unlikely to occur in the future	6	7.5%
Aggrieved and respondent do not reside together	5	6%
Minor in nature	3	4%
Historical threats/allegations reported	3	4%
Miscellaneous (including vexatious/false allegations, respondent not spoken to, private application granted prior to respondent being spoken to, aggrieved did not want respondent spoken to)	9	11%

On the information available, the discrepancies identified between the DFV Report and the grounds of the private application were most commonly caused by additional information being recorded in the grounds of the private application that were not contained in the associated DFV Report. In all 45 instances identified as containing discrepancies, allegations of assault (including strangulation) or property damage and the aggrieved being fearful of the respondent were recorded in the private DVO application but not the DFV Report. Similarly, allegations of rape, threats to kill the aggrieved and/or children and the use of a weapon to threaten the aggrieved that were recorded in a small number (n=9) of private DVO applications were not reported in the related DFV Report.

Analysis of data at a regional level provided findings consistent with those displayed previously in Graph 1, with each region attributing to a similar proportion of occurrences. Further analysis of QPRIME was conducted to assess the effect, if any, the proximity between a courthouse and a police station had on the way officers reported DFV matters in QPRIME. For comparative purposes, data was collated from a random sample of twenty (20) police stations, ten (10) of which had a courthouse nearby and ten (10) of which did not. Graph 3 provides a comparison of the two groups of stations and the occurrence types used to finalise DFV matters reported at the front counter. As indicated, regardless of the proximity to a courthouse, a similar percentage of DFV matters were finalised as *Domestic Violence – Other Action* in both groups of stations. These findings were also consistent at station level as illustrated in Appendix C.

GRAPH 3: DFV matters reported at the front counter of stations with a courthouse nearby vs no courthouse nearby and the associated domestic violence occurrence type.



Further analysis of QPRIME was conducted to examine the use of a street check by officers to record DFV matters reported at the front counter. Whilst officers have a legislative requirement as per section 100 of the DFVPA to keep a written record of all domestic violence investigations, section 1.6.10 of the OPM stipulates a street check should only be used to record field interrogations, suspect motor vehicles, the movements/activities of suspect persons and potential witnesses to assist in solving offences and indicate current crime trends. For the purpose of recording DFV information, Chapter 9 of the OPM requires officers to create a DV occurrence in QPRIME.

During the review period, officers at the front counter recorded a total of 908 DFV related street checks⁶ in QPRIME. Of those, 403 were analysed to identify the purpose for creating the street check and the association with any related occurrences. Analysis confirmed the large majority (88%, n=357) of street checks were entered by officers to record a domestic related interaction at the front counter. Such interactions included an aggrieved seeking advice only in relation to circumstances surrounding marital issues, custodial matters or property

⁶ Keywords 'domestic' and 'DVO' used in Summary field and police station linked in the Involvement tab.

settlement. A small percentage (8%, n=31) of street checks were entered when the incident had also been recorded in a DV occurrence and the remaining 4% (n=15) were entered by officers to record a DFV incident, specifically breaches of a DVO, instead of creating a DV occurrence in QPRIME.

3.3 Bail for domestic violence offences

During the review period, a total of 9,130 occurrences were reported involving 15,052 charges of a domestic violence offence⁷ against 6,867 defendants⁸. Section 1 of the *Criminal Code Act* defines a domestic violence offence as being an offence against an Act, other than the DFVPA, committed by a person where the offence is also domestic violence or associated domestic violence, under the DFVPA or contravention of section 177(2) of the DFVPA.

Where an officer has arrested a defendant for a domestic violence offence and delivered the defendant into the custody of a 'prescribed officer', that being the officer in charge of a police station or establishment or a watchhouse manager, section 16 of the *Bail Act* provides the police officer is to refuse to grant bail to the defendant if the officer is satisfied there is an unacceptable risk the defendant would fail to appear, commit an offence, endanger another person's safety or interfere with a witness. As such, where the defendant has been charged with a domestic violence offence, the officer *must* consider the risk of the defendant committing further domestic violence when making the determination to grant or refuse bail. It is the responsibility of the arresting officer to satisfy the prescribed officer that the defendant is an unacceptable risk if released.

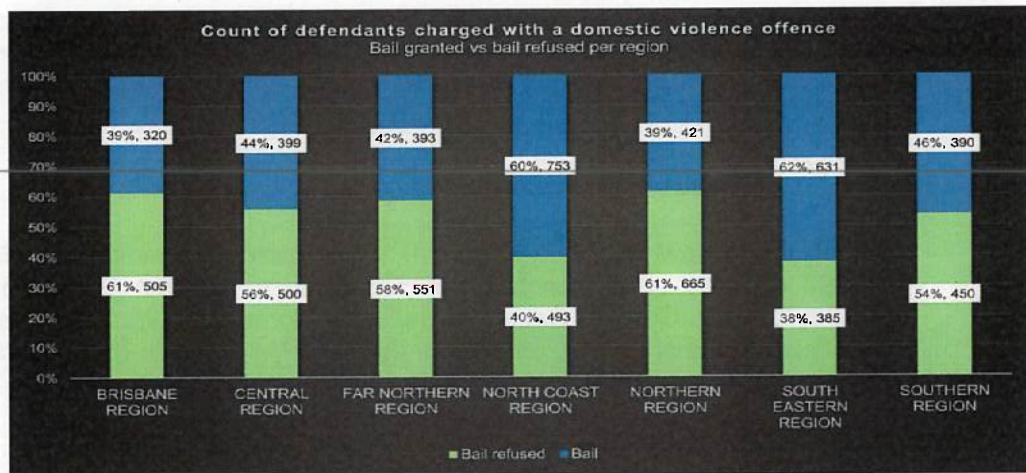
In addition, sections 16(3) of the *Bail Act* and 16.20.2 of the OPM stipulate a defendant charged with a 'relevant offence' is placed in a 'show cause' position which means the ordinary prima facie entitlement to be granted bail is reversed and the onus shifts to the defendant to establish why his or her detention is not justified. The defendant must be refused bail and remanded in custody if the prescribed officer is not satisfied that the onus has been discharged by the defendant. A 'relevant offence' includes but is not limited to an offence of choking, suffocation or strangulation in a domestic relationship, an offence punishable by 7 years imprisonment that is also a domestic violence offence, and a contravention of a domestic violence order if the offence involved unlawful violence to any person or property or previous convictions.⁹

GRAPH 4: count of defendants charged with a domestic violence offence and the proportion granted bail vs refused bail per region.

⁷ Includes all charges with 'domestic violence offence' in the QPRIME charge description.

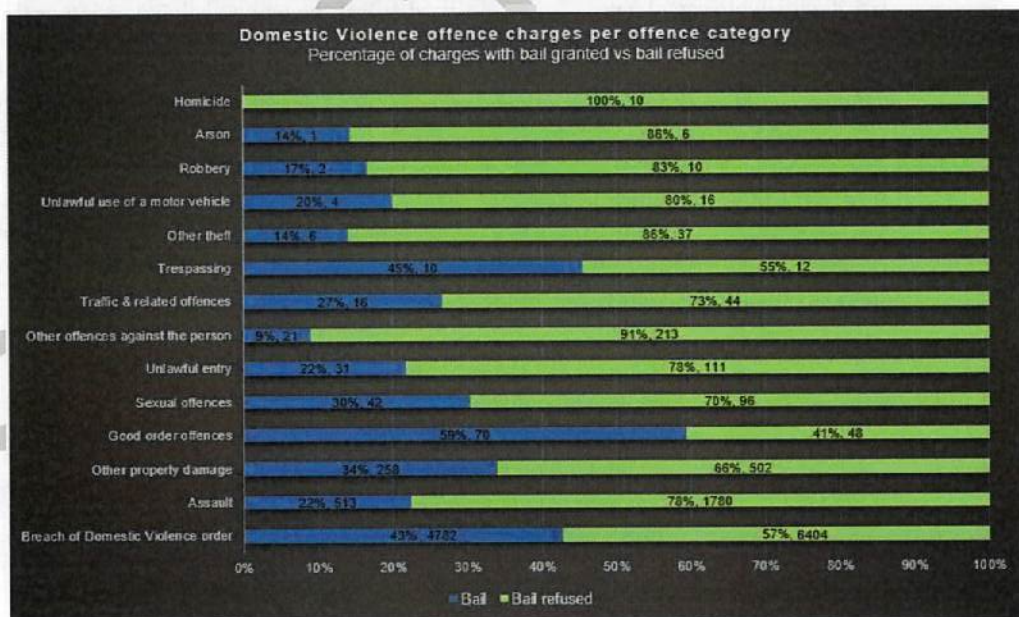
⁸ The same defendant may be represented in the data more than once.

⁹ In the previous 2 years the defendant has been convicted of an offence against s177(2) or in the previous 5 years the defendant has been convicted of an offence involving the use, threatened or attempted use of unlawful violence to any person or property.



State-wide analysis confirmed just over half (52%, n=3,559) of the defendants were refused bail in relation to 62% (n=9,294) of the total number of charges¹⁰. The remaining 48% (n=3,308) of defendants were released on bail or by way of notice to appear in relation to 38% (n=5,758) of the charges¹¹. As illustrated in Graph 4, South Eastern (62%, n=631) and North Coast (60%, n=753) Regions attributed to the highest proportion of defendants who were released on bail or by way of notice to appear. Defendants were more likely to be refused bail and remanded in custody within Brisbane (61%, n=505) and Northern (61%, n=665) regions. Further detail at a district level has been provided in Appendix D.

GRAPH 5: the proportion of domestic violence offence charges for which bail was granted and refused per offence category.



Graph 5 provides an overview of the charges per offence category and the proportion of charges for which the defendant was granted or refused bail¹². Section 16(2) of the *Bail Act* requires officers to consider the nature and seriousness of the offence as one factor when determining whether there is an

¹⁰ Charges were linked to 4,964 occurrences.

¹¹ Charges were linked to 4,166 occurrences.

¹² Homicide has been represented despite there being nil avenue to grant bail for this offence category.

unacceptable risk if the defendant was released on bail. More specifically, when a defendant is charged with Contravention of a DVO (simple or indictable) officers are to also consider the risk of further domestic violence being committed by the defendant. As depicted above, bail was granted to the defendant for almost half (43%, n=4,782) of the Contravention of a DVO charges and bail was not always refused for the more serious offence categories such as Arson, Robbery, Assault and Sexual Offences.

Whilst the majority (77%, n=5,263) of defendants were delivered to a prescribed officer at a watchhouse for charging, almost one quarter (23%, n=1,604) were charged at a police station or establishment. Only 35% (n=1,820) of those defendants charged at a watchhouse were granted bail which contrasts significantly with the 93% (n=1,488) of defendants who were granted bail from a police station or establishment.

Where a defendant is in a 'show cause' position, the police officer or prescribed officer who granted bail or released the defendant must include a statement of reasons for granting bail or releasing the defendant. The statement of reasons is to include the evidence upon which the decision was based, any findings on any material questions of fact and the decision on why bail was refused. Service policy (OPM s.16.20.2) requires the statement of reasons to be recorded in the Form 7 'Undertaking as to bail'. Of the 3,308 defendants granted bail, approximately 3,084 were in a 'show cause' position¹³. Analysis revealed the statement of reasons field in the Form 7 was left blank in 68% (n=2,129) of instances most commonly by officers attached to South Eastern Region (n=500) followed closely by officers within North Coast Region (n=469).

Table 3 provides an overview of the exceptions identified per region. An adequate statement of reasons for granting bail was provided by officers in less than one quarter (22%, n=700) of the instances. In one instance within North Coast Region, a defendant charged with the *Criminal Code Act* offence of 'Choking, suffocation or strangulation in a domestic relationship' was released on bail with the releasing officer providing that the defendant was not in a show cause position as the reason for the defendant's release.

TABLE 3: the information recorded within the 'statement of reasons' field in QPRIME per region.

Region	Field left blank	Nil reasons provided	Not in 'show cause'	Reasons provided
Brisbane Region	259	28	0	20
Central Region	210	21	14	132
Far Northern Region	217	28	2	95
North Coast Region	469	59	5	200
Northern Region	216	55	1	105
South Eastern Region	500	32	2	75
Southern Region	257	32	1	73

NOTE: OSC recorded 1 exception which has not been represented in the table

4. FURTHER ANALYSIS AND RECOMMENDATIONS

¹³ The review team did not have the capacity to consider the history of those defendants charged with an offence against s177(2) DFVPA to confirm it was a 'relevant offence'.

When investigating, enforcing and prosecuting DFV related matters, officers primarily operate within the legislative framework provided by the DFVPA. Officers are also required to satisfy certain responsibilities imposed upon them under the *Bail Act*. Service policy and procedure adequately aligns with the requirements of this framework which afford officers broad powers to protect the aggrieved from harm and to ensure the objectives of the DFVPA are met.

4.1 Police station front counter reporting

State-wide data confirmed in 32% (n=1,826) of the occurrence types reviewed, officers fulfilled their responsibility within the framework of the DFVPA to immediately protect the aggrieved from further domestic violence by making application for a protection order. However, it was identified when a report of DFV was received at the front counter, officers were slightly more likely to finalise the matter as *Domestic Violence – Other Action*, when compared to receiving the report from all other sources. This verified, in almost half of the matters reported by the aggrieved at the front counter across the State, an act of domestic violence had been committed or had been alleged to have been committed however, the officer did not make application for a DVO.

The analysis of QPRIME data identified a degree of variation in the proportion of matters finalised as *Domestic Violence – Other Action* per region. It could be suggested a higher proportion of these occurrence types is indicative of a greater level of QPRIME reporting compliance for DFV matters by officers within those regions. Conversely, the regions with a lower proportion of those occurrence types may indicate officers are simply not recording all DFV information received at the front counter within QPRIME. Whilst this is an area worthy of further exploration, the variation in the proportion of matters finalised as *Domestic Violence – Other Action* at a regional level highlights an inconsistency in the way officers report DFV matters received at the front counter across the state.

Where officers at the front counter believe they are unable to take protective action due to an insufficiency of evidence, section 9.3.3 of the OPM stipulates officers may advise the aggrieved to attend a courthouse to make a private application. This review identified 319 instances in which the aggrieved attended a courthouse to make a private DVO application within a one-month period following his/her attendance at the front counter, with the vast majority of those instances occurring within North Coast Region.

Of the 319 private applications, 200 (63%) were granted in Court with only 44 (14%) being struck out. Closer analysis of a sample (124) of the granted DVOs revealed 20 were applied for on the same day the aggrieved attended the police front counter. It was further identified in 64% (n=79) of cases the information contained within the granted private application was the same as the information recorded by police in the DFV Report. The primary reason provided by officers for not making application for a DVO for these matters was an insufficiency of evidence (19%, n=15) followed closely by there being no imminent need to protect the aggrieved (15%, n=12). However, as previously stated, whilst the standard of proof for both police and private applications is the same, when the respondent consents to the making of the order the Magistrate may grant the DVO without being required to consider the evidence. Although it can-not be assumed the 200 private DVOs were granted based on the consent of the respondent, the data should be interpreted with caution.

As found, a small number of matters (36%, n=45) involved discrepancies in the information recorded by police when compared to the information contained within the private application. In all instances, information pertaining to allegations of assault (including strangulation) or property damage and the aggrieved being fearful of the respondent were recorded in the private DVO application but not the DFV Report. In April 2021, an Operational Advisory Note (OAN) was disseminated by Ethical Standards Command (ESC) to all frontline officers in response to an identified operational issue. The OAN stated officers must, upon receiving a report of DFV, activate their service-issued body worn camera (BWC) to obtain a full and accurate record of the information provided by the aggrieved. The findings of this review have reinforced the importance of maximising officer compliance with this requirement and the necessity for the QPS to progress the relevant amendments to Service policy to include this requirement.

This review, however, has highlighted the complexity of DFV related matters and it must also be recognised an aggrieved may be afraid or reluctant to disclose the violence to police. In addition and, as acknowledged in the QPS Submission to the Women's Safety and Justice Taskforce¹⁴, the front counter of a police station can be a relatively sterile environment for an aggrieved where the officer may be challenged to provide a holistic, timely and empathetic response to the aggrieved's circumstances due to the considerable volume of other non-DFV related public and administrative duties the officer must attend to.

Further analysis of the data indicated there was little or no nexus between the proximity of a police station to a courthouse and the action taken by officers. This was evidenced by the similar percentage of DFV matters that were finalised as *Domestic Violence – Other Action* at both the stations with and without a courthouse nearby. This finding reinforces the fact that the action taken in relation to DFV matters is determined by the officer based on his/her assessment of risk, sufficiency of evidence and the level of protection needed. The effect of receiving a report of DFV from an aggrieved at the front counter and the officer's subsequent determination of the most appropriate policing response to protect the aggrieved is an area of notable community significance requiring further examination by the Service.

In respect to the requirement for officers to keep a written record of all domestic violence investigations, it is apparent a level of inconsistency with this requirement exists across the Service when an aggrieved attends a police front counter to discuss or gain advice in relation to a DFV related matter. For example, this review identified 357 matters pertaining to an aggrieved's marital issues, custodial concerns or property settlement that were recorded within a street check by officers. Whilst the use of a street check for this purpose does not comply with Service policy, the information does form an important part of the domestic history between the parties which should be easily and readily available to officers when assessing the protective needs of the aggrieved at any future DFV incidents. The siloing of such information in a street check, ITAS log, an officer's notebook or not recording it at all is an inhibitor to achieving this. As such, section 9.4.3 of the OPM, requires these types of matters where domestic violence has not occurred, to be recorded by officers in a *Domestic Violence – No DV* occurrence in QPRIME.

4.2 Bail for domestic violence offences

¹⁴ Queensland Police Service (QPS) 2021. *Discussion Paper 1 'Options for legislating against coercive control and the creation of a standalone domestic violence offence'*. Brisbane: QPS.

Service policy and legislation identify certain offending behaviours that suggest a heightened risk of further domestic violence or serious offences that are also domestic violence offences. As previously outlined, if the defendant represents an unacceptable risk of failing to appear, committing an offence, interfering with a witness or endangering another person's safety, officers have the authority to refuse the defendant bail and place the defendant in a show cause position. Analysis of QPRIME data confirmed almost half (48%, n=3,308) of the defendants charged with a domestic violence offence were granted bail in relation to 38% (n=5,758) of the charges as officers considered there to be no unacceptable risk associated with the release of those defendants.

Upon examination, it was identified a significant disparity existed across the State in relation to the refusal of bail for domestic violence defendants with 61% of defendants being refused bail within Brisbane and Northern regions but only 38% being refused bail in South Eastern Region. Further inconsistency was apparent when giving consideration to the seriousness and nature of the offence when making a determination about bail as those defendants charged with the more serious offence categories such as Arson, Robbery, Assault and Sexual Offences were not always refused bail. Whilst it was not within the scope of this review to identify those defendants who should and should not have had bail refused, this finding warrants further research to provide assurance the Service is maximising its capability to achieve a victim-centric policing response by preventing harm to aggrieved persons through a strong and consistent application of the *Bail Act*.

It is apparent the fundamental requirement to provide a statement of reasons to justify the release of a defendant in a 'show cause' position was not universally complied with. Officers complied with this requirement in 22% (n=700) of instances however, as identified, the vast majority (68%, n=2,129) of cases officers recorded no statement of reasons with the mandatory field being left blank in QPRIME. Non-compliance was most prevalent amongst officers attached to South Eastern and Northern regions. This non-compliance issue has been previously identified and was addressed in the April 2021 OAN referenced earlier in this report.

A contributing factor to this low level of compliance may be due to officers being unaware of the responsibilities imposed upon them under the *Bail Act* and officers' interpretation of the legislation and Service policy when identifying a 'relevant offence' and whether a defendant is in a 'show cause' position relative to a DFV offence. Consultation with the Acting Superintendent, Commander, State Domestic, Family Violence and Vulnerable Persons Unit (SDFV & VPU) revealed the importance of improving officers' proficiency in applying 'show cause' provisions to DFV defendants has been previously recognised. The SDFV & VPU confirmed advice has been provided in the development of an 'Objection to Bail' proforma to assist officers to clearly identify 'show cause' provisions relative to DFV and their associated reporting responsibilities.

4.3 Root Cause Analysis

Review of Front Counter Reporting of DV

Root Cause Analysis

- DV – Other Action deviates between regions (49% average), (Ranges from 43% -53% depending on Region);
- DV investigation fails to satisfy BOP test – OPM 9.3.3 Police "may" advise aggrieved to attend courthouse;

- 319 (DV – Other) occurrences which attended Station have attended the courthouse within 1 x month period. 200 of those had orders successfully taken out;
- Section 51 DFVPA provides a magistrate the option to grant a DVO (*with the respondent's consent*) without further consider considering whether DV has actually occurred – therefore in these instances the grounds surrounding the incident were not challenged;
- 36% discrepancies between police and court applications. Reasons could be circumstances changing, changing of facts by the aggrieved; and
- 64% no discrepancies could be police failing to add in details of their investigation which could negate certain details of victim's story or a failure of duty by police not taking out an order when appropriate.

Recommendation 1:

Assistant Commissioner, Organisational Capability Command to consider:

- (i) *State-wide awareness and training regarding the full capability of Axon body worn cameras, specifically relating to the performance of instantaneous playback to improve the timeliness of supervisor review.*

The Assistant Commissioner, Organisational Capability Command reports to the Assistant Commissioner, Ethical Standards Command by 31 December 2021 on any action taken.

Recommendation 2:

All regional Assistant Commissioners to consider:

- (i) *Reinforcing the provisions of 4.4 of the DIRIE to ensure body worn cameras are activated when allegations of Domestic and Family Violence are reported at station counters.*

All regional Assistant Commissioners report to their respective Deputy Commissioner by 31 December 2021 on action taken, and forwards a copy to the Assistant Commissioner, Ethical Standards Command.

Review of Street Checks being used to record instances of DV

Root Cause Analysis

- Street checks were used in 357 instances to record Domestic Violence incidents. This represented a total of 2% of all DV incidents within the period in scope.
- There is sufficient policy around how to record DV related incidents recorded to Police.
- Deviations from this Policy appear to stem from supervisory or training issues.

Recommendation 3:

All regional Assistant Commissioners, consider:

- (i) *Ensuring the provisions of OPM 9.4.3 are complied with namely, that Street Checks are not to be used to record reports of Domestic and Family Violence and that such matters are properly recorded as Domestic Violence – Application Police, No DV or Other Action.*
- (ii) *Implementing processes to undertake regular audits of Street Checks to ensure all Domestic Family violence incidents are recorded correctly in accordance with OPM 9.4.2 & 9.4.3.*

All regional Assistant Commissioners report to their respective Deputy Commissioner by 31 December 2021 on action taken, and forwards a copy to the Assistant Commissioner, Ethical Standards Command.

Review of Bail of DV Perpetrators

It is noted there is robust legislation and policy outlined in OPM 16.20 concerning both arresting and prescribed officer's responsibilities relating to "show cause" provisions for offenders who are taken into custody at a Watchhouse for any offence.

Root Cause Analysis

- Offender issued NTA or PPN from Station and not put in "show cause" situation.
- PPO (Watchhouse Keeper) not requiring completion of bail affidavit.
- Arresting officer not completing bail affidavit without sufficient information to inform the PPO.

Recommendation 4

That the Assistant Commissioner, People Capability Command, reviews the suitability of current training to ensure adequate guidance and information is provided to all police officers in relation to making an informed determination about bail for a domestic violence offence, particularly where the defendant is in a 'show cause' position. That the Assistant Commissioner, People Capability Command reports the outcome to the Assistant Commissioner, Ethical Standards Command by 31st December 2021.

* * * * *

APPENDIX A

Regional summary – count of domestic violence occurrence types used to finalise DFV related incidents reported at the front counter vs all other sources.

Occ type per Region	COUNTER		ALL OTHER SOURCES	
	Count	% of subtotal	Count	% of subtotal
BRISBANE REGION	846		9193	
Domestic Violence - Application Police	298	35%	2703	29%
Domestic Violence - No DV	137	16%	2014	22%
Domestic Violence - Other Action	411	49%	4476	49%
CENTRAL REGION	828		7896	
Domestic Violence - Application Police	249	30%	2333	30%
Domestic Violence - No DV	187	23%	2714	34%
Domestic Violence - Other Action	392	47%	2849	36%
FAR NORTHERN REGION	437		6289	
Domestic Violence - Application Police	185	42%	2089	33%
Domestic Violence - No DV	65	15%	1591	25%
Domestic Violence - Other Action	187	43%	2609	41%
NORTH COAST REGION	1040		12137	
Domestic Violence - Application Police	291	28%	3119	26%
Domestic Violence - No DV	207	20%	3295	27%
Domestic Violence - Other Action	542	52%	5723	47%
NORTHERN REGION	506		6894	
Domestic Violence - Application Police	163	32%	2017	29%
Domestic Violence - No DV	103	20%	2091	30%
Domestic Violence - Other Action	240	47%	2786	40%
SOUTH EASTERN REGION	1107		9610	
Domestic Violence - Application Police	409	37%	3453	36%
Domestic Violence - No DV	113	10%	1313	14%
Domestic Violence - Other Action	585	53%	4844	50%
SOUTHERN REGION	799		9369	
Domestic Violence - Application Police	195	24%	2131	23%
Domestic Violence - No DV	223	28%	3123	33%
Domestic Violence - Other Action	381	48%	4115	44%
TOTAL	5687		62299	

NOTE: 124 occurrences with NULL region recorded are not represented in the table.

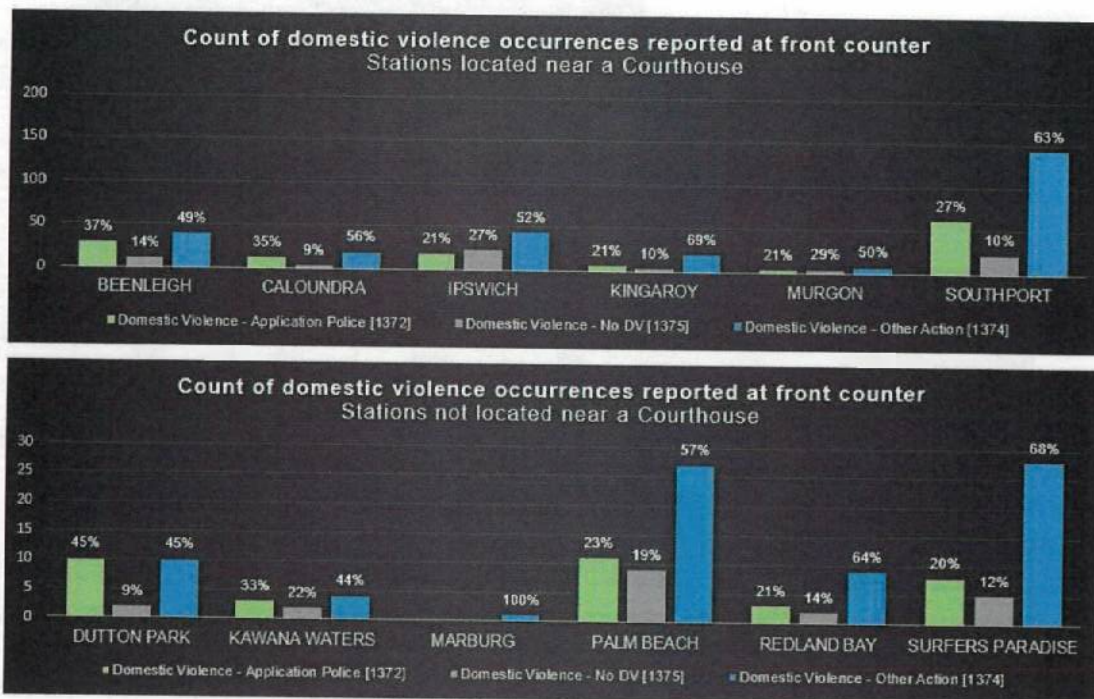
APPENDIX B

District summary - count of *Domestic Violence – Other Action* occurrences reported at the front counter and a private DVO application was made by the aggrieved within the following one-month period.

Region & District	Count
BRISBANE	48
NORTH BRISBANE	25
SOUTH BRISBANE	23
CENTRAL	31
CAPRICORNIA	8
MACKAY	23
FAR NORTHERN	22
FAR NORTH	22
NORTH COAST	84
MORETON	48
SUNSHINE COAST	12
WIDE BAY BURNETT	24
NORTHERN	25
MT ISA	0
TOWNSVILLE	25
SOUTH EASTERN	52
GOLD COAST	32
LOGAN	20
SOUTHERN	57
DARLING DOWNS	25
IPSWICH	19
SOUTH WEST	13
TOTAL	319

APPENDIX C

Station summary - DFV matters reported at the front counter of stations with a courthouse nearby vs no courthouse nearby and the associated domestic violence occurrence type.



APPENDIX D

Regional and District summary - count of defendants who had bail granted bail vs bail refused with regional and district percentages.

Count of defendants per Region	BAIL GRANTED		BAIL REFUSED		Regional total
	Count	% of Regional total	Count	% of Regional total	
BRISBANE REGION	320	39%	505	61%	825
NORTH BRISBANE DISTRICT	183	49%	194	51%	377
SOUTH BRISBANE DISTRICT	137	31%	311	69%	448
CENTRAL REGION	399	44%	500	56%	899
CAPRICORNIA DISTRICT	283	48%	312	52%	595
MACKAY DISTRICT	116	38%	188	62%	304
FAR NORTHERN REGION	393	42%	551	58%	944
FAR NORTH DISTRICT	393	42%	551	58%	944
NORTH COAST REGION	753	60%	493	40%	1246
MORETON DISTRICT	398	65%	219	35%	617
SUNSHINE COAST DISTRICT	169	58%	124	42%	293
WIDE BAY BURNETT DISTRICT	186	55%	150	45%	336
NORTHERN REGION	421	39%	665	61%	1086
MOUNT ISA DISTRICT	139	33%	276	67%	415
TOWNSVILLE DISTRICT	282	42%	389	58%	671
SOUTH EASTERN REGION	631	62%	385	38%	1016
GOLD COAST DISTRICT	195	50%	194	50%	389
LOGAN DISTRICT	436	70%	191	30%	627
SOUTHERN REGION	390	46%	450	54%	840
DARLING DOWNS DISTRICT	184	46%	216	54%	400
IPSWICH DISTRICT	111	36%	196	64%	307
SOUTH WEST DISTRICT	95	71%	38	29%	133
TOTAL	3308		3559		6867

NOTE: OSC (6 defendants) and CIC (5 defendants) data is not represented in the table.