

QUEENSLAND TREASURY

# Cross applications for domestic violence orders in Queensland, 2008–09 to 2017–18

Crime research report

**Queensland Government Statistician's Office**

Queensland Treasury

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## Research at a glance

### Cross applications for domestic violence orders in Queensland

For the purpose of this research, cross applications are defined as occurring when two people in a relevant relationship are alternately named as the aggrieved and respondent on domestic violence order (DVO) applications lodged against each other within a six-month timeframe. Either both or one of these DVO applications may be lodged by police or privately.

Cross applications have been analysed in relation to whether they were lodged on the same or different days. For different-day cross applications, index cross applications refer to the first DVO application made, while secondary cross applications relate to the DVO application made following the index cross application. Data reported below relate to cross applications identified as occurring between 2009–10 and 2017–18.

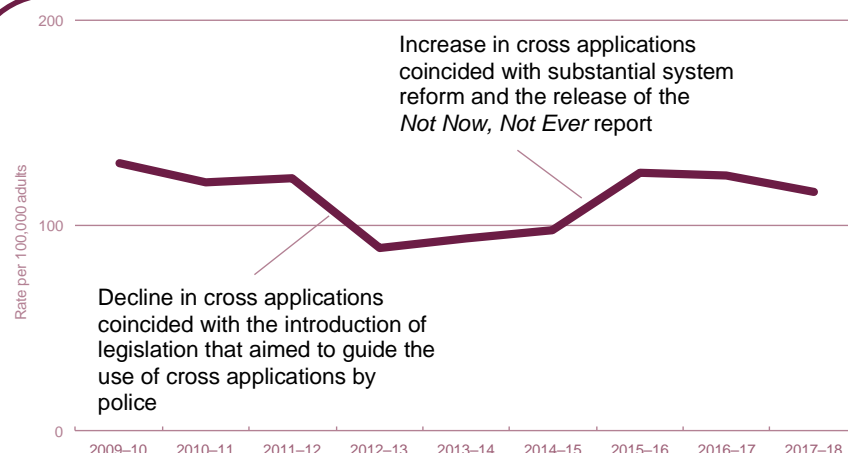
#### Trends

**3%**


Number of cross applications increased from 4,314 to 4,442 (when comparing 2009–10 with 2017–18)

**11%**


Rate of cross applications decreased from 130 to 117 per 100,000 adults (when comparing 2009–10 with 2017–18)



#### Characteristics

- Most cross applications involved a woman and a man
- Most cross applications involved people in intimate personal relationships
- Aboriginal and Torres Strait Islander peoples were overrepresented on cross applications


**92%**

of different-day cross applications involved a woman and a man


**55%**

listed a woman as the **aggrieved** on the index application


**37%**

listed a man as the **aggrieved** on the index application

#### Aboriginal and Torres Strait Islander adults accounted for:

**3%**

of Queensland adult population

**17%**

of aggrieved listed on cross applications

**16%**

of respondents listed on cross applications


**87%**

of cross applications involved people in intimate personal relationships

#### Outcomes

- Secondary cross applications lodged by police were more likely to result in a protection order than private applications
- Secondary cross applications lodged privately by men were more likely to be dismissed


**91%**

of secondary cross applications **lodged by police** resulted in a protection order


**40%**

of secondary cross applications **lodged privately** resulted in a protection order

**38%**

of secondary cross applications lodged privately by men were dismissed (data relate to those in heterosexual intimate personal relationships)

**30%**

of secondary cross applications lodged privately by women were dismissed (data relate to those in heterosexual intimate personal relationships)

# 1.0 Introduction

This research report presents information relating to cross applications for domestic violence orders (DVOs) lodged in Queensland between 2009–10 and 2017–18. A DVO is a civil order that aims to protect people from further domestic and family violence (DFV)-related harm, and cross applications occur when two people in a (intimate personal, family or informal care) relationship are named on DVO applications against each other.

The report forms part of a series of publications prepared by the Queensland Government Statistician's Office (QGSO) that explore DFV issues through literature review and the analyses of administrative data maintained by criminal justice agencies in Queensland. Other reports prepared by QGSO as part of the series are:

- *Summary of criminal justice reform relating to domestic and family violence, 2015–early 2020 in Queensland* (QGSO 2021a)
- *Domestic and family violence calls for police service* (QGSO 2021b)
- *Applications for domestic violence orders in Queensland* (QGSO 2021c).

QGSO's research focus on DFV follows ongoing concern regarding its prevalence in the community, and the heightened efforts by government and non-government agencies and community members to address DFV. Many of these reform activities are referred to in the Queensland Government's *Domestic and Family Violence Prevention Strategy 2016–2026* (DFV Strategy) (Queensland Government 2016).<sup>1</sup> This was informed by recommendations made in the *Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland* (Not Now, Not Ever) report (The Special Taskforce on Domestic and Family Violence in Queensland 2015).<sup>2</sup>

The central purpose of the research described in this report is to expand on the research findings presented in the *Applications for domestic violence orders in Queensland* (QGSO 2021c) report by providing information on the characteristics of cross applications. The report commences by providing background information on DFV to assist with the interpretation of research findings, followed by a description of research methods. Research findings are then subsequently presented and discussed.

## 2.0 Background

Information in this chapter sets the scene for the research findings presented in this report. First, the complex and gendered nature of DFV is highlighted through an examination of some of the literature discussing the factors relevant to understanding how DFV is perpetuated and experienced in the context of intimate partner relationships. This is followed by a brief description of DVOs and cross applications and consideration of factors that may be influencing their use.

### 2.1. The complex and gendered nature of intimate partner violence

While DFV is broadly understood as including abusive, threatening and/or coercive behaviour between persons in intimate partner relationships or family relationships, much of the theoretical and research literature on DFV has focussed on understanding violence between intimate partners, commonly referred to as intimate partner violence (IPV). This literature has demonstrated that IPV can occur in a range of circumstances and types of relationships, including heterosexual and same-sex relationships, and between persons who are dating, married, de facto or separated (Gannoni and Cussen 2014; Gray et al. 2020; Johnson and Ferraro 2000; Parkinson, Cashmore and Single 2011). Despite recognition of the varied contexts in which IPV can occur and that both men and women can be perpetrators and victims of IPV, research shows that the majority of IPV involves violence perpetrated by men against women. For example, recent research undertaken by QGSO (2021c) found that three-quarters of DVO applications relating to intimate relationships in Queensland listed a male respondent (perpetrator) and a female aggrieved (victim), while analysis of intimate partner-related homicides and suicides in Queensland shows that in almost all instances the man was identified as the perpetrator of abuse and the woman the victim, regardless of which party died (Domestic and Family Violence Death Review and Advisory Board 2019). This gendered pattern of IPV has received significant attention in the theoretical literature, with feminist perspectives contributing most significantly in this space. Broadly, the feminist perspective posits that men's violence against women occurs in the context of the prevailing societal power inequality between men and

<sup>1</sup> Current activities relating to the DFV Strategy are available in the *Third Action Plan of the Domestic and Family Violence Prevention Strategy 2019–2020 to 2021–22* (Queensland Government 2019a).

<sup>2</sup> The *Not Now, Not Ever* report was prepared by the Special Taskforce on Domestic and Family Violence in Queensland (2015). The Taskforce was established in September 2014 after statistics showed that more than 66,000 DFV incidents were reported to police in 2013–14 and 17 DFV-related homicides had been recorded in 2012–13 and heightened media attention given to these incidents (Queensland Government 2020a).



women (Ali and Naylor 2013; Wangmann 2010) and is a manifestation of men's desire to control and have power over their partners (Ali and Naylor 2013; Groves and Thomas 2013). Other perspectives put forward for understanding IPV include sociological perspectives, which place emphasis on societal norms and attitudes that provide an environment for IPV to occur (Ali and Naylor 2013; Groves and Thomas 2013); and ecological framework theory, which considers how behaviour is shaped by the interaction of individuals with factors at the family, community and society level (Ali and Naylor 2013).

The varied and complex ways in which IPV is perpetrated and experienced has given rise to a significant body of theoretical and research work investigating the contextual and situational characteristics associated with different types of IPV, with the view to informing more effective DFV responses. Central to this inquiry is understanding how the perpetration and experience of IPV may differ in relation to factors such as gender of the perpetrator, relationship dynamics (including relationship stage and heterosexual or same-sex nature of the relationship), presence of control, severity and impact of the violence, type of violence, and underlying motivations and causes (Boxall, Rosevear and Payne 2015; Gannoni and Cussen 2014; Gray et al. 2020; Jeffries and Ball 2008; Johnson and Ferraro 2000; Wangmann 2010). One area in which this work has contributed to a more nuanced examination of IPV is understanding differences in the motivations and circumstances of IPV perpetrated by men in contrast to IPV perpetrated by women. For example, one of the most notable differences advanced in the literature is that women are more likely than men to use violence as a means to protect themselves and others from abuse by a partner (Boxall, Dowling and Morgan 2020; Boxall, Rosevear and Payne 2015; Wangmann 2010). This self-defensive or retaliatory use of violence, often in response to coercive controlling violence, has been described as 'violent resistance' (Johnson and Ferraro 2000; Wangmann 2010).<sup>3</sup> A recent Australian study found that a significant amount of female-perpetrated IPV involved self-defensive or retaliatory violence in response to previous or current violence perpetrated by a male partner (Boxall, Dowling and Morgan 2020). Notably, this study found that self-defensive or retaliatory violence was more common among IPV incidents involving Aboriginal and Torres Strait Islander women than non-Indigenous women, which is consistent with other research that has found that some Aboriginal and Torres Strait Islander women use violence in response to their own high levels of victimisation (Bevis et al. 2020; Blagg et al. 2020; Nancarrow 2016; Wilson et al. 2017).

It is recognised in the literature that theoretical explanations of IPV conceptualised solely through a lens of men's use of violence to assert dominance, power and control over women does not fully encapsulate the diversity and complexity of experiences of IPV, including IPV experienced by Aboriginal and Torres Strait Islander people. For example, it has been argued that the power and control perspective of IPV, including its focus on gender inequality, does not consider broader sociohistorical factors relevant to understanding violence among Aboriginal and Torres Strait Islander peoples, such as its relationship to colonisation, loss of culture, poverty and intergenerational trauma (Blagg et al. 2020; Blagg et al. 2018; Nancarrow 2016; Olsen and Lovett 2016). Further, a power and control perspective that focuses on male violence against women alone is not able to account for forms of partner violence that may be specific to Aboriginal and Torres Strait Islander peoples, or that violence can occur within a broader context of kinship relationships, including extended family and the wider community (Australian Institute of Health and Welfare (AIHW) 2019; Blagg et al. 2018; Olsen and Lovett 2016; The Special Taskforce on Domestic and Family Violence in Queensland 2015).<sup>4</sup> Other research has also noted that violence between Aboriginal and Torres Strait Islander intimate couples is more likely to be characterised as successive incidents of violence, often as a means to express anger and resolve conflict, rather than reflecting patterns of dominance and coercion over time (Nancarrow 2016). Such critiques highlight the importance of culturally-informed holistic responses grounded in Aboriginal and Torres Strait Islander knowledge and practice supported by community empowerment for effecting change in reducing family violence (Blagg et al. 2020; Blagg et al. 2018; Olsen and Lovett 2016; Queensland Police Service (QPS) 2016). This type of approach is acknowledged by the Queensland Government in its framework for reshaping the approach to addressing DFV experienced by Aboriginal and Torres Strait Islander people (Queensland Government 2019b).

## 2.2. Domestic violence orders and cross applications

Queensland's law and justice system has mechanisms in place to respond to DFV in the community. This includes the use of temporary protection orders and protection orders, collectively known as DVOs which outline a set of behaviours (conditions) that people must comply with should they be subject to such orders. The central purpose of a DVO is to protect the person listed on the order (aggrieved and other named persons<sup>5</sup>) from further DFV caused by the person

<sup>3</sup> Self-defensive violence generally refers to a fear-based response to a perceived threat while retaliatory violence is more likely to result from anger or frustration in response to ongoing victimisation (Boxall, Dowling and Morgan 2020).

<sup>4</sup> For these reasons it is commonly acknowledged in the literature that the term 'family violence' is generally considered more appropriate when discussing these forms of violence experienced by Aboriginal and Torres Strait Islander people (AIHW 2019; Olsen and Lovett 2016; The Special Taskforce on Domestic and Family Violence in Queensland 2015).

<sup>5</sup> Named persons may include a relative or associate of the aggrieved, or children who usually reside with the aggrieved.

listed on the order who has committed DFV (respondent).<sup>6</sup> The relationship between the aggrieved and the respondent can be an intimate personal relationship, a family relationship, or an informal care relationship. In Queensland, a protection order is generally active for five years, although the courts can use their discretion to shorten or extend the length of their operating period (Queensland Government 2018). In certain circumstances, a temporary protection order will be imposed and operate until the court can finalise its decision regarding the DVO application.<sup>7</sup>

A DVO is a civil order, and therefore does not appear on a person's criminal history. However, it is a criminal offence to breach the conditions set out in a DVO.<sup>8</sup> Standard conditions on a DVO include:

- being of good behaviour toward the aggrieved or any named person (listed on the order)
- not committing violence towards the aggrieved or any named person
- surrendering any weapons and suspending a weapons licence.

The court may also decide to include additional conditions, such as:

- not contacting the aggrieved in any way (including by phone, SMS or social media)
- not approaching or coming within a certain distance of the aggrieved (Queensland Government 2018).

A DVO is imposed by the courts, generally following an application made by an individual (referred to as a private DVO application in this report) or police (referred to as a police DVO application in this report). Private DVO applications are made by the aggrieved (either personally or through a lawyer, friend or family member) and lodged directly with the Magistrates Court (Queensland Government 2019c). Police DVO applications are made on behalf of the aggrieved and are generally initiated following a call for police assistance regarding DFV. Police are able to issue a police protection notice (PPN)<sup>9</sup> or make an application for a DVO if they reasonably believe that DFV has been committed and a person and/or their property is at risk. The terms of a DVO may be varied through an application to vary submitted for consideration by the court and a court may make or vary a DVO on its own initiative (without application) as part of a criminal or child protection proceeding. However, it is noted that information in this report presents information on DVO applications only.<sup>10</sup>

### 2.2.1. Cross applications

A cross application takes place when two people in a relevant (intimate personal, family or informal care) relationship<sup>11</sup> are alternately named as the aggrieved and respondent on domestic violence order (DVO) applications lodged against each other. It involves the submission of a DVO application by (or on behalf of) the aggrieved, along with, or followed by, an application for a DVO made by (or on behalf of) the respondent listed on the original DVO application. The *Domestic and Family Violence Protection Act 2012* (Qld) (the Act) defines cross applications as comprising **all** of the following:

- an application (the original application) for a protection order has been made and is before a court
- a second application for a protection order (the cross application) has been made and is before the same court or another court
- a person named as a respondent in the original application is named as the aggrieved in the cross application
- the person named as the aggrieved in the original application is named as a respondent in the cross application.

Cross applications may involve lodgements made by police and/or individuals. Applications lodged on the same day are often referred to as 'dual applications' in the literature and are generally lodged in relation to the same incident (Wangmann 2009).

Further information about the operation of DVOs is available in the *Applications for domestic violence orders in Queensland* research report (QGSO 2021c).

<sup>6</sup> A meta-analysis examining the effectiveness of protection orders found a small, but significant, reduction in DFV associated with the use of protection orders (Dowling et al. 2018). Their use appeared to be more effective when the victim had fewer ties with, and less dependence on, the perpetrator; and less effective for perpetrators with a history of crime, violence and mental health issues (Dowling et al. 2018).

<sup>7</sup> In certain circumstances temporary DVOs may be sought by police or issued by the court to immediately protect a victim of DFV. Temporary DVOs operate until the next court hearing date.

<sup>8</sup> The maximum penalty for breaching a DVO the first time is three years imprisonment; the maximum penalty for breaching the same DVO a second time within five years of its activation is five years imprisonment (Queensland Government 2018).

<sup>9</sup> A PPN offers immediate protection to a victim and becomes an application for a DVO when filed with the court.

<sup>10</sup> Analyses relating to applications to vary are available in the 'Applications for domestic violence orders in Queensland' research report (QGSO 2020c).

<sup>11</sup> Refer to Glossary for more information on relationship types.



### 2.3. A context of reform

The interpretation of cross application trends presented in this report is assisted by an understanding of how responses to, and public awareness of, DFV have changed over time. In particular, there has been substantial legislative reform which has aimed to place greater responsibility for the use of violence on DFV perpetrators and support the safety and wellbeing of DFV victims. For example, the introduction of the Act included provisions that:

- placed an obligation on police to investigate DFV and take appropriate action, along with recording reasons for not taking any action
- enabled police to issue PPNs in more circumstances to allow for immediate protection for DFV victims, and for these to be automatically considered an application for a DVO
- prohibited police from issuing a second PPN in circumstances where they are unable to identify the person most in need of protection to reduce the prevalence of inappropriate cross applications 12,13
- increased penalties for breaching a DVO
- changed the definition of what constitutes DFV to acknowledge that it can include emotional, psychological, sexual economic violence and/or other threatening or manipulative behaviour (Queensland Parliament 2012).

The Act has subsequently been amended multiple times, but it is worth noting that the *Domestic and Family Violence Protection and Another Act Amendment Act 2015* effected changes that require the court to a) hear cross applications together to ensure that the person most at risk of DFV is identified and protected and b) consider 'ouster' conditions<sup>14</sup> (for respondents listed on a DVO application) when making a DVO. It also provided a legislative mechanism to ensure that the views and wishes of people who fear or experience DFV are sought (where appropriate and practicable) before a decision impacting them is made under the Act.

A special taskforce was established in 2014 to investigate DFV in Queensland. This taskforce was established after statistics showed continued rises in the number of reported DFV incidents and growing attention given to DFV-related homicides which highlighted the ongoing prevalence and tragic impacts of DFV, despite ongoing efforts to reduce its incidence (The Special Taskforce on Domestic and Family Violence in Queensland 2015). The taskforce outlined its findings in the *Not Now, Not Ever* report, which included 140 recommendations framed by three themes: "changing culture and attitudes, implementing an integrated service response and improving the law and justice system" (Queensland Government 2016, p.7).

Community awareness of DFV has heightened as a result of increased media attention regarding DFV, community advocacy for change, the release of the *Not Now, Not Ever* report and Queensland Government initiatives such as the Respectful Relationships education program in schools and early childhood settings and participation in the White Ribbon Accreditation program (Queensland Government 2020b). Recent practice reform includes the establishment of specialised roles and units within criminal justice agencies, enhanced efforts to support people navigate court proceedings, and the provision of additional funding to DFV support services. For example, DFV high risk teams are now responsible for coordinating service delivery efforts aiming to reduce DFV and support DFV victims, the establishment of specialist DFV courts has increased access to informed legal responses, an online form is available to assist people apply for a DVO and increased funding has expanded the availability of DFV duty lawyers (Queensland Government 2020c, 2020d).

Further information about DFV-related reform is set out in the Queensland Government's DFV Prevention Strategy and is also available in the publication *Summary of criminal justice reform relating to domestic and family violence in Queensland, 2015–early 2020* (QGSO 2021a) and the *Applications for domestic violence orders in Queensland* research report (QGSO 2021c).

<sup>12</sup> Section 4(1)(e) of the Act provides that "in circumstances in which there are conflicting allegations of domestic violence or indications that both persons in a relationship are committing acts of violence, including for their self-protection, the person who is most in need of protection should be identified".

<sup>13</sup> The intent of this change was supported further by the *Domestic and Family Violence Protection and Another Act Amendment Act 2015* (Qld) which prescribed that courts are to hear cross applications at the same time to ensure the person most at risk from DFV is identified and protected. Police policy also guided the involvement of a senior officer in decisions regarding cross applications.

<sup>14</sup> An 'ouster' condition means that the respondent must leave the home they share with the aggrieved (*Domestic and Family Violence Protection Act 2012* (Qld)).

## 3.0 Research approach

This chapter outlines the key research questions explored in this report and includes information on the data and approach used to address these questions.

### 3.1. Key research questions

The key research questions explored in this report are:

- How many cross applications have been made in Queensland during the reference period and has this changed over time?
- What are the characteristics of cross applications?
- What are the outcomes of cross applications?
- Are there gender differences in the lodgement of cross applications?

The research in this paper further expands on information presented in the *Applications for domestic violence orders in Queensland* research report prepared by QGSO (2021c) which explored the trends and characteristics of DVO applications without a focus on cross applications.

### 3.2. Data description and exclusions

Information presented in this report has involved the statistical analysis of administrative data sourced from the Department of Justice and Attorney-General (DJAG). These data relate to cases involving DVO applications lodged in Queensland between 1 July 2008 and 30 June 2018. The data were extracted from the Queensland Wide Inter-linked Courts (QWIC) system on 21 January 2019.

Information on cross applications in this report relates to originating (or index) DVO applications and related secondary applications seeking the imposition of a temporary protection order or a protection order involving alternate aggrieved and respondents identified as occurring between 1 July 2009 and 30 June 2018. These applications are referred to as cross applications (when each application is counted) or cross-application pairs (when the combined index and related secondary applications are counted as one). Data referring to DVO applications in this report are based on all originating DVO applications, including those that were and were not associated with a cross application.

It is noted that other types of DFV-related applications (such as an application to vary, application to revoke and requests for subpoenas) can be associated with an application for a DVO. However, these types of applications have been excluded from all analyses presented in this report as they are not originating applications for DVOs. DVO applications involving people aged under 18 years listed as the aggrieved and/or respondent have also been excluded.<sup>15</sup> As cross applications require the identification of unique pairs of individuals, applications that were missing unique person identifiers (person IDs) for either the aggrieved or respondent were excluded from these analyses.

#### 3.2.1. Operationalising cross applications

Cross applications can be made on the same day or on different days, however exploration of timeframes appropriate for determining what is counted as a cross application is an undeveloped area within the extant research literature, with a 12-month window often used.<sup>16</sup> For this report, DVO applications were considered cross applications where the aggrieved listed on an originating application was alternately named as the respondent on a separate application made within six months of the originating application, including applications made on the same day (see Figure 1). That is, the same two people have been listed as both an aggrieved and respondent on DVO applications lodged within a six-month window.<sup>17</sup>

A six-month window was chosen to ensure that identified cross applications related to DFV events occurring around the same time. This approach was supported through consultation with DJAG and exploratory analyses which showed that using a 12-month window did not result in a meaningful difference in the proportion of DVO applications considered cross applications.<sup>18</sup>

<sup>15</sup> The proportion of DVO applications (including those that were and were not associated with a cross application) relating to people aged under 18 years across the reference period was relatively small (less than one per cent) and warrants individual attention.

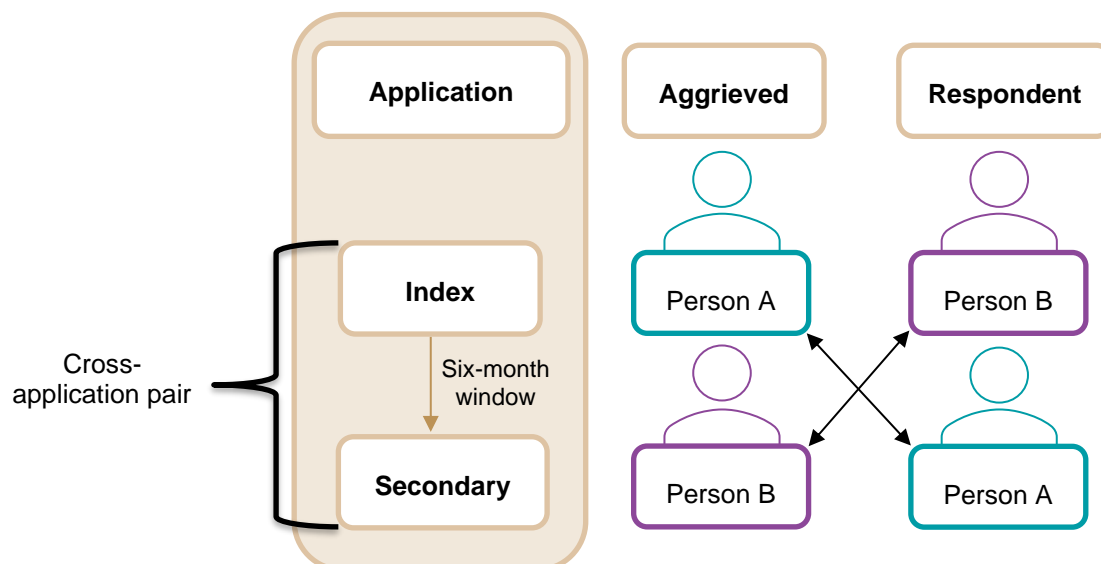
<sup>16</sup> For example, see Douglas and Fitzgerald (2013) and Wangmann (2009).

<sup>17</sup> It is possible for people to have been involved in more than one cross application pair over the reference period.

<sup>18</sup> Exploratory analyses found that most cross applications within the reference period were made within 100 days of the index application, including applications made on the same day (89.8%).

For ease of interpretation, when cross-application trends over the reference period are presented for those cross applications which occurred on different days (that is, where the secondary DVO application occurred from one day to six months after the index DVO application), the values are recorded for the financial year in which the secondary DVO cross application was made.<sup>19</sup>

**Figure 1 Conceptualisation of cross applications used in this report**



Adapted from Nancarrow (2016)

### 3.3. Data analysis

Information on cross-application trends and characteristics was developed using descriptive statistics. DVO applications involved in cross applications represent the unit of analysis, rather than court cases, court hearings or people. Both DVO applications from an identified pairing of alternate aggrieved and respondent identified on DVO applications were included in the analyses. This approach was taken so that the characteristics of each of the applications and each of the persons listed on the applications could be explored.

Generally, throughout this report, DVO cross applications are disaggregated and presented as two groups depending on whether the applications within a cross-application pair were lodged on the same or different days. These two groupings are operationally and conceptually distinct, which has implications when results are being interpreted.

The ways in which descriptive statistics were calculated are outlined in the following sections.

#### 3.3.1. Rate calculations

Trended information is reported by the number and rate of cross applications across the reference period. This enables the monitoring of trends in a way that accounts for population changes and locations.

The rates presented in this research report are expressed as rates per 100,000 adults aged 18 years and over in Queensland, or, where relevant, by geographical area (see section 3.3.2), and are based on estimated resident population (ERP) figures from the Australian Bureau of Statistics (ABS).<sup>20</sup> Given the exclusion of persons under 18 years of age, only ERP figures for those aged 18 years and older within each population subgroup were used in relevant rate calculations (ABS 2018a, 2019a, 2019b, 2019c).<sup>21</sup>

<sup>19</sup> On average over the reference period, 7.1% of the index applications were lodged in the financial year before that of their associated secondary application.

<sup>20</sup> Rates were calculated using midpoint ERPs for each subgroup given analyses were undertaken in relation to financial, rather than calendar years. Midpoint ERP figures were derived by averaging ERP figures as at 30 June for the years included in a given financial year. For example, to obtain a midpoint ERP for the 2017–18 financial year, 30 June ERP figures for 2017 and 2018 calendar years were averaged.

<sup>21</sup> Single year of age population estimates for Queensland are sourced from ABS 3101.0, *Australian Demographic Statistics, Jun 2019*. Single year of age estimates by remoteness area were obtained from unpublished data from ABS 3235.0, *Regional Population by Age and Sex, Australia 2018*.

### 3.3.2. Location analyses

This project involved examining the distribution of DVO cross applications in relation to the remoteness classification of the location of the court where cross applications were lodged. This was done using the Australian Statistical Geography Standard (ASGS) Remoteness Structure which classifies locations into five remoteness areas using measures of relative access to services (ABS 2018a). The five classes of remoteness under the Remoteness Structure are:

- Major cities of Australia (Queensland examples include Brisbane and Southport)
- Inner regional Australia (e.g. Toowoomba and Bundaberg)
- Outer regional Australia (e.g. Cairns and Townsville)
- Remote Australia (e.g. Mount Isa and Palm Island)
- Very remote Australia (e.g. Charleville and Mornington Island).

Location-based information should be interpreted with some caution. Due to data limitations, it was necessary to use the court's location to attribute cross applications to a remoteness area, rather than the usual place of residence of individuals listed on applications. It is possible to lodge a DVO application at a court location that is not close to a respondent or aggrieved person's usual place of residence. The attribution of remoteness area to court location required some data manipulation given that there were circumstances where courts were in places that contain statistical area level 1 (SA1)<sup>22</sup> components with more than one remoteness area attribution.

The ABS does not publish single year of age ERP breakdowns for remoteness areas, therefore the necessary ERPs were calculated using the ERP figures from the SA1 components from which remoteness areas are constructed (ABS 2018a).

### 3.3.3. Cross-application outcomes

The project involved examining if DVO cross applications resulted in orders being made. Given that it is possible for a DVO application to result in a temporary protection order before a protection order is made, an 'if-ever' approach was taken to the analysis of the DVO outcome data. To operationalise this, two binary yes/no variables were created, one indicating whether the application ever resulted in a temporary protection order and the other indicating whether the application ever resulted in a protection order being made. Analyses presented for cross-application outcomes include 'protection order' (which includes applications that first resulted in a temporary protection order), 'temporary protection order only', and 'no order made'.

## 3.4. Data issues and limitations

There are data issues and limitations to be considered in the interpretation of findings presented in this report. These include:

1. The actual incidence of DFV is underrepresented in administrative data maintained by government and non-government agencies due to underreporting.<sup>23</sup> Although DFV is underreported, administrative data serve as an important indicator of DFV trends, and its analysis supports an understanding of how the DFV protection system is engaging with reported DFV matters.
2. When examining cross applications, the lodgement date was used to identify the index DVO application (the first application made) and the secondary DVO application (the DVO application made in relation to the index application). However, some applications were made on the same day which impacted the types of analyses that could be undertaken as neither application occurred before the other.
3. There are instances where a DVO can be issued by the court on its own initiative during criminal and child protection proceedings. While these applications are not explicitly identified as being lodged by the court in the findings presented in this report, they are included in DVO applications counts (as being lodged by police or privately, depending on the circumstances of matters heard by the court). Less than 0.5% of DVO applications were initiated by the court during the reference period.
4. The data are likely to undercount the representation of Aboriginal and Torres Strait Islander peoples listed on DVO applications. This is because there is variation in a person's willingness to provide information regarding their Aboriginal and/or Torres Strait Islander identity when making a DVO application, and applications can be lodged by

<sup>22</sup> SA1s are small geographic areas defined by the ASGS that typically contain between 200 and 800 residents and aim to distinguish between areas within suburb and locality boundaries that have different geographic characteristics.

<sup>23</sup> The 2016 ABS Personal Safety Survey found that over two-thirds of surveyed Australians who reported having ever lived with a partner, and who had experienced partner violence (sexual or physical assault or threat) since the age of 15, reported that they had not contacted the police about the experience (ABS 2017).



persons other than those named on the application. For example, police or an authorised individual may lodge an application on behalf of the aggrieved or a named person and may not seek and/or accurately record information regarding an individual's self-identification.

5. While acknowledging the diversity between and within Aboriginal and Torres Strait Islander individuals, families, communities and groups across Queensland, the project was not able to establish differences in relation to this diversity (largely due to reporting and recording practices). The term 'Indigenous' is used in the figures included in this report to enable clear figure labelling.
6. Different authors use various terms when referring to research involving Aboriginal and Torres Strait Islander peoples. In this report, the term 'Aboriginal and Torres Strait Islander' may be used when citing other research using the term 'Indigenous'.
7. Analyses relating to family relationships (where one person is a relative of the other<sup>24</sup>) were unable to be disaggregated by specific relationship types (such as parent, sibling, grandchild, aunt, cousin etc.) as this level of detail was not consistently available in the dataset.
8. While people are guided to lodge DVO applications at their nearest court, it is possible to lodge a DVO application at a court location that is not close to a respondent or aggrieved person's usual place of residence. Further, DVO applications involved in a cross-application pair may be lodged in different court locations.
9. The report only presents information in relation to adults (18 years and over) and does not explore adolescent family violence.
10. A person's age in this report refers to the age of the individual on the date the DVO application was lodged.
11. Legislative amendments in 2017 increased the default operating period of DVOs from two years to five years. These legislative changes will not have impacted the results discussed in this report given the project's monitoring period.
12. Many factors contribute to changes in trends related to DVO applications and cross applications, and this report does not attempt to attribute any observed changes to specific reform activity (see section 2.3 for some of the key reform activities potentially contributing to changes in all DVO application trends).
13. Data presented in this report may differ from those published elsewhere by QGSO and others, due to differences in counting rules applied and data extraction dates. Readers are therefore urged to exercise caution when making comparison between publications.

#### For the purpose of this report:

- *DVO application* refers to an application made for a DVO lodged by an individual or police and excludes other DFV-related applications (such as application to vary DVO, application to revoke DVO and requests for subpoenas).
- *Cross applications* are the DVO applications relating to people listed alternately as an aggrieved and respondent on DVO applications lodged within six months of each other. Cross-application counts include both DVO applications identified as being involved in a cross-application pair.
- *Cross-application pair* refers to cross application combinations that involve the same two people listed alternately as the aggrieved and the respondent. That is, the two DVO applications determined to be cross applications relating to the same two people are considered to be one cross-application pair.
- *Same-day cross applications* involve cross applications lodged on the same day.
- *Different-day cross applications* involve cross applications lodged on different days. Different-day cross applications are differentiated in this report into the index DVO application (the first DVO application made) and secondary DVO application (the DVO application made in relation to the index application).

<sup>24</sup> Family relationships, besides relating to people connected by blood or marriage, also include those where persons regard themselves as relatives of each other in a wider concept than is ordinarily understood, for example, with regard to Aboriginal peoples and Torres Strait Islander peoples.



## 4.0 Research findings

The central aim of the 'Cross applications for domestic violence orders in Queensland' research project was to provide information on the characteristics of cross applications. The research findings described in more detail in this chapter showed:

- the number and rate of cross applications varied over time and there were differences in trends depending on whether cross applications were lodged on the same or different days
- lodgement of cross applications was more common for courts in remote and very remote areas
- police played an integral role in the lodgement of cross applications, particularly for cross applications lodged on the same day, and cross applications involving Aboriginal and Torres Strait Islander people only
- the average time between lodgement of different-day cross applications increased over time, and this was largely driven by increases in the time interval for police-lodged secondary applications
- most cross applications related to people in intimate personal relationships and involved women and men listed alternately as the aggrieved and respondent
- Aboriginal and Torres Strait Islander peoples were overrepresented as both aggrieved and respondent on cross applications, relative to their representation in the general population
- police-lodged cross applications were withdrawn or dismissed less often and were more likely to result in a DVO.

When looking at gender differences for cross applications relating to heterosexual intimate personal relationships, the research found that men were more likely to be listed as the aggrieved on secondary applications, particularly those involving private lodgement, and privately-lodged cross applications with a male aggrieved were more likely to be withdrawn or dismissed and thus less likely to result in a DVO. These findings may be considered in the context of other research that has found that some DFV perpetrators may use cross applications to exert further control over victims.

### 4.1. Cross-application trends

The following section explores trends in the number and rate of cross applications over the reference period, including how these trends have changed depending on their lodgement source and timing (same or different day).

#### 4.1.1. The number and rate of cross applications have varied over time

Figure 2 below shows the number and rate of cross applications between 2009–10 and 2017–18 where both DVO applications involved in a cross-application pair are counted. The number and rate of cross applications have varied over time, with a substantial decrease occurring in 2012–13 and a considerable increase taking place in 2015–16. The decline in 2012–13 coincides with the introduction of legislative provisions in 2012 that aimed to ensure that cross applications were only used in warranted circumstances.<sup>25</sup> The increases occurring between 2014–15 and 2015–16 are likely to be explained by the increasing number and rate of DVO applications occurring more generally in Queensland following the release of the *Not Now, Not Ever* report in 2015 and growing community awareness regarding DFV.<sup>26</sup>

When comparing 2009–10 with 2017–18:

- the number of cross applications increased by 3.0%, from 4,314 to 4,442
- the rate of cross applications decreased by 10.5%, from 130 to 117 per 100,000 adults.

When comparing 2011–12 with 2012–13:

- the number of cross applications decreased by 26.1%, from 4,226 to 3,124
- the rate of cross applications decreased by 27.6%, from 123 to 89 per 100,000 adults.

When comparing 2014–15 with 2015–16:

- the number of cross applications increased by 31.0%, from 3,540 to 4,638
- the rate of cross applications increased by 29.2%, from 98 to 126 per 100,000 adults.

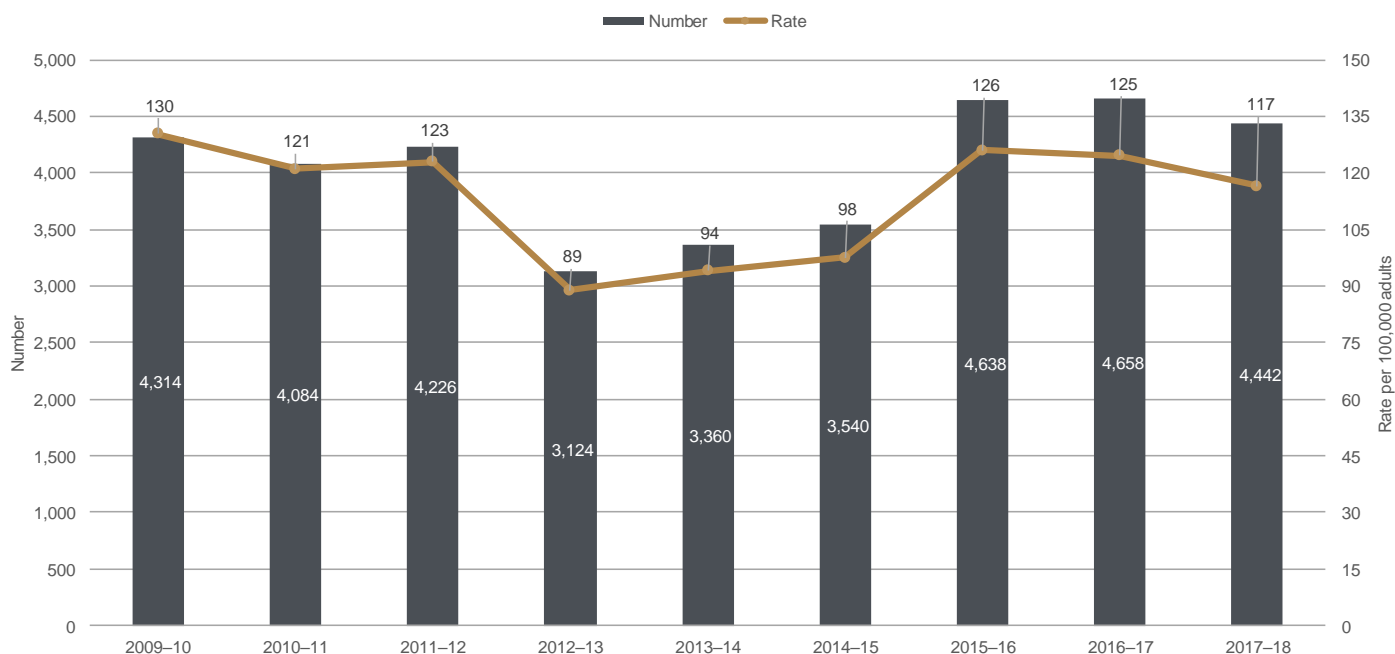
<sup>25</sup> See section 2.3 for further information on legislative reform.

<sup>26</sup> QGSO's (2021c) *Applications for domestic violence orders in Queensland* report showed that the number and rate of DVO applications grew by 44.4% and 22.6% respectively when comparing 2008–09 with 2017–18.



Further analysis (data not shown) found that 15.4% of all DVO applications were involved in a cross application (either as an index or secondary application) between 2009–10 and 2017–18. There was some variation in the proportion of DVO applications that were involved in cross applications over time, with cross applications representing 19.0% of DVO applications in 2009–10, compared with 19.2% in 2011–12, 13.1% in 2012–13 and 14.7% in 2017–18.

**Figure 2 Number and rate of cross applications**



#### 4.1.2. The number and rate of cross applications showed different trends depending on when they were lodged

The project involved analysing cross applications in relation to whether they were lodged on the same or different days. This was done due to the lack of consensus on conceptualising cross applications using lodgement timeframe in the research literature and differences in the characteristics of same-day and different-day cross applications observed when undertaking exploratory analyses for this project.

Figure 3 below shows there was a similar number and rate of same-day and different-day cross applications made between 2009–10 and 2011–12. However, the number and rate of same-day applications decreased by more than half in 2012–13 when compared with 2011–12 (–52.6% and –53.5% respectively), and then remained relatively stable, until they increased in 2015–16. From 2012–13, the number and rate of different-day cross applications increased slightly, before increasing considerably in 2015–16. These data indicate that legislation providing guidance on the use of cross applications introduced in 2012 impacted same-day cross applications more than different-day applications. The increases coinciding with substantial system reform and the release of the *Not Now, Not Ever* report in 2015 were more evident for different-day cross applications than same-day cross applications.<sup>27</sup>

When comparing 2009–10 with 2017–18:

- the number of same-day cross applications decreased by 58.1%, from 2,208 to 926
- the rate of same-day cross applications decreased by 63.6%, from 67 to 24 per 100,000 adults
- the number of different-day cross applications increased by 67.0%, from 2,106 to 3,516
- the rate of different-day cross applications increased by 45.1%, from 64 to 92 per 100,000 adults.

When comparing 2014–15 with 2015–16:

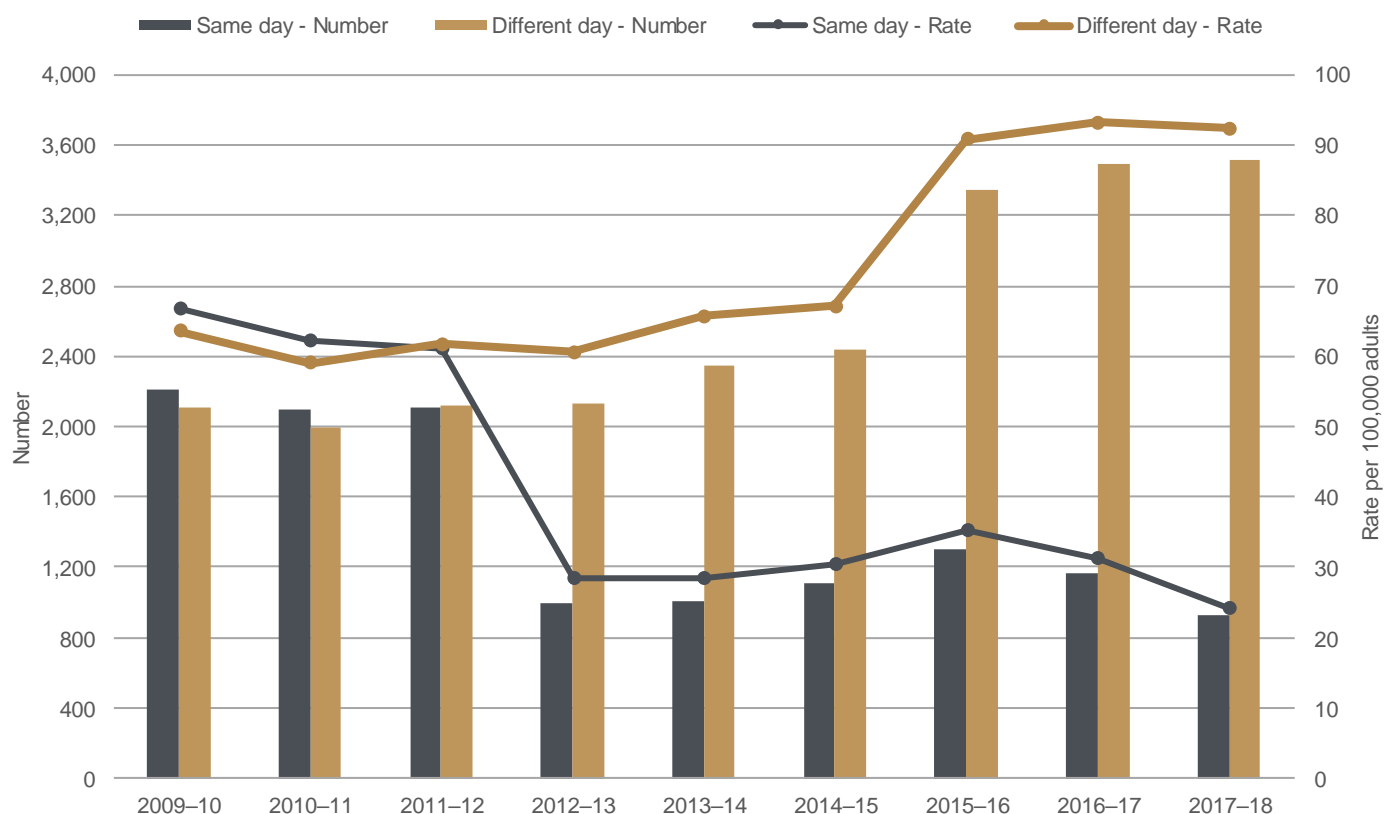
- the number of same-day cross applications increased by 17.4%, from 1,106 to 1,298
- the rate of same-day cross applications increased by 15.7%, from 30 to 35 per 100,000 adults

<sup>27</sup> Further analyses (data not shown) indicate that the number and rate of DVO applications (including those not involved in cross applications) rose by 20.3% and 18.6% respectively when comparing 2014–15 with 2015–16.

- the number of different-day cross applications increased by 37.2%, from 2,434 to 3,340
- the rate of different-day cross applications increased by 35.3%, from 67 to 91 per 100,000 adults.

Variation in cross-application trends relative to the days on which they were lodged meant the proportion of cross applications that were lodged on the same day decreased from 51.2% in 2009–10 to 20.8% in 2017–18 (data not shown).

**Figure 3 Number and rate of same-day and different-day cross applications**



The results described above demonstrate differences in same-day and different-day cross application trends. Analyses presented in the next section show that most same-day cross applications are made by police.

## 4.2. Cross-application characteristics

This section examines the characteristics of cross applications in relation to lodgement source, average time between the lodgement of index and secondary DVO applications, and location of lodgement. It also examines the characteristics of the people listed on cross applications with respect to the gender and Indigeneity of the aggrieved and respondent and their relationship.

### 4.2.1. Police lodged the majority of same-day cross application pairs

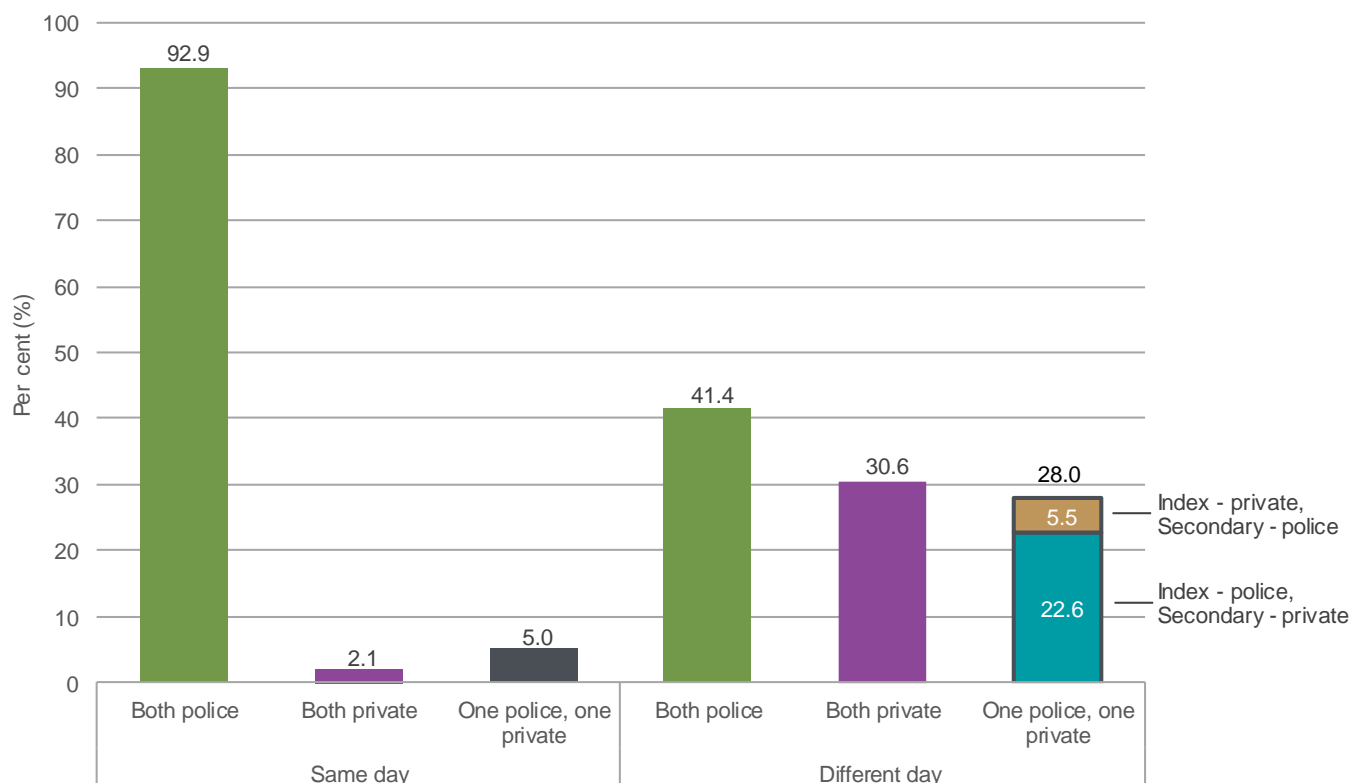
Information on the lodgement source of DVO applications involved in cross-application pairs is discussed in this section.

Figure 4 below shows that most same-day cross application pairs were lodged by police. Just over nine in ten (92.9%) same-day cross application pairs involved police DVO applications only, while 5.0% involved DVO applications where one was lodged by police and the other was lodged privately, and the remaining 2.1% involved private DVO applications only.

Figure 4 also shows that cross-application pairs involving applications made on different days were more likely to involve private DVO applications than cross-application pairs made on the same day. About two in five (41.4%) different-day cross application pairs involved police DVO applications only, and just under a third (30.6%) involved private DVO applications only. Over a quarter (28.0%) of different-day cross application pairs involved both a police and private application; these were more likely to involve an index application made by police followed by a privately-lodged secondary application (22.6% of different-day cross application pairs), than a privately-lodged index application followed by a secondary application lodged by police (5.5% of different-day cross application pairs).

The findings presented here are consistent with other research showing that police lodge most cross applications. For example, Douglas and Fitzgerald (2013) found that police lodged applications for one or both of the aggrieved partners in 80.0% of cross-application cases.<sup>28</sup> When police were involved, they lodged for both parties in 80.0% of cases, on behalf of the female aggrieved alone in 12.0% of cases, and on behalf of the male aggrieved only in 7.0% of cases. Cross applications which were both lodged privately accounted for 20.0% of all cross applications. Police involvement tended to relate to allegations involving assault, damage to property and verbal harassment. Applications which were both lodged privately showed a significantly different pattern, with allegations tending to involve intimidation, threats and stalking (Douglas and Fitzgerald 2013).

**Figure 4 Proportion of same-day and different-day cross application pairs by lodgement source, 2009–10 to 2017–18**



Note: It was not possible to undertake analyses that differentiated between the index and secondary DVO applications for cross applications lodged on the same day.

#### 4.2.2. Average time between lodgement of different-day cross application pairs has increased, particularly when the secondary application was lodged by police

This section discusses the time interval between the lodgement of the index and secondary DVO applications involved in a cross-application pair and examines differences based on the lodgement source of the secondary application. The information presented in this section relates to different-day cross applications only and may be useful when considering the operationalisation of legislation (introduced in 2015) that requires the court to hear cross applications together to ensure that the person most at risk of DFV is identified and protected.

Figure 5 shows that while there was an average of 45 days (or more than six weeks) between lodgement of different-day cross application pairs across the reference period, there has been a trend towards a longer average number of days between the index and secondary applications during this time. The average number of days between lodgement of the

<sup>28</sup> This was based on court data from two Queensland Magistrates Courts (Brisbane and Beenleigh) in the financial years 2008–09 and 2009–10. All cases related to heterosexual relationships; a majority (90.0%) of couples were categorised as being in 'spousal' relationships (including current and former married and de facto relationships), and 10.0% were categorised as being in 'intimate personal' relationships (including current and former engaged, betrothed or dating partnerships) (Douglas and Fitzgerald 2013).

index and secondary applications was constant between 2009–10 and 2011–12 (45–47 days) before trending upwards over the subsequent five years (55–63 days), and then declining in 2017–18 (60 days).

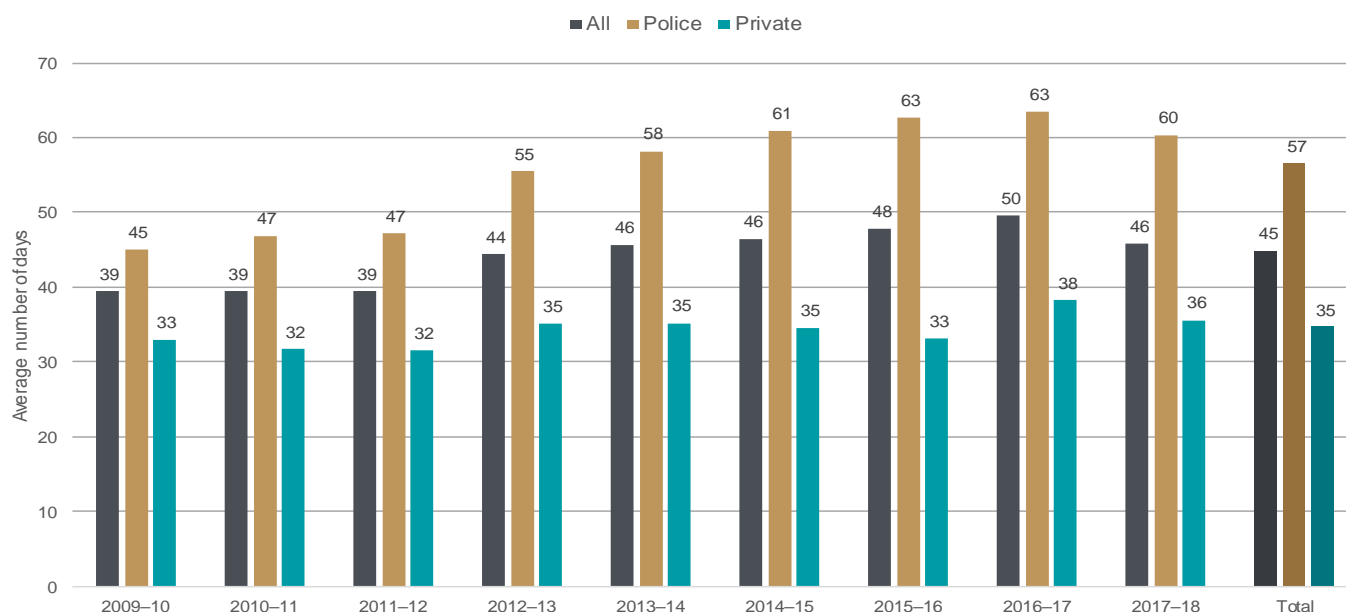
Figure 5 also shows that increases in the time interval between the index and secondary DVO applications within a cross-application pair was largely driven by police activity. Across the reference period, cross-application pairs involving a secondary application lodged by police consistently had longer average time intervals than cross-application pairs involving a secondary application lodged privately.

When comparing 2009–10 with 2017–18, the average time interval:

- increased by 7 days for all different-day cross application pairs, from 39 days to 46 days
- increased by 15 days for cross-application pairs where the secondary application was lodged by police, from 45 days to 60 days
- increased by 3 days for cross-application pairs where the secondary application was lodged privately, from 33 days to 36 days.

Increases in the average time interval among cross-application pairs involving police-lodged secondary applications were most apparent between 2011–12 and 2015–16. This increase is likely to be explained by a range of factors, including the aforementioned introduction of legislation in 2012 providing guidance on the use of cross applications that resulted in changed police operational procedures (including a requirement for senior-officer oversight of cross applications lodged by police). There has also been an increasing volume of DFV calls for service requiring police response in Queensland (QGSO 2021b), which may have impacted police workload.<sup>29</sup>

**Figure 5** Average number of days between lodgement, different-day cross application pairs by lodgement source of secondary application



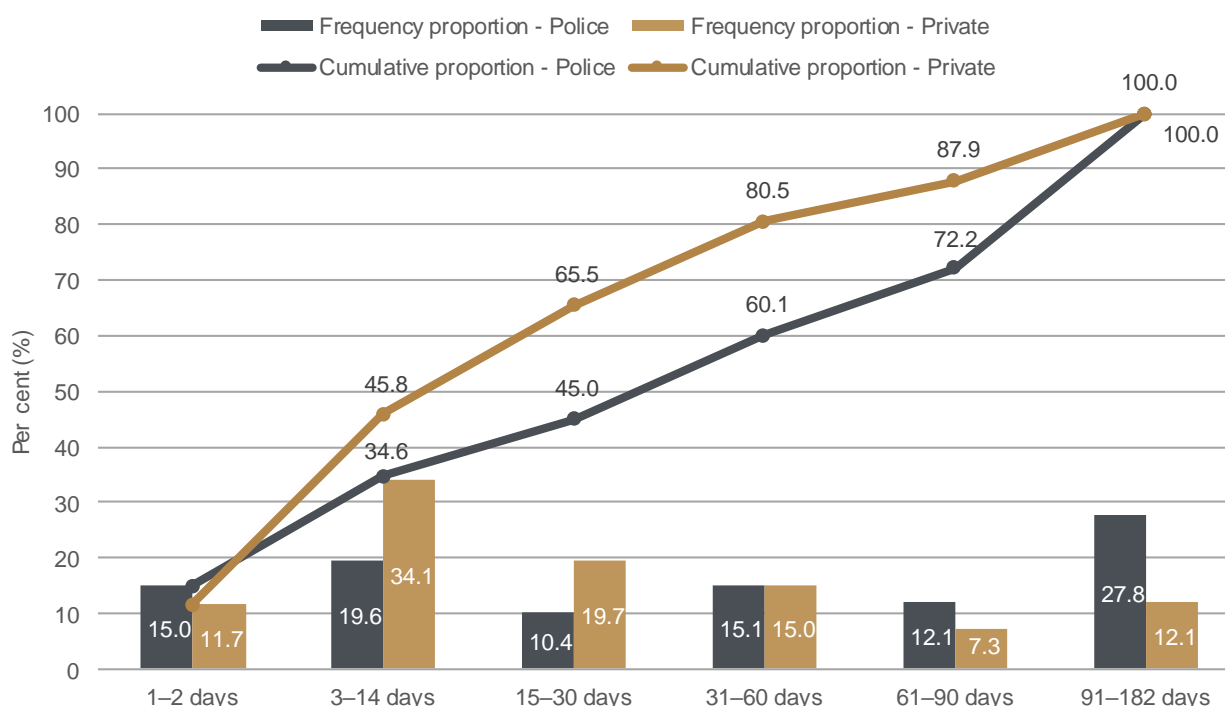
Further information on the timing of secondary applications involved in cross-application pairs is plotted in Figure 6 below. This figure shows that while police-lodged secondary applications were slightly more likely than privately-lodged secondary applications to occur within one to two days of the index application (15.0% and 11.7% respectively), overall privately-lodged secondary applications were much more likely to occur within two weeks of the index application than police-lodged secondary applications (cumulative proportions of 45.8% and 34.6% respectively). In comparison, more than one-quarter (27.8%) of police-lodged secondary applications were lodged between three and six months after the index application compared with 12.1% of privately-lodged secondary applications.

<sup>29</sup> Research by QGSO (2021b) found that there was a 61.2% growth in distinct calls for service made by the public to the Queensland Police Service between 2012–13 and 2017–18.

Further analyses (data not shown) found that the large increase over the reference period in the average lodgement timeframe for cross-application pairs involving police-lodged secondary applications was driven by:

- a decrease in the proportion lodged within one day to two weeks of the index application, from 45.3% in 2009–10 to 30.5% in 2017–18
- an increase in the proportion lodged within two to six months of the index application, from 30.4% in 2009–10 to 43.7% in 2017–18.

**Figure 6 Frequency proportion and cumulative proportion of number of days between lodgement of the index and secondary application, by lodgement source of secondary application, 2009–10 to 2017–18**



The above analyses have shown that the number and rate of cross applications have varied over time and that there are differences in the characteristics of cross applications according to their lodgement source and whether they are lodged on the same or different days. The following sections focus on the socio-demographics of people involved in cross applications.

#### 4.2.3. Rates of cross applications are higher for courts located in remote and very remote areas

This project undertook location analyses of cross applications in relation to the location of the court where they were lodged, using the geographical Remoteness Area classification of major cities, inner regional, outer regional, remote and very remote.<sup>30</sup> Rate ratios were used to identify if courts located in any of these geographical classifications had a higher or lower rate of cross-application lodgement than Queensland overall for the reference period.<sup>31</sup> A rate ratio of one indicates that the cross-application rate for the remoteness area category is the same as that for the entire Queensland adult population, while a ratio greater or lesser than one indicates that the cross application rate of the remoteness area category is correspondingly greater or lesser than the rate for the total state.

Figure 7 shows the rate ratio for same-day and different-day cross applications by geographical classification of court location for the reference period. Data are shown separately for different-day index and secondary applications, as in some instances each of the applications involved in cross-application pairs may not have been lodged in the same court so therefore could have different remoteness area classifications. Plotted information shows that the rate of cross applications lodged in courts in remote and very remote locations was substantially higher than the respective cross-application rates for Queensland, regardless of whether cross applications were lodged on the same or different days. For example, the rate of same-day cross applications lodged in courts located in very remote areas was three

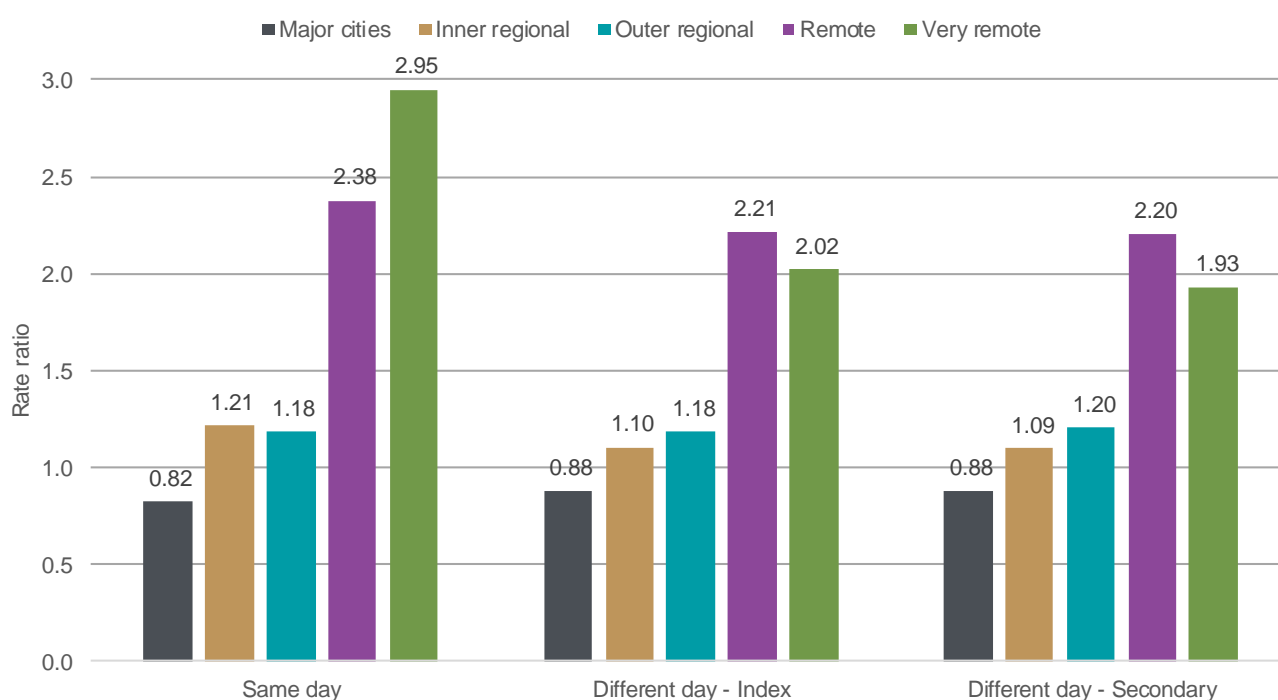
<sup>30</sup> See section 3.3.2 for further information on the geographical classification and method used for location analyses in this report.

<sup>31</sup> The rate ratio was calculated by dividing the cross-application rate per 100,000 adults of each remoteness area category by the total cross-application rate per 100,000 adults for Queensland.

times the same-day cross applications rate for Queensland. This finding is likely to reflect the overrepresentation of Aboriginal and Torres Strait Islander peoples on cross applications (see section 4.2.5) which is consistent with the higher prevalence of Aboriginal and Torres Strait Islander people living in remote and very remote locations (ABS 2018b) and research indicating there is a higher prevalence of family violence among Aboriginal and Torres Strait Islander people living in remote and very remote areas (AIHW 2019). It is also consistent with other research undertaken by QGSO which showed that remote and very remote locations had relatively high DVO application rate ratios (QGSO 2021c). Comparatively, courts located in inner regional and outer regional areas were found to have slightly higher rates of same-day and different-day cross applications compared with Queensland overall, while courts located in major cities had lower cross-application rates compared with the state overall.

Further analyses do not suggest that differences in lodgement source are likely to explain the regional variations discussed above given that police lodge the majority of same-day applications across all locations.

**Figure 7 Rate ratio of same-day and different-day cross applications by Remoteness Area classification of court location, 2009–10 to 2017–18**



#### 4.2.4. Most cross-application pairs involve women and men listed alternately as aggrieved and respondent

The research found the majority of cross-application pairs involved a woman and a man listed alternately as the aggrieved and respondent, and that this was slightly more typical for different-day cross application pairs than same-day cross application pairs.

Figure 8 below shows that more than four in five (83.4%) same-day cross application pairs involved women and men listed alternately as aggrieved and respondent. A further one in ten (10.1%) same-day cross application pairs involved men only, while a smaller proportion (6.5%) involved women only.

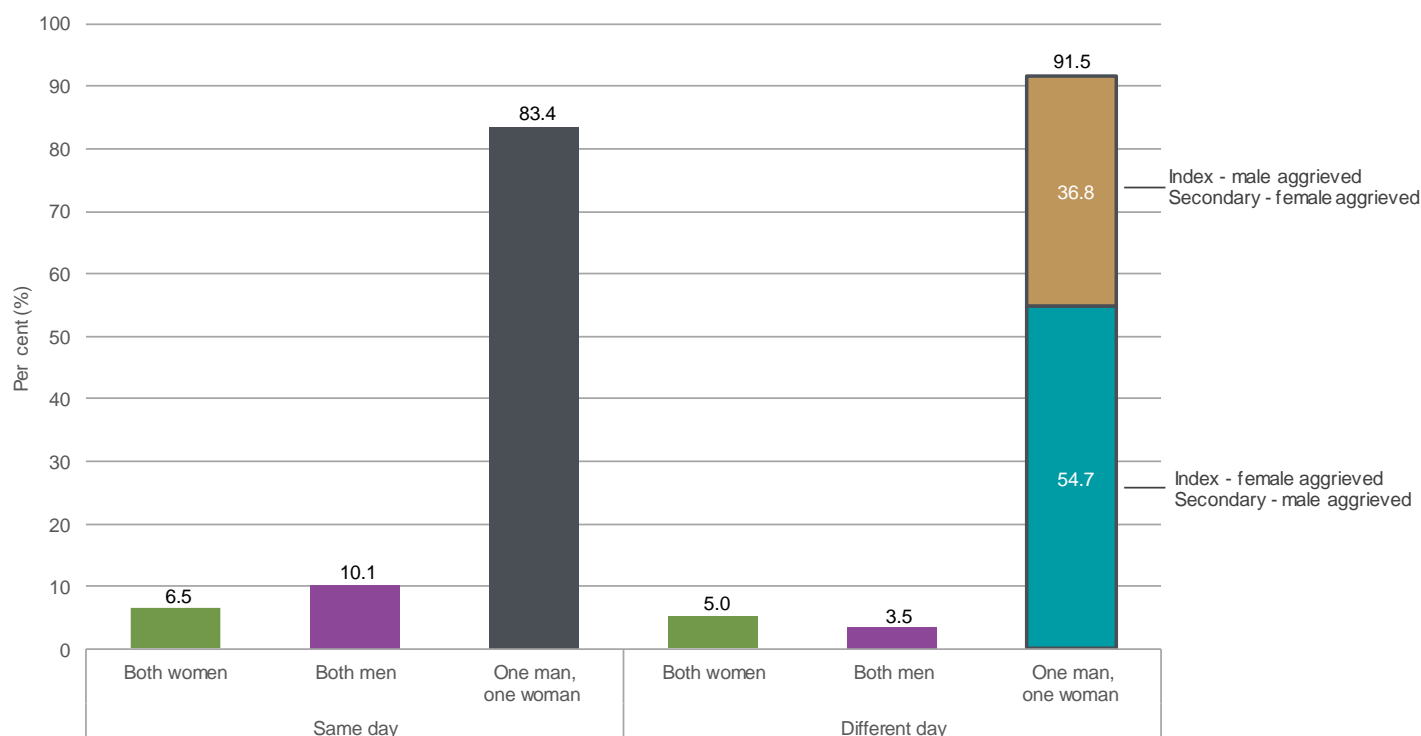
Different-day cross application pairs primarily involved women and men listed alternately as aggrieved and respondent (91.5%), and these cross-application pairs were more likely to be characterised by a DVO application lodged by or on behalf of a woman, followed by a cross application made by or on behalf of a man. Just over half (54.7%) of different-day cross applications had a female aggrieved on the index application followed by a male aggrieved on the secondary application, while about one-third (36.8%) were found to have a male aggrieved on the index application followed by a female aggrieved on the secondary application. It is noted that these gender patterns may partly reflect the inclusion of cross applications involving family relationships in presented analyses, and the gender dynamics of cross applications relating to intimate personal relationships may be different to those involving family members.<sup>32</sup>

<sup>32</sup> Cross-application pairs involving family members account for 12.9% of all cross-application pairs during the reference period (see section 4.2.7).



Less than one-tenth (8.5%) of different-day cross applications involved people of the same gender listed alternately as aggrieved and respondent.

**Figure 8** Proportion of same-day and different-day cross application pairs by gender of the aggrieved and respondent, 2009–10 to 2017–18



**Notes:**

1. It was not possible to undertake analyses that differentiated between the index and secondary DVO applications for cross applications lodged on the same day.
2. Information in this figure excludes applications where gender was unknown (n = 61).

#### 4.2.5. Aboriginal and Torres Strait Islander peoples are overrepresented on cross applications

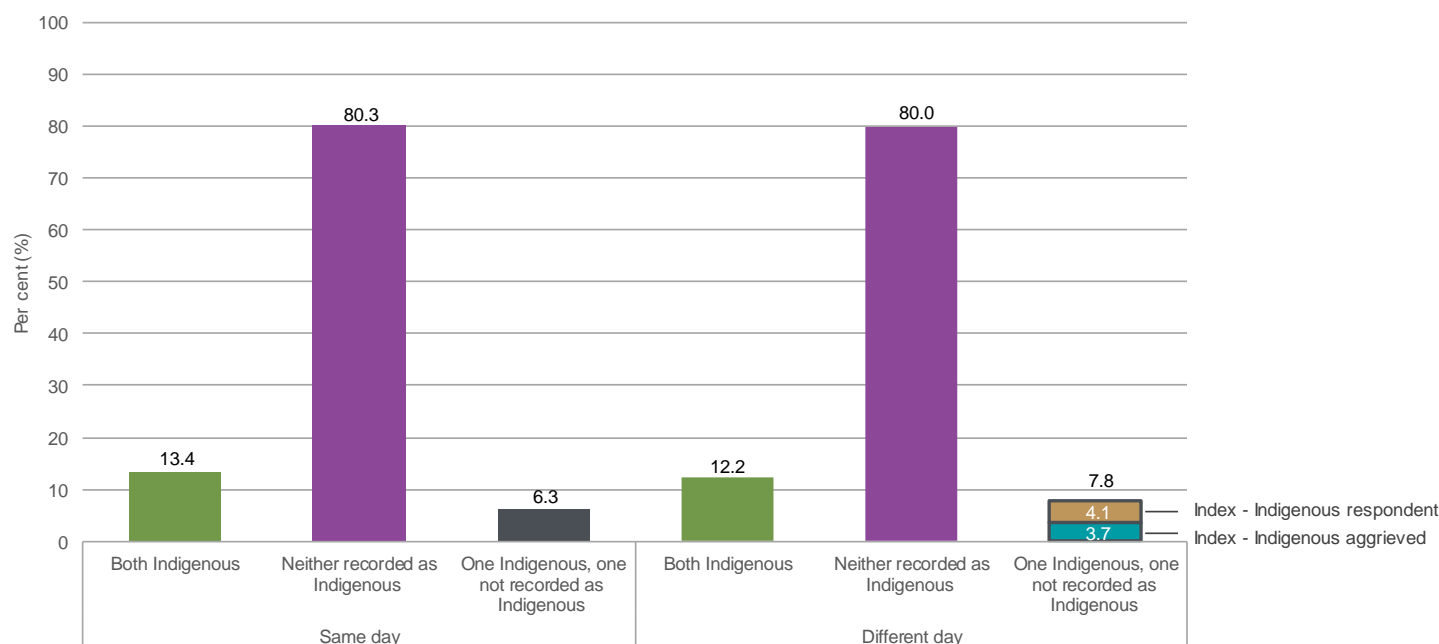
Studies have shown that Aboriginal and Torres Strait Islander peoples are overrepresented in DFV perpetrator and victim populations (AIHW 2019; Law Council of Australia 2018; Ombudsman Western Australia 2015; Our Watch 2018), and other research has demonstrated that Aboriginal and Torres Strait Islander peoples are overrepresented on DVO applications and orders in Queensland (Cunneen 2010; Douglas and Fitzgerald 2018; QGSO 2021c). Analyses of cross applications also showed overrepresentation.<sup>33</sup> Aboriginal and Torres Strait Islander peoples represented 3.3% of Queensland adults across the reference period,<sup>34</sup> but were listed as the aggrieved on 16.5% of all cross applications, and as the respondent on 16.0% of all cross applications, between 2009–10 and 2017–18.<sup>35</sup>

Figure 9 shows that most cross-application pairs involved people that were not recorded as being Aboriginal and/or Torres Strait Islander (80.3% of same-day cross applications and 80.0% of different-day cross applications). Just over one in ten same-day and different-day cross application pairs involved Aboriginal and Torres Strait Islander people (13.4% and 12.2% respectively), and a small proportion of cross-application pairs involved one Aboriginal and Torres Strait Islander person (6.3% of same-day cross applications and 7.8% of different-day cross applications). For different-day cross applications involving one Aboriginal and Torres Strait Islander person, the proportion with an Aboriginal and Torres Strait Islander aggrieved on the index application (3.7%) was comparable to the proportion with an Aboriginal and Torres Strait Islander respondent on the index application (4.1%).

<sup>33</sup> Caution is required in interpreting the findings presented in this section regarding the Indigeneity of persons involved in cross applications due to data limitations (see section 3.4 for further information).

<sup>34</sup> This was determined using midpoint ERPs (see section 3.3.1) calculated using the ABS (2019a) estimated resident population of Queenslanders aged 18 years and over, and the ABS (2019b) estimated resident population of Aboriginal and Torres Strait Islander Queenslanders aged 18 years and over.

<sup>35</sup> Further analyses (data not shown) show that most (80.6%) cross applications lodged by or on behalf of an Aboriginal and Torres Strait Islander aggrieved across the reference period involved an Aboriginal and Torres Strait Islander respondent.

**Figure 9** Proportion of same-day and different-day cross application pairs by Indigeneity of the aggrieved and respondent, 2009–10 to 2017–18**Notes:**

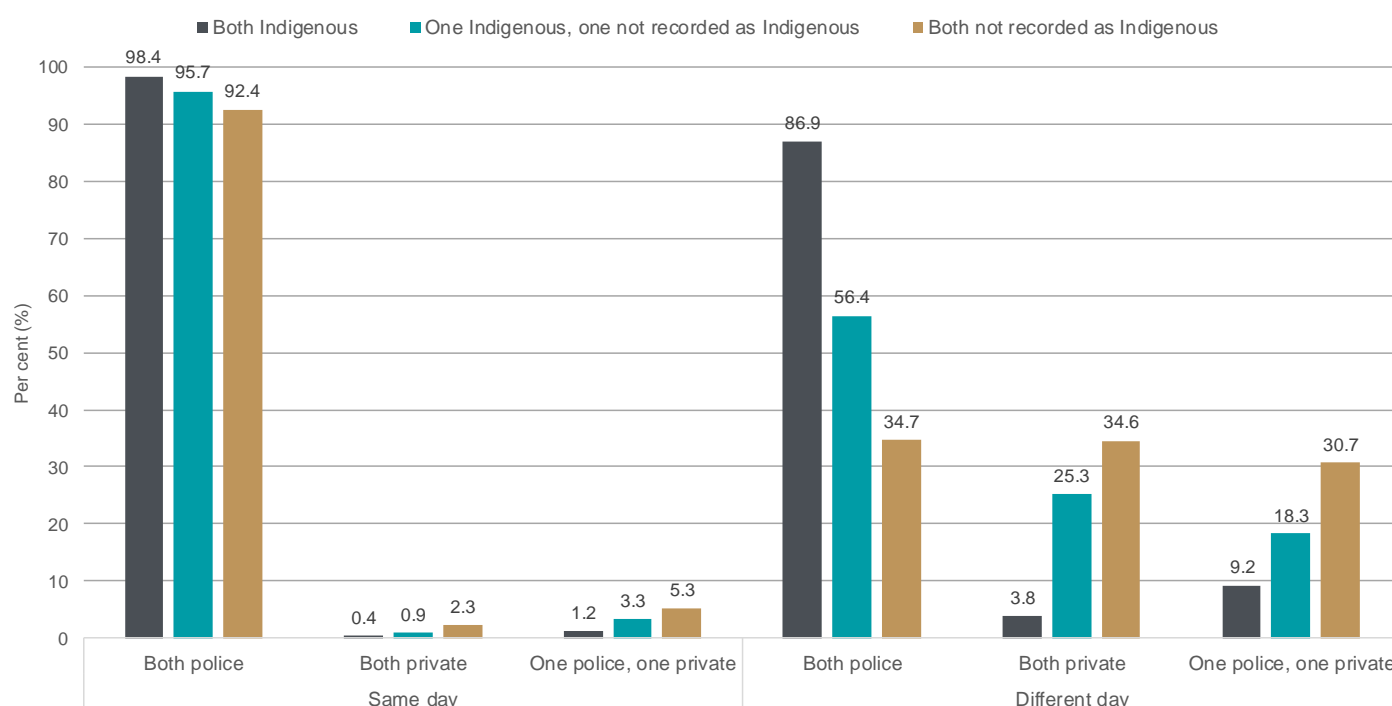
1. The Indigeneity of aggrieved and respondents in the dataset is based on information provided by the aggrieved, or the person lodging on their behalf, at the time of application lodgement. The classification of 'not recorded as Indigenous' includes circumstances where Aboriginal and Torres Strait Islander identity information was unknown. There is likely to be variation in a person's willingness to provide information regarding their Aboriginal and/or Torres Strait Islander identity when making a DVO application, and variation in the recording of this information on applications lodged by persons other than those named on the application.

2. It was not possible to undertake analyses that differentiated between the index and secondary DVO applications for cross applications lodged on the same day.

#### 4.2.6. Most cross-application pairs involving Aboriginal and Torres Strait Islander people were lodged by police

Analyses presented in section 4.2.1 showed that police were responsible for lodging the majority of same-day cross application pairs and that private lodgement was more commonly associated with different-day cross application pairs. Figure 10 below shows the lodgement source of cross-application pairs when the Indigeneity of the individuals named on the applications was taken into consideration. It shows that police played a significant role in the lodgement of both same-day and different-day cross application pairs involving Aboriginal and Torres Strait Islander people, particularly those involving Aboriginal and Torres Strait Islander people only.

Over the reference period, the majority of the same-day cross application pairs involved police lodgement only, particularly where both individuals named on the applications were Aboriginal and Torres Strait Islander (98.4%). Police also played an important role in the lodgement of different-day cross application pairs involving Aboriginal and Torres Strait Islander people, lodging both applications in the majority of different-day cross application pairs where both individuals were Aboriginal and Torres Strait Islander (86.9%) and more than half of different-day cross application pairs where one individual was identified as Aboriginal and/or Torres Strait Islander (56.4%). Notably, the proportion of different-day cross application pairs involving Aboriginal and Torres Strait Islander people only where both individuals lodged their application privately was very small (3.8%). The low level of private lodgement of DVO applications involving Aboriginal and Torres Strait Islander people has been identified in other Queensland-based research (Cunneen 2010; Douglas and Fitzgerald 2018; QPS 2016) and the literature points to a wide range of factors relevant to understanding barriers and challenges experienced by Aboriginal and Torres Strait Islander people in seeking help and support for DFV from authorities and support services (for example, see Blagg et al. 2020; Cunneen 2010; Douglas and Fitzgerald 2018; Fiolet et al. 2019; Lumby and Farrelly 2009; Memmott 2010; Nancarrow 2019; QPS 2016; Willis 2011).

**Figure 10** Proportion of same-day and different-day cross application pairs by Indigeneity of the aggrieved and respondent, 2009–10 to 2017–18**Notes:**

1. The Indigeneity of aggrieved and respondents in the dataset is based on information provided by the aggrieved, or the person lodging on their behalf, at the time of application lodgement. The classification of 'not recorded as Indigenous' includes circumstances where Aboriginal and Torres Strait Islander identity information was unknown. There is likely to be variation in a person's willingness to provide information regarding their Aboriginal and/or Torres Strait Islander identity when making a DVO application, and variation in the recording of this information on applications lodged by persons other than those named on the application

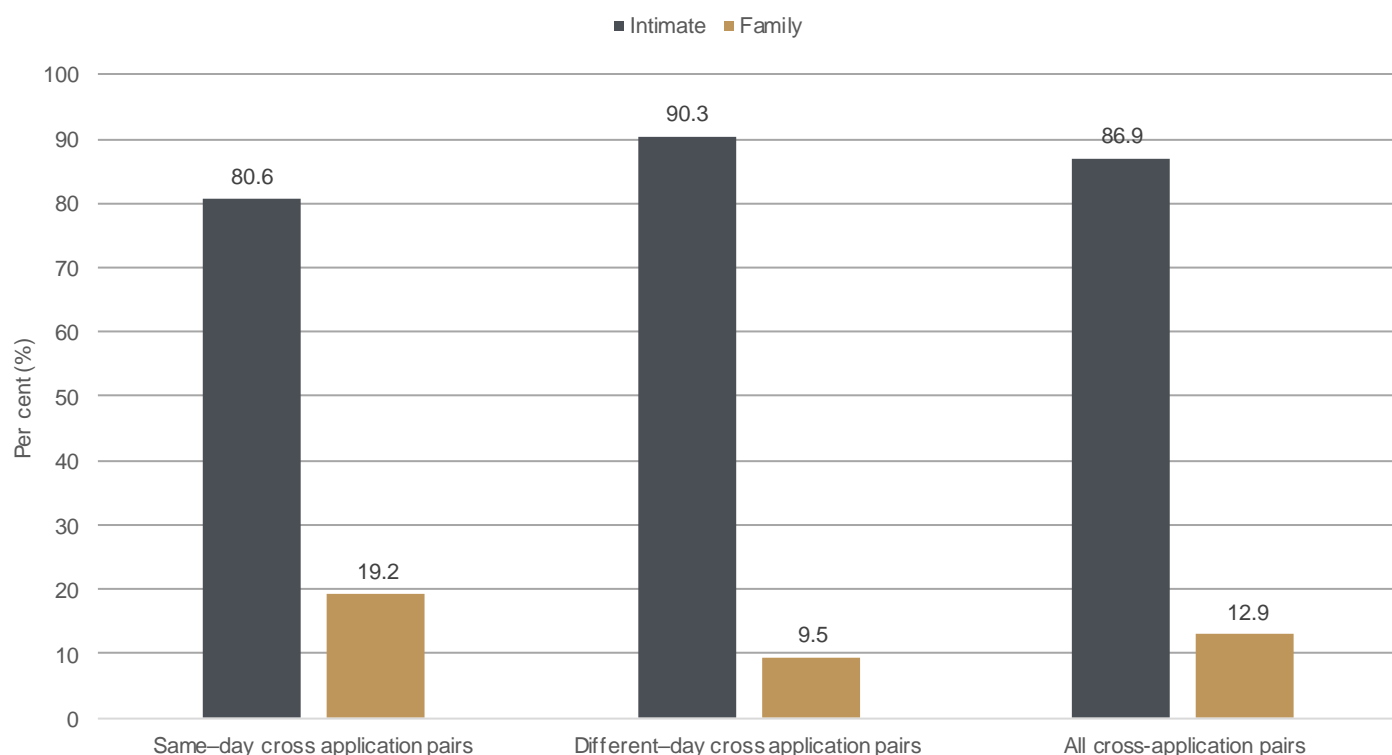
2. It was not possible to undertake analyses that differentiated between the index and secondary DVO applications for cross applications lodged on the same day.

**4.2.7. Most cross-application pairs relate to people in intimate personal relationships**

Information on the relationship between the aggrieved and respondent on DVO applications involved in cross-application pairs is examined in this section. There are three types of relationship between the aggrieved and respondent that can be identified on a DVO application: intimate personal, family, and informal care (refer to Glossary for more information on relationship types). As there was a very small number of cross applications during the reference period relating to informal care relationships (0.2%), this discussion focuses on intimate personal and family relationships only.

Figure 11 below shows that the majority of cross-application pairs concerned people in intimate personal relationships (86.9%). This proportion is higher than the proportion of all DVO applications identified as relating to intimate personal relationships over the reference period (77.6%) (data not shown). Eight in ten same-day cross application pairs (80.6%) and nine in ten different-day cross application pairs (90.3%) related to people in intimate personal relationships.

Figure 11 also shows that while cross-application pairs relating to family relationships comprised the minority of cross applications over the reference period (12.9%), family relationships were more commonly cited for same-day cross application pairs (19.2%) than different-day cross application pairs (9.5%).

**Figure 11** Proportion of same-day and different-day cross application pairs by relationship between the aggrieved and respondent, 2009–10 to 2017–18

Note: Data for informal care relationships and unknown relationship type are not charted.

Additional analyses (data not shown) found that cross applications relating to family relationships were higher among cross-application pairs involving Aboriginal and Torres Strait Islander people only (21.5%), particularly for same-day cross application pairs (35.1% compared with 13.3% for different-day cross application pairs). This finding aligns with other research that has found family relationships are more common on DVO applications involving Aboriginal and Torres Strait Islander people (Cunneen 2010; QPS 2016). It is also consistent with what is known about the forms of violence that can be experienced by Aboriginal and Torres Strait Islander people and in Aboriginal and Torres Strait Islander communities, which can occur within a broader context of kinship relationships, including extended family and the wider community (Olsen and Lovett 2016; The Special Taskforce on Domestic and Family Violence in Queensland 2015).

Further analyses (data not shown) also found that while almost all cross-application pairs involving women and men listed alternately as aggrieved and respondent related to intimate personal relationships (95.1%), a much lower, but still substantial, proportion of cross-application pairs involving women only or men only related to people in intimate personal relationships (26.2% and 20.1% respectively).

### 4.3. Cross-application outcomes

The following section provides information on the outcomes of cross applications. This includes information on the proportion of cross applications that are withdrawn and dismissed by the court, and the share of cross applications and cross-application pairs that result in a DVO being made.

#### 4.3.1. Same-day cross applications are withdrawn or dismissed less often, police-lodged cross applications are withdrawn or dismissed less often

An application for a DVO may be withdrawn by an applicant or dismissed by the court before it is considered. A privately-lodged application may be withdrawn by the aggrieved or an applicant acting on behalf of the aggrieved. A police-lodged application may also be withdrawn, however police may proceed in pursuing an order even in cases where the aggrieved would like the application withdrawn (QPS 2020). Research has shown there may be a number of reasons why an aggrieved may want to have an application withdrawn, including feeling pressure by the respondent to not proceed with the application (Wangmann 2009), fear of retaliation (Douglas and Fitzgerald 2013), or because the perpetrator has indicated to the aggrieved that they will desist from committing further DFV (Parkinson, Cashmore and

Single 2011). A court may dismiss an application if there is insufficient evidence to support the need for an order, or when the aggrieved does not attend court.

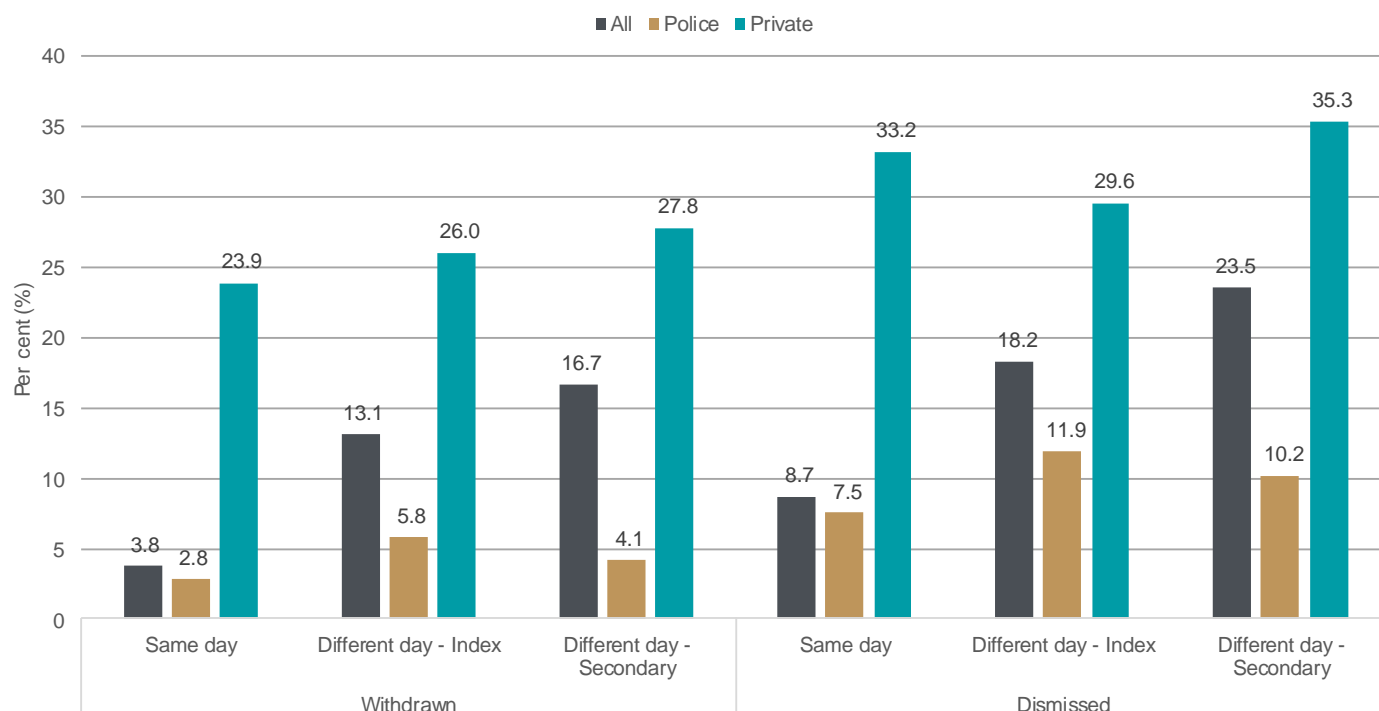
Figure 12 below presents the proportions of cross applications which were withdrawn or dismissed between 2009–10 and 2017–18 relative to whether they were lodged on the same or different days and by lodgement source. It shows that, overall, same-day cross applications were considerably less likely to be withdrawn or dismissed than different-day cross applications and that secondary applications were more likely to be withdrawn or dismissed than index applications. When looking at lodgement source, police applications were substantially less likely to be withdrawn or dismissed than private applications, regardless of when they were lodged.

Over the reference period:

- 3.8% of same-day cross applications were withdrawn, compared with 13.1% of different-day index applications and 16.7% of different-day secondary applications
- 8.7% of same-day cross applications were dismissed, compared with 18.2% of different-day index applications and 23.5% of different-day secondary applications
- among same-day cross applications, 2.8% of applications lodged by police were withdrawn compared with 23.9% of those lodged privately and 7.5% of police applications were dismissed compared with 33.2% of private applications
- within different-day index applications, 5.8% of applications lodged by police were withdrawn compared with 26.0% of those lodged privately and 11.9% of police applications were dismissed compared with 29.6% of private applications
- within different-day secondary applications, 4.1% of applications lodged by police were withdrawn compared with 27.8% of those lodged privately and 10.2% of police applications were dismissed compared with 35.3% of private applications.

These data demonstrate a strong interconnected relationship between the outcome of same-day applications and different-day applications lodged by police. Further research (data not shown) indicates that this relationship has remained relatively stable over time. Police-lodged applications may be more likely to detail sufficient evidence to warrant consideration by a court, and an aggrieved may also receive a higher level of support in a police-lodged application than when an application is lodged privately.

**Figure 12 Proportion of same-day and different-day cross applications which were withdrawn or dismissed by lodgement source, 2009–10 to 2017–18**



### 4.3.2. Cross applications lodged by police became DVOs more often

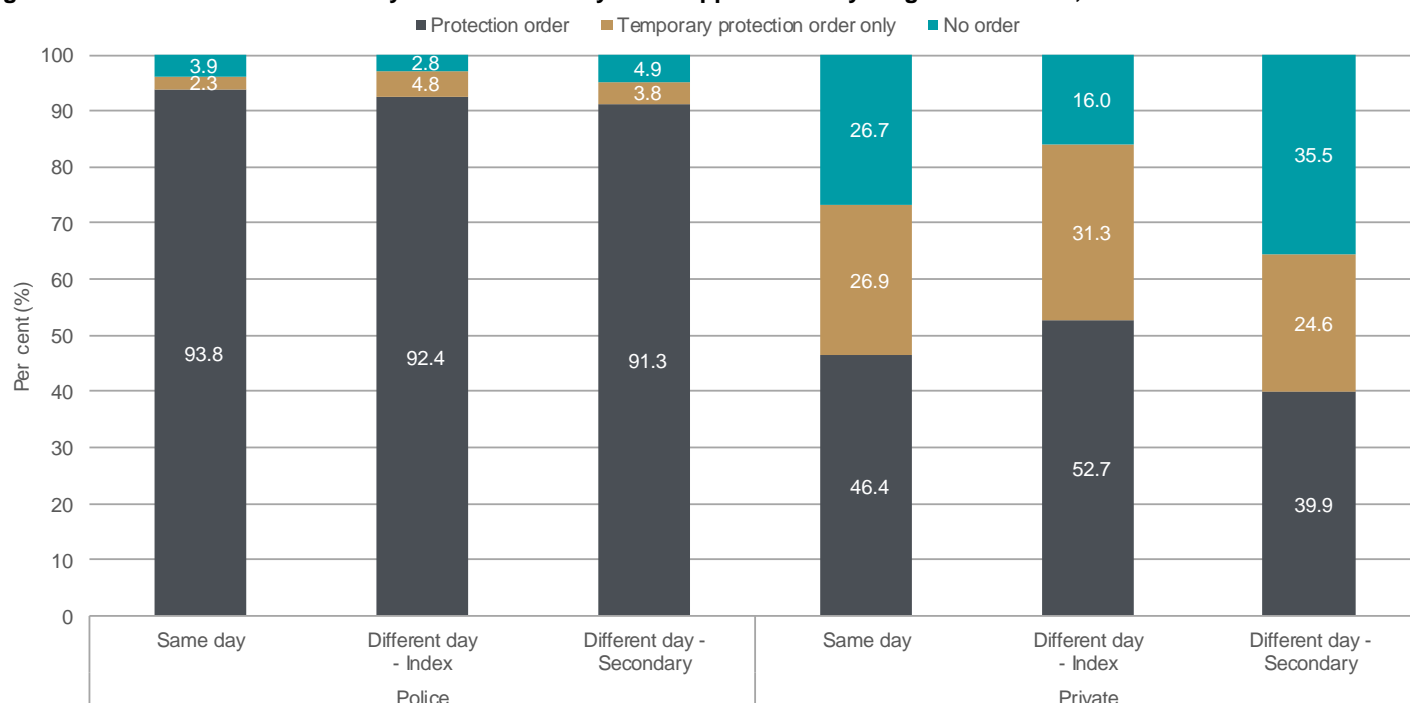
An application for a DVO may result in a temporary protection order, a protection order, or no order being made. A temporary protection order may be progressed into a protection order at a later court hearing. An application for DVO may be withdrawn and a court may rule against an order being made when there is insufficient evidence to indicate the need for protection.

Figure 13 shows the proportion of same-day and different-day cross applications by lodgement source that resulted in an order being made (including instances where a temporary protection order was progressed to a protection order), a temporary protection order only, or no order. The findings show there was a strong relationship between the outcome of cross applications and the source of application lodgement,<sup>36</sup> with around nine out of ten cross applications lodged by police resulting in a protection order being imposed by the court regardless of whether they were lodged on the same or different days. This difference may be due to differences in the types of matters progressed in police-lodged applications compared with privately-lodged applications. For example, research has shown that DFV reported to or detected by police usually involves incidents of a more serious or violent nature (Voce and Boxall 2018). Other research has also shown that police involvement in cross applications is associated with a DVO being imposed. For example, Douglas and Fitzgerald (2013) found that 92.0% of cross applications made on behalf of both parties by police resulted in a DVO. In contrast, cross applications which were both submitted privately resulted in orders in only 27.0% of cases. It was suggested that police applications may be less likely to be withdrawn as the aggrieved, particularly women, feel more supported to continue with the application process (Douglas and Fitzgerald 2013).

A temporary protection order may be issued by the court for a number of reasons, including where there is a disagreement over the order, where the respondent has asked for another court date in order to have time to seek legal advice, or when the court permits involved parties to engage in counselling and/or other reconciliatory activities. Figure 13 also shows that same-day and different-day cross applications lodged privately were more likely to result in a temporary protection order only. Same-day and different-day cross applications lodged privately were also more likely than police-lodged applications to result in no order.

There was no substantial change in cross-application outcomes over time (data not shown).

**Figure 13 Outcomes of same-day and different-day cross applications by lodgement source, 2009–10 to 2017–18**



Note: Applications resulting in a protection order being imposed by the court include matters where a temporary protection order was made before the imposition of a protection order.

<sup>36</sup> This finding is consistent with the relationship between lodgement source and outcomes of DVO applications more generally (QGSO 2021c).



Further analyses were undertaken to examine the outcomes of DVO applications within the same cross-application pair regardless of their source and timing of the lodgement. This showed that protection orders were imposed for both DVO applications for around two-thirds (67.8%) of cross-application pairs and it was very rare (2.8%) for both applications within a cross-application pair to result in no order. Just over one in ten (12.6%) cross-application pairs involved one DVO application resulting in a protection order and the other resulting in no order being made, while 8.5% of cross-application pairs involved one DVO application resulting in a protection order and the other resulting in a temporary protection order only.

Information presented above showed that cross applications lodged privately were less likely to result in a DVO being imposed by the court than those lodged by police. These differences may be explained by variation in the types of matters progressed by police, differences in the type of support available to applicants when applications are lodged by police, and the possibility of higher levels of unsubstantiated DVO applications within private applications. (ALRC 2010; Douglas 2018; Douglas and Fitzgerald 2013; Nancarrow 2016; State of Victoria 2016; Wangmann 2009). Insights regarding gender differences in the use of DVOs in the context of cross applications is explored in the next section.

## 4.4. Gender differences in the lodgement of cross applications

Information presented in this section explores gender differences regarding the source and timing of DVO applications involved in cross-application pairs. This means that data relate to cross applications lodged by people involved in heterosexual intimate personal relationships only, as an exploration of gender differences is not possible within same-sex relationships and most cross applications relate to intimate partners. While qualitative work was beyond the scope of this project, selected qualitative information from other research work has been used to provide further context to some of the research findings discussed.

### 4.4.1. Men are more likely to be the aggrieved on the secondary application, particularly when both applications are lodged privately

The data were explored to determine if there was variation in the gender profile of the aggrieved listed on secondary DVO applications in relation to lodgement source.

Figure 14 shows that cross-application pairs involving a man listed as the aggrieved on the secondary application were most common among cross-application pairs where both DVO applications were lodged privately (66.7%). This compares with cross-application pairs where both applications were lodged by police (56.1%), cross-application pairs where the index application was lodged by police and the secondary application was lodged privately (59.0%) and cross-application pairs where the index application was lodged privately and the secondary application was lodged by police (55.0%). This suggests that cross applications lodged in the civil context are subject to different dynamics to those lodged by police.<sup>37</sup>

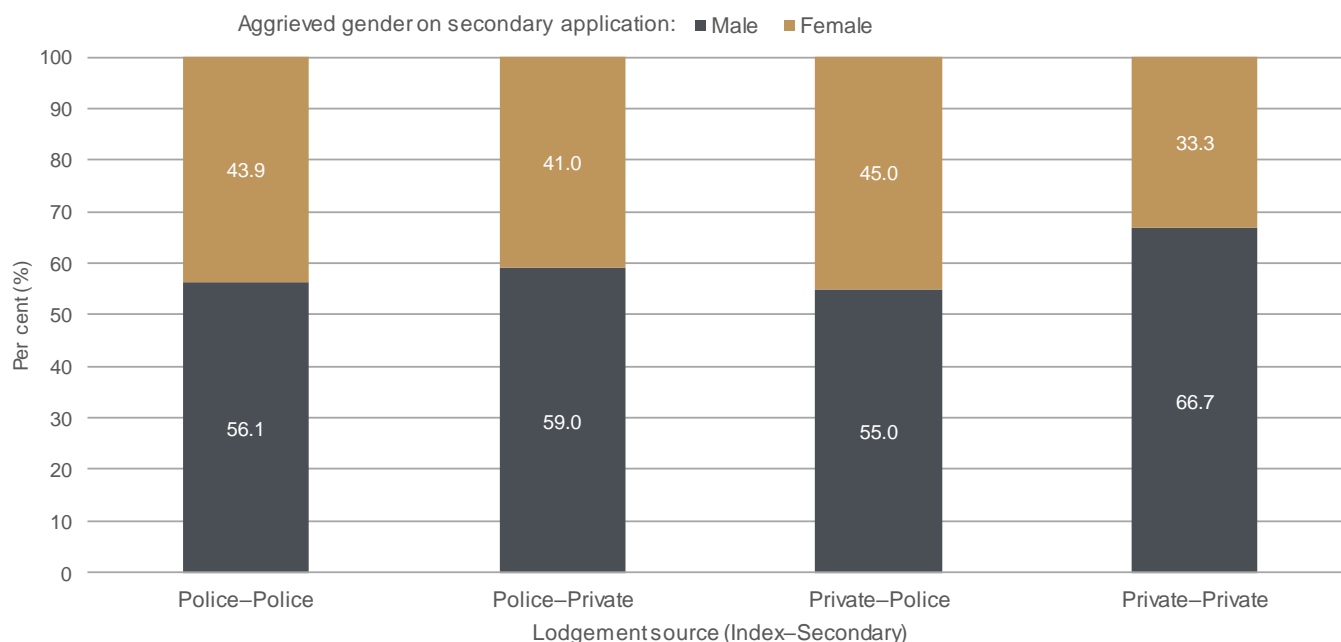
Research literature points to the use of cross applications by some male perpetrators of DFV in retaliation for DVO applications made by or on behalf of women, as a means to exert further power and control. This is exemplified by the following quote from research undertaken by Jordan and Phillips (2013) made by a woman named as a respondent on a cross application lodged by her former partner:

He'd applied for an intervention order because I'd applied for one against him. It's a game. Every time I try to do something, he comes back with something else.... He sat there [staring at me] to let me know. So I just shook the whole time I was there. I wanted to go, I wanted to leave straight away (Jordan and Phillips 2013, p. 27).

Wangmann's (2009) examination of cross applications found that secondary applications made by men rarely involved allegations of fear or coercive control which are typically associated with DFV, rather they:

... were concerned with women simply doing things men did not like, such as pursuing their legal rights, telling others about the man's behaviour, calling the men names, swearing at them and so on (Wangmann 2009, p. 262).

<sup>37</sup> Further analyses (data not shown) of cross-application pairs involving private lodgement only found no substantial differences in the timing of the secondary application based on the gender of the aggrieved in the secondary application.

**Figure 14 Lodgement source by gender of the aggrieved on the secondary application, 2009–10 to 2017–18**

Note: Figure shows results for different-day cross application pairs involving people in heterosexual intimate personal relationships.

The outcome of cross applications in relation to the gender of aggrieved is explored in the next section.

#### 4.4.2. Privately-lodged cross applications with a male aggrieved are withdrawn or dismissed more often

The proportion of same-day and different-day cross applications which were withdrawn or dismissed by lodgement source and gender of the aggrieved is displayed in Figure 15. In line with findings discussed in section 4.3.1, same-day and different-day police-lodged cross applications were substantially less likely to be withdrawn or dismissed than privately-lodged applications. This finding was consistent regardless of the gender of the aggrieved for applications lodged by police. However, a relationship between the gender of the aggrieved and the likelihood of privately-lodged applications being withdrawn or dismissed was apparent. For example, while 23.8% of privately-lodged different-day secondary applications with a woman listed as the aggrieved were withdrawn, 30.3% of privately-lodged different-day secondary applications with a man listed as the aggrieved were withdrawn. Similarly, 29.7% of privately-lodged different-day secondary applications with a woman listed as the aggrieved were dismissed compared with 38.4% of privately-lodged different-day secondary applications with a man listed as the aggrieved.

The higher withdrawal and dismissal of privately-lodged applications with a male aggrieved may indicate that men are more likely than women to lodge applications without sufficient evidence to show cause to the court, including those that are malicious, deliberately false, frivolous or vexatious in nature. Also, given the not insubstantial share of privately-lodged cross applications that are withdrawn when a woman is listed as the aggrieved, it is worth noting other research highlighting how women can experience pressure to withdraw their DVO application either in response to a cross application lodged by or on behalf of the perpetrator or other threatening actions by their DFV assailant (ALRC 2010; Wangmann 2010). The following quote made by a victim of DFV from research undertaken by Wangmann (2009, p. 233) illustrates how cross applications can be used as a bargaining tool:

If you'll drop yours, we'll drop ours ... I guess that was the most baffling thing about the whole thing was that he had a cross application and then just used it as a bargaining chip ... even though it's not meant to be used like that, everybody knows it is ...and so you just let [him] get away with it.

**Figure 15 Proportion of cross applications withdrawn or dismissed by lodgement source and gender of the aggrieved, 2009–10 to 2017–18**

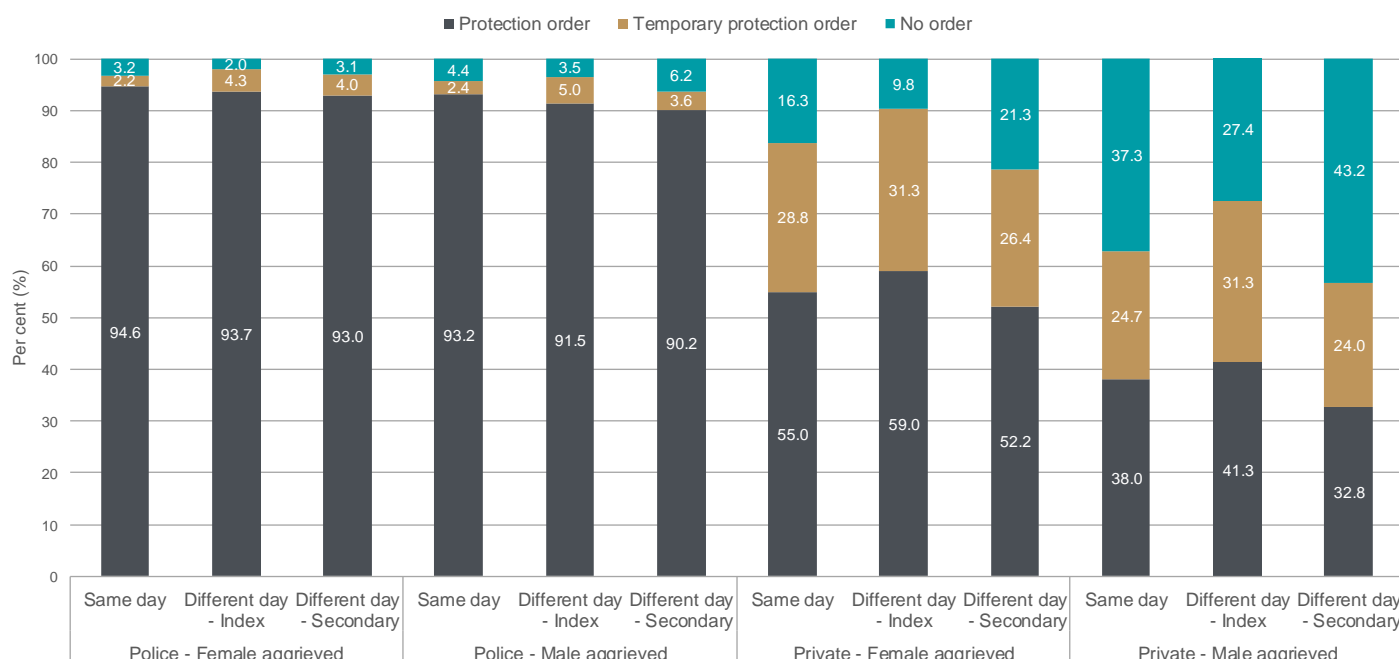
Note: Figure shows results for same-day and different-day cross applications involving people in heterosexual intimate personal relationships.

#### 4.4.3. Privately-lodged cross applications with a male aggrieved are less likely to result in a protection order, particularly for secondary applications

The analyses presented above show that cross applications lodged privately with a man listed as the aggrieved were more likely to be dismissed by the courts than cross applications lodged privately with a woman listed as the aggrieved. This finding is reflected in protection order outcomes.

Figure 16 below shows the proportion of same-day and different-day cross applications that resulted in a protection order (including instances where a temporary protection order progressed to protection order), a temporary protection order only, or no order, by lodgement source and gender of the aggrieved. Consistent with findings discussed in section 0, this figure shows that same-day and different-day police-lodged applications were substantially more likely than privately-lodged applications to result in a DVO, and this finding was consistent regardless of the gender of the aggrieved. Overall, more than nine out of ten cross applications lodged by police resulted in a DVO regardless of the gender of the aggrieved and lodgement timing.

Cross-application outcomes varied considerably among private cross applications in relation to the gender of the aggrieved and lodgement timing, with protection orders most commonly being imposed for private applications involving a woman listed as the aggrieved on index applications (55.0%) and least common among private applications involving a man listed as the aggrieved on secondary applications (32.8%). In other words, data analyses showed that a cross application lodged privately by a man following an application made by a woman was least likely to result in the imposition of a protection order.

**Figure 16** Proportion of cross applications that resulted in an order or no order being made by lodgement source and gender of the aggrieved, 2009–10 to 2017–18**Notes:**

- Figure shows results for same-day and different-day cross applications involving people in heterosexual intimate personal relationships.
- Applications resulting in a protection order being imposed by the court include matters where a temporary protection order was made before the imposition of a protection order.

The findings presented in this section show that men were more likely to initiate a secondary DVO application than women in the civil context, and that these applications were less likely to result in an DVO being made. In interpreting the results shown above there may also be value in considering other research that highlights how women may consent to a DVO being imposed against them in an effort to ensure that they (and their children) are protected and in response to time and resource constraints (Jordan and Phillips 2013; Wangmann 2009). The latter is apparent in the following quote from a professional interviewed in Wangmann's (2009, p. 238) research:

I think sometimes victims back down and end up agreeing...because they just see the whole process being so drawn out and, and some victims you know, they have to go and get themselves a legal representative and they might not have the money, they mightn't have the time, they've taken time off work already just to come to the AVO matter in the first place. You know they might have kids and some of them just think, "Oh you know, I'm just gonna agree".

Women consenting to mutual orders due to significant personal impacts of going through a protracted court experience is further highlighted by the following quote from a woman subjected to a cross application by her ex-husband:

[The magistrate] said, 'You came to an agreement about custody, so why can't you come to an agreement today and have identical intervention orders or none at all?' I felt pressured. I thought, I've paid \$8,500 to be here today. All the emotional stuff, my work has suffered, and you're telling me I have to come back and do it again? I couldn't go through the financial costs of doing it again, I'd just given [the lawyer] a cheque for \$50,000, I was running out of cash. So I had to agree. So this man has an intervention order against me. You have to laugh, it's ridiculous. I've never been violent. I've never caused him to fear me. (Jordan and Phillips 2013, p. 26).

## 5.0 Discussion

The *Cross applications for domestic orders in Queensland, 2008–09 to 2017–18* research report provides information on cross-application trends and their characteristics to provide further insight into the use of DVO applications. The research has added to existing literature by examining the outcomes of cross applications in relation to their lodgement source, timing, and gender of involved parties.

The research showed the number and rate of cross applications made in Queensland varied between 2009–10 and 2017–18. A substantial decrease in the number and rate of cross applications was apparent in 2012–13 following the introduction of legislation in 2012 which included provisions aiming to ensure that cross applications were only used in warranted circumstances. A considerable increase in the number and rate of cross applications occurred in 2015–16, coinciding with growth in DVO applications occurring in a context of significant system reform, increased community awareness regarding DFV and the expansion and enhancement of support services. While the proportion of DVO applications relating to a cross application varied over time, they continued to represent less than one in five of all DVO applications throughout the observation period. Cross applications were most common among DVO applications in 2011–12 (19.2%) and least common in 2012–13 (13.1%).

The research demonstrates that police play an integral role in the lodgement of cross applications. Police were the primary lodgement source for same-day cross applications (lodging on behalf of both parties in more than nine in ten same-day applications) and were also involved in the lodgement of different-day cross applications. Police lodgements accounted for 41.4% of different-day cross applications (where both applications were lodged by police), while private lodgements (where both applications were lodged privately) accounted for 30.6% of different-day cross applications. Police lodgement was also found to be strongly associated with cross-application outcomes, with a DVO being imposed by the court in more than nine in ten cases where police lodgement occurred. This compared with about half or less of those cross applications lodged privately (depending on when they were made) resulting in a DVO.

There was also evidence to suggest that police altered their use of cross applications over time. For example, there was a considerable decrease in the number and rate of same-day cross applications in 2012–13 (which are generally lodged by police), coinciding with the aforementioned legislative provisions introduced in 2012, that did not occur for different-day lodgements.<sup>38</sup> Additionally, the research found an increase in the average number of days between the lodgement of index and secondary applications (among different-day cross application pairs) when police were responsible for lodging the secondary application between 2012–13 and 2016–17. This finding potentially indicates more police time being spent on DFV-related investigations, additional time required to comply with modifications to operational procedures following legislative changes and/or increases in police workloads. Indeed, other research undertaken by QGSO (2021b) shows that these changes occurred in a context of a growing number of calls for service relating to DFV, which was associated with increases in the number and rate of DVO applications made by police in Queensland.<sup>39</sup>

While police use of cross applications was observed to change over time, other research has highlighted the importance of identifying the person most in need of protection and ensuring that DVO applications are only made in justified circumstances given the deleterious impacts of being listed as a respondent on a DVO (such as becoming involved in the criminal justice system through breaching an order, family law complications, distrust of police and the legal system and access to support services) (Australian National Research Organisation for Women's Safety (ANROWS) 2020a; ANROWS 2020b, Douglas 2018; Douglas and Fitzgerald 2018; Jordan and Phillips 2013; Laing 2013; Reeves 2019; State of Victoria 2016; Ulbrick and Jago 2018; Wangmann 2009). Research undertaken in other jurisdictions has also suggested that the complexities of DFV mean that police may be unable to identify the person most in need of protection in certain cases, and therefore use cross applications as a way to defer decision making to other stages of the legal system (ANROWS 2020b, Larance and Miller 2016; Reeves 2019; Wangmann 2009)<sup>40</sup> and courts may have limited ability to further explore or resolve competing claims of DFV due to administrative factors (ANROWS 2020b), Wangmann 2009).<sup>41</sup> While this project did not investigate if DVO applications were being used appropriately, the findings of other

<sup>38</sup> As mentioned above, police lodgements accounted for most same-day cross applications.

<sup>39</sup> When comparing 2012–13 with 2017–18, there was a 61% increase in distinct calls for police relating to DFV and a 60% increase in finalised DFV incidents resulting in a police-lodged DVO application (QGSO 2021b).

<sup>40</sup> On review of the operation of the Act, the Queensland Domestic Violence Services Network (QDVSN) asserted that the intent of the Act to reduce the use of inappropriate cross applications did not necessarily play out in its application, with feedback suggesting that "cross applications and orders are still a problem...the police continue to make cross applications for both parties or erroneously identify the perpetrator as the person most in need of protection." (Queensland Domestic Violence Services Network 2014, p. 40).

<sup>41</sup> It is acknowledged that the identification of the person most in need of protection does not necessarily circumvent the use of cross applications in appropriate circumstances. This was enshrined in a recent ruling holding that being deemed the person most in need of protection does not preclude a person from being named as the respondent on a subsequent DVO cross application (*SRV v. Commissioner of the Queensland Police Service & Anor* [2020] QDC 208).



studies are worth consideration in interpreting results from this project that showed the majority of DVO applications lodged by police result in the imposition of a DVO by the court.<sup>42</sup>

Cross applications were found to be predominantly associated with people in intimate personal relationships and the finding that the majority of cross applications made on different days identified a woman as the aggrieved on the index application is consistent with other research and theoretical discussions of DFV which highlight the gendered nature of DFV (Ali and Naylor 2013; Australian Domestic and Family Violence Death Review Network 2018; AIHW 2018; The Special Taskforce on Domestic and Family Violence in Queensland 2015).

The research found gender differences in relation to cross-application dynamics when exploring cross-application pairs involving heterosexual intimate personal relationships. The results show that:

- cross applications with a man listed as the aggrieved on the secondary application were more common among cross applications involving private applications only (66.7%) than those involving police applications only (56.1%)
- secondary cross applications lodged privately with a male aggrieved were more likely to be dismissed by the court (38.4%) than secondary cross applications lodged privately with a female aggrieved (29.7%)
- secondary cross applications lodged privately with a male aggrieved were substantially less likely to result in a protection order being imposed by the court (32.8%) than secondary cross applications lodged privately with a female aggrieved (52.2%).

While cross applications occur in situations where each party in a relationship genuinely feels threatened and in need of protection, the findings described above suggest that men are more likely than women to lodge unsubstantiated DVO applications in the civil context. These results can be interpreted in light of other research discussing the ways in which DVO applications can be used by perpetrators of IPV to exert further power and control over victims, sometimes referred to as systems abuse.<sup>43</sup>

Examining systems abuse within the context of applications and orders for protection has been an emerging area of research enquiry in recent years (ANROWS 2020b, Australian Law Reform Commission (ALRC) 2010; Douglas 2018; Reeves 2019; Ulbrick and Jago 2018).<sup>44</sup> This research intersects with the broader discussion and increasing concern regarding the (mis)identification of the person most in need of protection in DFV situations (ANROWS 2020b; Mansour 2014; Reeves 2019) and the growing number of women named as the respondent on applications and protection orders (Douglas and Fitzgerald 2018; Laing 2013; Reeves 2019; Ulbrick and Jago 2018).

The research found Aboriginal and Torres Strait Islander peoples were overrepresented on cross applications compared with their representation in the Queensland population. This finding is consistent with research that shows Aboriginal and Torres Strait Islander peoples were overrepresented on DVO applications in Queensland (Cunneen 2010; Douglas and Fitzgerald 2018; QGSO 2021c) and DFV perpetrator and victim populations (Law Council of Australia 2018; Ombudsman Western Australia 2015; Our Watch 2018). Other studies have highlighted the importance of understanding the context in which the overrepresentation of Aboriginal and Torres Strait Islander peoples among both DFV perpetrators and victims occurs. This includes colonisation and its associations with loss of culture, disruption to kinship systems and intergenerational trauma as well as with social and economic exclusion, drug and alcohol misuse and racism (AIHW 2019; ALRC 2017; Blagg et al. 2020; Blagg et al. 2018; Olsen and Lovett 2016).

The finding that the majority of cross applications involving only Aboriginal and Torres Strait Islander people were lodged by police<sup>45</sup> is consistent with other Queensland-based research which has found that very few DVO applications are initiated by Aboriginal and Torres Strait Islander people experiencing DFV (Cunneen 2010; Douglas and Fitzgerald 2018; QPS 2016). A number of factors associated with barriers to seeking help and support for family and sexual violence in Aboriginal and Torres Strait Islander communities have been highlighted by other studies, including individual and community repercussions, cultural considerations and coercion (Blagg et al. 2018; Cunneen 2010; Lumby and Farrelly

<sup>42</sup> For example, in their research regarding the identification of the person most in need of protection regarding DFV law, ANROWS offered that "police sometimes err on the side of caution in making applications, deferring to the magistrate to determine if an order is warranted. However, magistrates in turn may rely on the initial assessments made by police, as may prosecutors (2020:1)".

<sup>43</sup> Systems abuse is a broad term used to describe "a type of family violence whereby perpetrators manipulate legal, administrative and/or welfare systems in order to exert control over, threaten or harass a current or former partner" (Reeves 2019, p. 92).

<sup>44</sup> The literature details multiple ways cross applications may represent an attempt by the perpetrator to exert power and control over the victim. For example, the perpetrator may lodge a reactive or retaliatory cross application as a means to minimise a victim's claims, to exact revenge, to save face, interfere with court processes and show they are able to influence application outcomes (such as intimidating the victim to withdraw their application), or to use as a bargaining tool to gain a tactical advantage in other court proceedings such as family law proceedings (ALRC 2010; Douglas 2018; Douglas and Fitzgerald 2013; Jordan and Phillips 2013; Magistrates Court of Queensland 2019; Wangmann 2009). The literature recognises that systems abuse through the use of cross applications can also occur in the context of police-lodged applications. For example, research has suggested that some male perpetrators of DFV seek to mislead police in the process of identifying who is the person most in need of protection when police respond to a call for assistance (Reeves 2019; Ulbrick and Jago 2018).

<sup>45</sup> Police lodged 98.4% of same-day cross application pairs involving Aboriginal and Torres Strait Islander people only and 86.9% of different-day cross application pairs involving Aboriginal and Torres Strait Islander people only over the reference period.





2009; Willis 2011), a lack of awareness of services, poor access to or availability of services, and/or lack of a culturally appropriate service environment (Cunneen 2010; Fiolet et al. 2019; Lumby and Farrelly 2009; Memmott 2010; Willis 2011), fear and distrust of the justice system and (Western) authority among some Aboriginal and Torres Strait Islander people (Cunneen 2010; Nancarrow 2019; Willis 2011), and fear of intervention by child protection authorities (QPS 2016). A disengagement or lack of confidence in legal protection processes, or a conflict of such processes with Aboriginal and Torres Strait Islander law and culture, have also been raised as important to consider in relation to responding to DFV in Aboriginal and Torres Strait Islander communities (Blagg et al. 2020; Cunneen 2010; Olsen and Lovett 2016; QPS 2016).<sup>46</sup>

Future research may be able to address some of the limitations associated with the research presented in this report and provide additional insight into the contexts in which cross applications are made. This includes research:

- regarding the ways in which police use and courts hear cross applications (including in Aboriginal and Torres Strait Islander contexts) given the strong relationship between police lodgements and court outcomes. This is especially important given other studies that have shown that the (mis)identification of the person most in need of protection has significant and broad-ranging personal impacts for the genuine victim (Douglas 2018; Jordan and Phillips 2013; Laing 2013; Reeves 2019; Wangmann 2009)
- into the contexts in which men lodge DVO applications to determine the extent to which this is explained by systems abuse or the perpetration of DFV by women
- on the use of cross applications by people in same-sex intimate personal and family relationships. Understanding the nature of DFV occurring in these contexts is recognised as an emerging area of focus within DFV-related research inquiry (Blagg et al. 2018; Domestic and Family Violence Death Review and Advisory Board 2019; Gannoni and Cussen 2014; Gray et al. 2020) and warrants further investigation using research strategies other than those used by this project.

<sup>46</sup> Research has highlighted the sense of permanency that often characterises intimate personal relationships between Aboriginal and Torres Strait Islander people, where there is a desire to stay together, or have ongoing contact, even where DFV is an ongoing concern in the relationship (Blagg et al. 2018; Cunneen 2010; QPS 2016). This has implications for DFV responses for Aboriginal and Torres Strait Islander people, including the reporting of DFV in Aboriginal and Torres Strait Islander communities and engagement with the protection order system (Blagg et al. 2018; Cunneen 2010). For example, research shows that there is a preference in some Aboriginal and Torres Strait Islander communities for healing and restorative programs that work with male perpetrators and support families to stay together rather than programs that support women to leave relationships (Blagg et al. 2020). Aboriginal and Torres Strait Islander worldviews also tend to place greater emphasis on family and community than individuals and couples. (Olsen and Lovett 2016).

## 6.0 Glossary

**Aboriginal and Torres Strait Islander people:** is the collective term used by this project when discussing administrative data indicating that a person has been identified as an Australian Aboriginal and/or Torres Strait Islander. This information may have been self-reported or reflect information included on a DVO application made on behalf of another person. The use of this term is not intended to diminish or deny the diversity between and within Aboriginal and Torres Strait Islander individuals, families, communities, groups and nations across Australia.

**Aggrieved:** is used to refer to the primary person listed on a DVO application, PPN, temporary protection order or protection order as requiring protection.

**Applicant:** is used to refer to the entity who applies for an application to vary, and includes aggrieved, respondents and named persons on a DVO, other authorised parties, police officers or the court.

**Applications to vary:** are applications lodged with a court (typically a Magistrates Court) by an applicant that seek to alter the characteristics of an existing DVO or application.

**Cross application:** defined as interrelated DVO applications relating to two people in a relevant relationship who have been alternately named as the aggrieved and respondent on DVO applications lodged within a six-month time period.

**Cross-application pair:** refers to cross application combinations that involve the same two people listed alternately as the aggrieved and the respondent. That is, the two DVO applications determined to be cross applications relating to the same two people are considered to be one cross-application pair.

**Domestic and family violence (DFV):** under the *Domestic and Family Violence Protection Act 2012 (Qld)*, DFV is defined as behaviour within an intimate personal, family, or informal care relationship whereby one person is physically, sexually, emotionally, psychologically, or economically abusive towards the other person, and/or is threatening, coercive, or in any other way controls or dominates the other person so as to cause them to fear for their own safety or wellbeing or that of someone else.

**Domestic and Family Violence Protection Act 2012 (Qld) (the Act):** an Act to provide for protection of a person against violence committed or threatened by someone else if a relevant relationship exists between the persons.

**Domestic violence order (DVO):** a collective term for temporary protection orders and protection orders imposed by the court (typically a Magistrates Court) to protect people experiencing DFV. A DVO protects the aggrieved and named persons by listing various conditions that the respondent must adhere to, any breach of which is an offence.

**Domestic violence order application:** an application made for a DVO and can be lodged by police, the aggrieved, or another authorised party.

**Indigenous:** a term used in figures to refer to individuals in the data that either self-identified as Australian Aboriginal and/or Torres Strait Islander, or where police or another applicant have identified them as being Australian Aboriginal and/or Torres Strait Islander.

**Intimate partner violence (IPV):** DFV that occurs between intimate partners, including current or former partners, in a married, de facto or dating relationship.

**Named persons:** refers to parties other than the aggrieved that are named as being in need of protection from the respondent on an application for a DVO. Named persons can include children or family members of the aggrieved or respondent, or any other relative or associate of the aggrieved.

**Police protection notice (PPN):** a notice issued by police when protection of an aggrieved person is required as soon as possible. Issuance of a PPN is also taken to be an application for a DVO.

**Protection order:** a civil order made by a court for the protection of people experiencing DFV. Protection orders have standard conditions but can have other conditions added to prevent future DFV from occurring. In Queensland, a protection order is generally active for five years (prior to June 2017, the order expired two years after it was made unless a date was nominated by the court. An order could be made for longer than two years if the court was satisfied there were special reasons for doing so).

**Relevant relationship type:** refers to the relationship between the aggrieved and respondent relevant to a DVO application. Such relationships can include intimate personal relationships (e.g. spousal, engaged, formerly engaged, and couple relationships), family relationships (e.g. parent, sibling and cousin) and other relationship, including informal care relationships. Family relationships, besides relating to people connected by blood or marriage, also include those where persons regard themselves as relatives of each other in a wider concept than is ordinarily understood, for example, among Aboriginal peoples and Torres Strait Islander peoples.



**Remoteness Structure:** a structure developed by the Australian Bureau of Statistics under the Australian Statistical Geography Standard that categorises locations relative to access to services. The five classes of remoteness are: major cities of Australia, inner regional Australia, outer regional Australia, remote Australia and very remote Australia.

**Respondent:** a person identified on a DVO application or a protection order as being the individual using domestic or family violence against the aggrieved and is thus the individual from whom the aggrieved and any named persons listed on the application require protection.

**Temporary protection order:** an order that provides interim protection to the aggrieved and named persons listed on the order before a court makes a decision on whether to issue a protection order. Temporary protection orders have standard conditions but can have other conditions added to prevent future DFV from occurring.

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