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Restraining Orders and Stalking Offences in 1995 and 1996

by

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This information bulletin aims to provide a statistical overview of restraining order matters and stalking offences finalised in the Magistrates Court in 1995 and 1996. It includes information on:

- *the number of restraining orders issued, varied or revoked;*
- *demographic characteristics of restraining order defendants;*
- *the number of restraining order breach offences;*
- *demographic characteristics of restraining order breach defendants;*
- *outcomes and penalties for restraining order breach offences;*
- *the number of finalised stalking offences;*
- *demographic characteristics of stalking defendants and victims; and*
- *outcomes and penalties for stalking offences.*

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INTRODUCTION

The aim of this Information Bulletin is to provide a comprehensive statistical overview of restraining orders and stalking offences finalised in the Magistrates Courts of South Australia during 1995 and 1996.

In general, a restraining order is issued against a defendant if there is reasonable concern that the defendant may harm, intimidate or damage property belonging to another person. A restraining order imposes conditions or restraints on the defendant which are considered necessary to prevent that defendant from acting in such a manner. For example, a defendant may be prohibited from approaching within a specified distance of a certain individual, or being on the premises where the individual works or resides.

There are three types of restraining order; general, domestic violence and paedophile. In addition, restraining orders which originated outside of South Australia may be registered to apply in this state. While it is not an offence to receive a restraining order, failure to comply with an order is a minor indictable offence which may be dealt with by a magistrate or in the District Court.

In addition to the use of restraining orders to protect individuals from personal injury, property damage or intimidation, it is an offence to 'stalk' another person. Stalking includes following or loitering near another person, or entering/interfering with another person's property, with the intent to cause serious physical or mental harm or serious apprehension or fear. Stalking is a relatively new offence which reflects the community's concerns about the vulnerability of individuals.

SOME METHODOLOGICAL ISSUES

The information presented in this report provides details on all restraining order matters and stalking charges finalised in the Magistrates Court during 1995 and 1996. No cases which involved a restraining order or stalking offence as the most serious matter were finalised in the Higher Courts during these two years. The data were obtained from the Courts Administration Authority database. Demographic data were derived from the South Australian Police Department's apprehensions and criminal history records and consolidated with the data obtained from the courts.

A case is defined as a group of matters involving the one defendant which are all finalised by the same magistrate in the same court on the same day. For example, one person may appear in court for one or more restraining order applications and one or more restraining order breaches and this would be counted as a single case. Alternatively, an individual may be involved in several, separate cases during the course of a year. Since each case is counted separately, the total number of cases finalised in any one year will not necessarily equate to the number of discrete individuals who appeared in court for restraining order matters or stalking charges that year.

It should also be noted that the incidence of restraining order applications/breaches and stalking charges does not necessarily equate to the actual incidence in the community of stalking or the type of behaviour which may prompt individuals to apply for a restraining order. While specific information on the extent to which people are prepared to report incidents of stalking or threatening/intimidating behaviour to police is not available, community surveys indicate that some offences, particularly sexual assault and domestic violence, are considerably under-reported.

TYPES OF RESTRAINING ORDERS

'General' restraining orders issued under the Summary Procedure Act 1921

Restraining orders may be made by the court under the Summary Procedure Act 1921 (formerly known as the Justices Act 1921). Under the provisions of this Act (see Section 99(1)) an order may be issued against a defendant if :

“there is a reasonable concern that the defendant may cause personal injury or damage property or behave in an intimidating or offensive manner by:

- following a person, or keeping a person under surveillance;
- loitering outside the person's residence or other place frequented by the person;
- entering or interfering with property occupied by or in the possession of a person;
- giving offensive material to a person or leaving such material where it will be found by, given to or brought to the attention of the person; or
- taking other action in relation to a person or a person's property which arouses that person's apprehension or fear. “

A restraining order made under the Summary Procedure Act may impose any restraints considered necessary to prevent the defendant acting in such a manner.

A supplementary firearms order must also be made if the defendant has possession of a firearm or holds a licence or permit to be in possession of a firearm. Such an order provides for the confiscation of the firearm and authorises police officers to enter premises to search for and take possession of such firearms, should this be required. Any licence or permit to possess a firearm held by the defendant, if cancelled, must be returned to the Registrar of Firearms. The defendant is further disqualified from holding or obtaining such a permit or licence (Summary Procedure Act 1921 Section 99D).

No data is currently available on the number of supplementary firearms orders issued in 1995.

Domestic violence restraining orders

The Domestic Violence Act came into effect on 1st August, 1994. Under the Act, the court may make a domestic violence restraining order against a defendant if there is a reasonable apprehension that the defendant may commit domestic violence. Domestic violence is defined in the Act as :

“causing personal injury to, or damage to the property of, a member of the defendant's family on two or more separate occasions by:

- following, or keeping under surveillance, the family member;

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- loitering outside the residence or other place frequented by the family member;
 - entering or interfering with property occupied or in the possession of the family member;
 - giving offensive material to the family member or leaving such material where it will be found by, given to or brought to the intention of the family member; or
 - engaging in any other conduct which arouses the family member's apprehension or fear.

A family member is defined in the Act as "a spouse or former spouse (including a de facto of the defendant), a child of whom a spouse or former spouse of the defendant has custody as a parent or guardian, or a child who normally resides with the defendant or a spouse/former spouse of the defendant" (Domestic Violence Act 1994 Section 4(2)).

Under the provisions of the Act, a domestic violence restraining order may impose certain restraints on the defendant to prevent them committing domestic violence. These restrictions may include prohibiting the defendant from being near the home, work or other specified premises of the family member, or from approaching or contacting the family member, as well as from damaging or taking any property belonging to the family member (Domestic Violence Act 1994 Section 5(2)). The order may also set out conditions under which the defendant *may* be on specified premises or in a specified locality, or approach/contact a family member.

As with restraining orders issued under the Summary Procedure Act 1921, a supplementary firearms order must also be made if the defendant has possession of a firearm or holds a licence or permit to be in possession of a firearm.

Paedophile restraining orders

Under Section 99AA of the Summary Procedure Act 1921, the Court may make a restraining order against a defendant if the defendant has been found loitering near children on at least one previous occasion and/or has been found guilty of a child sexual offence within the previous five years. Paedophile restraining orders may also be made against defendants who have been imprisoned for child sexual offences, within five years of their release from prison. In 1996, the year in which the legislation became operative, there were three applications for paedophile restraining orders, all of which were issued. The defendants were male, and were aged 56, 65 and 73 years. Two of the defendants were recorded as non-Aboriginal, while no information on racial identity was available for the third defendant. Due to the small number of paedophile restraining orders, no additional information is provided in this bulletin.

Restraining orders issued under the Criminal Law (Sentencing) Act

From August 1994, as a result of amendments to the Criminal Law (Sentencing) Act 1988 contained in the Domestic Violence Act, a magistrate may now issue a restraining order against a defendant found guilty of an offence.

Foreign restraining orders

Restraining orders made outside of South Australia may also be registered in the court. A registered foreign restraining order has the same effect, and may be enforced in the same

way as, a restraining order made under the Summary Procedures Act or the Domestic Violence Act. The court may also vary a registered foreign restraining order as it applies in South Australia, or cancel the registration of such an order.

THE RESTRAINING ORDER PROCESS

In most cases, the complainant (either a police officer or the person against whom the behaviour has been directed) makes application to the court to have a restraining order issued. If the court is satisfied that it is appropriate to make a restraining order, an *ex parte* order is issued and the defendant is summoned to appear in court at a later date to show cause why the order should not be confirmed. At that subsequent court hearing, the magistrate may issue a final order, with the same conditions as set out in the *ex parte* order, or the interim order may be varied or cancelled. At a later date, the court may also vary or revoke a final order on application by the complainant or the defendant.

In addition, as previously indicated, a magistrate may issue a restraining order against a defendant found guilty of an offence.

Table 1
Applications for issuance of final restraining orders: 1995 and 1996 combined

Outcome	Applications under Summary Procedure Act 1921		Applications under Domestic Violence Act 1994		Total applications to issue restraining order	
	no.	%	no.	%	no.	%
Order issued	1,225	62.1	1,224	66.0	2,449	64.0
Order issued - varied	158	8.0	247	13.3	405	10.6
Order Revoked/ Cancelled	104	5.3	97	5.2	201	5.3
Application withdrawn	351	17.8	197	10.6	548	14.3
Application dismissed	104	5.3	67	3.6	171	4.5
Application refused	9	0.5	1	0.1	10	0.3
No action/no case*	22	1.1	22	1.2	44	1.1
TOTAL	1,973	100.0	1,855	100.0	3,828	100.0

*No action/No case refers to 'dormant' applications: ie instances where an *ex parte* restraining order has been issued but no further action has been taken by the complainant for a final order to be issued.

Restraining order matters finalised in 1995 and 1996

Due to the small numbers involved, restraining order matters finalised in 1995 and 1996 have been combined in the following discussion. The time period of two years was not sufficient to undertake any longitudinal analysis.

Applications for issuance of final 'general' and domestic violence restraining orders

A total of 3,617 cases involving 3,828 applications for the issuance of a final restraining order were dealt with in the Magistrates Court in 1995 and 1996 combined. Approximately equal numbers of applications were received under the Summary Procedure Act as under the Domestic Violence Act (1,973 and 1,855 respectively).

As shown in Table 1, a final order was issued without variation from the original ex parte order for the majority of restraining order applications. Approximately two-thirds (66.0%) of applications under the Domestic Violence Act were issued without changes compared with a slightly lower percentage of 'general' restraining order applications (62.1%).

'General' applications were less likely to be issued with variations to the original conditions than were domestic violence order applications (8.0% compared with 13.3% respectively). Conversely, 'general' applications were more likely than domestic violence applications to be withdrawn by the complainant (17.8% compared with 10.6% respectively) or dismissed/refused by the magistrate (5.8% compared with 3.7%). For both types of restraining order application, approximately 5.0% were revoked or cancelled.

Applications to vary/revoke final 'general' or domestic violence restraining orders

There were 58 cases involving 59 applications to vary or revoke a final restraining order in 1995 and 1996. Of these applications, 38 (64.4%) involved a 'general' restraining order and 21 (35.6%) involved a domestic violence order. It is not possible from the available data to distinguish between applications for *variation* and applications to *revoke* an order. Nevertheless, as shown in Table 2, the fact that a higher percentage of domestic violence order applications had an outcome of *varied* rather than *revoked/cancelled* (28.6% compared with 19.0% respectively) suggests that a higher percentage of domestic violence applications were to vary, rather than revoke. The reverse is apparent for 'general' orders where a higher percentage were *revoked/cancelled* rather than *varied* (34.2% compared with 10.5%).

In almost half of the applications (44.7% 'general' and 47.6% domestic violence) the outcome was either 'order varied' or 'order revoked'. While similar percentages of 'general' and domestic violence applications were dismissed by the magistrate (13.2% and 14.3% respectively) eight of the 38 (21.1%) applications to vary or revoke a 'general' order were withdrawn, compared with only two (9.5%) of the 21 domestic violence order applications. A number of applications were also left 'dormant', awaiting action by the applicant.

Table 2
Applications to vary/revoked final restraining orders 1995 and 1996

Outcome	Applications to vary/revoked final order under Summary Procedure Act 1921		Applications to vary/revoked final order under Domestic Violence Act 1994		Total applications to vary/revoked final order	
	no.	%	no.	%	no.	%
Order issued - varied	4	10.5	6	28.6	10	16.9
Order Revoked/ Cancelled	13	34.2	4	19.0	17	28.8
Application withdrawn	8	21.1	2	9.5	10	16.9
Application dismissed	5	13.2	3	14.3	8	13.6
No action/no case*	8	21.1	6	28.6	14	23.7

TOTAL	38	100.0	21	100.0	59	100.0
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*No action/No case refers to 'dormant' applications.

Foreign restraining orders

There were 10 applications to register a foreign order in 1995. Three of these were made under the Summary Procedure Act and seven under the Domestic Violence Act. In all cases, the foreign order was registered in South Australia without variation. In 1996 there was a total of 16 applications to register a foreign order, of which three were made under the Summary Procedure Act and 13 under the Domestic Violence Act. Fifteen of the applications were successful. (No action was taken in the case of one application under the Summary Procedure Act.) The sex, age and Aboriginality of the 26 foreign restraining order defendants are outlined below.

DEMOGRAPHIC CHARACTERISTICS OF RESTRAINING ORDER DEFENDANTS

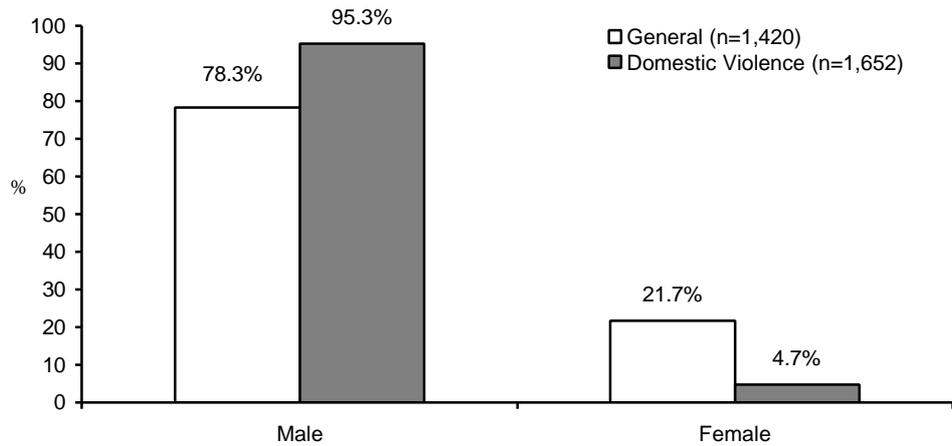
The following section describes the sex, age and racial identity of 'general', domestic violence and registered foreign restraining order defendants. The defendants of registered foreign restraining orders have been included under the categories of 'general' or 'domestic violence', according to the Act under which they were registered (refer 'Foreign restraining orders' above).

Sex of restraining order defendants

Figure 1 details the sex of restraining order defendants involved in cases heard in the Magistrates Court in 1995 and 1996. Since one case may include more than one restraining order application, the number of cases may be less than the total number of applications. It should be noted that information on sex was not recorded in a relatively large number of cases (631 or 17.0%) and the following results should be treated with caution.

As shown in Figure 1, where sex was known, the overwhelming majority of cases involved male defendants, including more than three-quarters (78.3%) of the 1,420 'general' restraining order cases. This figure was even higher for domestic violence order cases where almost all (95.3%) of the 1,652 cases involved male defendants.

Figure 1
Sex of restraining order defendants in 1995 and 1996



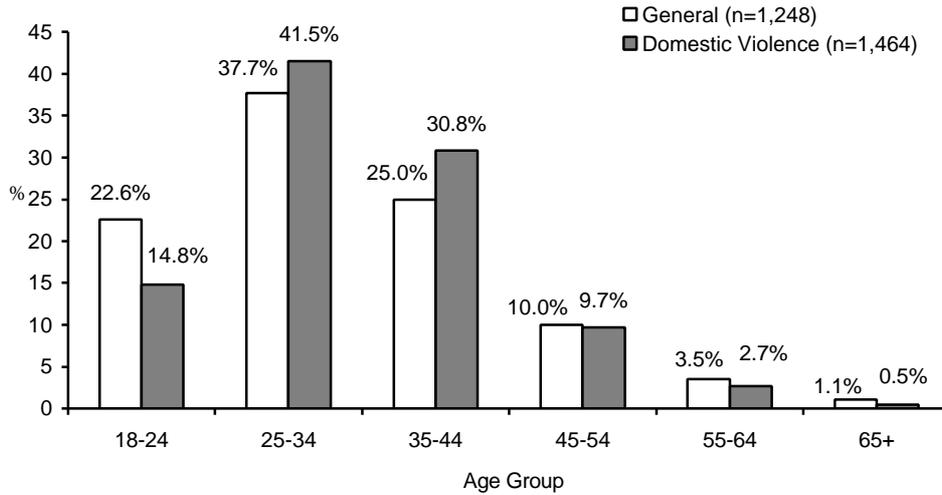
Age of restraining order defendants

Figure 2 shows the age of restraining order defendants in 1995 and 1996 by the type of restraining order. Again, however, these results should be interpreted with caution, due to the very high percentage of cases where age was not recorded (991 cases or 26.8%).

Where age was known, the majority of cases involved defendants who were less than 45 years old (85.3% of 'general' restraining order cases and 87.1% of domestic violence order cases). For both types of restraining order, the age group with the highest percentage of cases was the 25 to 34 years group followed by the 35-44 years age range and the 18-24 years group. Approximately 10% of cases involved defendants aged between 45 and 54 years, while less than 5.0% were aged 55 years or more.

However, despite these broad similarities in the age profiles of 'general' and domestic violence order defendants, some age differences were also apparent between the two types of restraining order. Compared with domestic violence order cases, 'general' restraining order cases had a higher percentage of defendants aged between 18 and 24 years (22.6% compared with 14.8%) and a lower percentage of defendants aged 25-34 years (37.7% compared with 41.5%) and 35 to 44 years (25.0% compared with 30.8%).

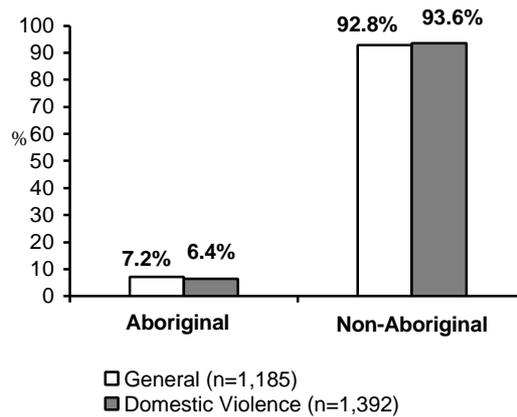
Figure 2
Age of restraining order defendants in 1995 and 1996



Aboriginality of restraining order defendants

Little difference was evident between ‘general’ and domestic violence restraining order cases in the percentage of cases involving Aboriginal defendants (see Figure 3). Overall, where racial identity was recorded, 7.2% of ‘general’ restraining order defendants and 6.4% of domestic violence order defendants were identified as Aboriginal. However, it is not possible to draw any conclusions from these data, due to the very high number of cases where the racial identity of the defendant involved was not known (1,126 or 30.4%).

Figure 3
Aboriginality of restraining order defendants in 1995 and 1996



Restraining orders issued under the Criminal Law (Sentencing) Act

In addition to the restraining order applications included in the previous graphs, a number of restraining orders were issued in 1995 and 1996 under the Criminal Law (Sentencing) Act 1988 against a person found guilty of an offence or on sentencing a person.

During 1995, 13 such restraining orders were issued by the court. In seven of the 13 cases, the restraining order was issued after the defendant was found guilty of common assault,

two were in association with threatening to kill or endanger life, three involved assault occasioning actual bodily harm and one involved property damage offences. Eleven of these defendants were male (including one Aboriginal defendant, nine non-Aboriginal defendants and one where racial identity was unknown), with ages ranging from 21 to 50 years. Two of the restraining orders were issued against females aged 18 and 32 years, who were both identified as non-Aboriginal.

In 1996, the court issued restraining orders against 58 individuals found guilty of an offence, which was a substantially higher number than issued in 1995. In the majority of these cases (40 of the 58 or 69.0%) the restraining order was issued after the defendant was found guilty of common assault. Five cases were in association with assault occasioning actual bodily harm, three involved threatening to kill or endanger life and three involved property damage offences. The remaining eight cases involved offences such as trespassing, larceny and disorderly behaviour. Non-Aboriginal males made up the majority of the defendants, with 50 of the 58 defendants identified as males and 45 of the 50 male defendants identified as non-Aboriginal. Only one defendant was recorded as Aboriginal. There were also four male defendants whose racial identity was not known. Most of the 50 male defendants (82.0%) were aged between 18 and 44 years. Of the eight females subject to a restraining order on being found guilty of an offence in 1996, seven were aged under 35 years and six were identified as non-Aboriginal.

RESTRAINING ORDER BREACHES

It is an offence to fail to comply with a restraining or registered foreign restraining order. Under the Summary Procedure Act 1921 this offence carries a maximum penalty of two years imprisonment, compared with five years imprisonment under the Domestic Violence Act.

Failure to comply with a restraining order is designated as a minor indictable offence which may be dealt with by a magistrate or in the District Court. The data here relate to cases finalised in the Magistrates Court. It is not possible from this data to determine if a breach offence related to a registered foreign restraining order.

A total of 797 cases involving one or more breaches of a restraining order were finalised in the Magistrates Court in 1995 and 1996. Of these, 509 (63.9%) were cases involving one or more breaches of a 'general' restraining order and 288 cases (36.1%) involved domestic violence order breaches. Table 3 indicates the number of breaches involved in each case, by type of restraining order. As shown, the majority of cases involved only one breach (74.7% of 'general' order cases and 70.5% of domestic violence order cases) while approximately one quarter of cases involved two to five breaches (22.6% of 'general' orders and 26.7% of domestic violence orders). Very few cases (less than 3.0%) included six or more breaches. The maximum number of 'general' and domestic restraining order breaches per case was 11 and 6 respectively in 1995 and 36 and 11 respectively in 1996.

Table 3
Number of restraining order breaches per case in 1995 and 1996

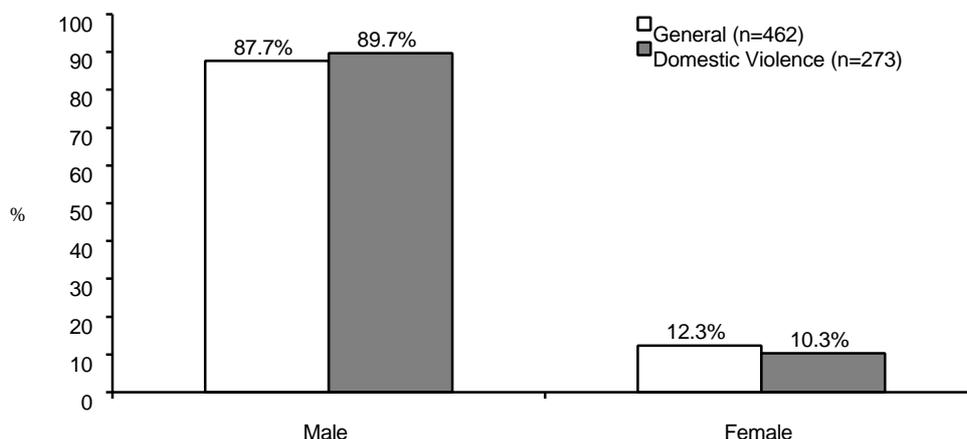
Number of breaches per case	Cases involving 'general' restraining order breaches	Cases involving domestic violence restraining order breaches
1	74.7%	70.5%
2-5	22.6%	26.7%
6 or more	< 3.0%	< 3.0%

	no.	%	no.	%
1	380	74.7	203	70.5
2-5	115	22.6	77	26.7
6 or more	14	2.8	8	2.8
TOTAL	509	100.0	288	100.0

Sex of restraining order breach defendants

Figure 4 shows the percentage of males and females involved in restraining order breach cases finalised in 1995 and 1996 combined. It should be noted that sex was not recorded in 62 (7.8%) of these cases. As indicated, approximately 90% of breach restraining order cases involved male defendants, with very little difference according to the type of restraining order.

Figure 4
Sex of restraining order breach defendants (1995 and 1996 combined)



Age of restraining order breach defendants

Figure 5 shows the age of defendants involved in breach of restraining order cases finalised in the Magistrates Courts in 1995 and 1996. (Age was not recorded in 15 (1.9%) of these 797 breach cases.) As could be expected, given the age distribution of defendants who have a restraining order issued against them (refer Figure 2), the majority of breach cases involved defendants aged between 18 and 44 years (81.8% for 'general' breaches and 90.5% for domestic violence breaches). Defendants aged between 25 and 34 were involved in just under half (48.1%) of the domestic violence order breach cases, compared with 38.9% of the 'general' order breach cases. In contrast, 'general' restraining order breach cases were more likely than domestic violence breach cases to have defendants in the 45 to 54 year age group (13.0% compared with 6.0% respectively) and the 55 to 64 years range (5.0% compared with 2.5%).

Figure 5
Age of restraining order breach defendants (1995 and 1996 combined)

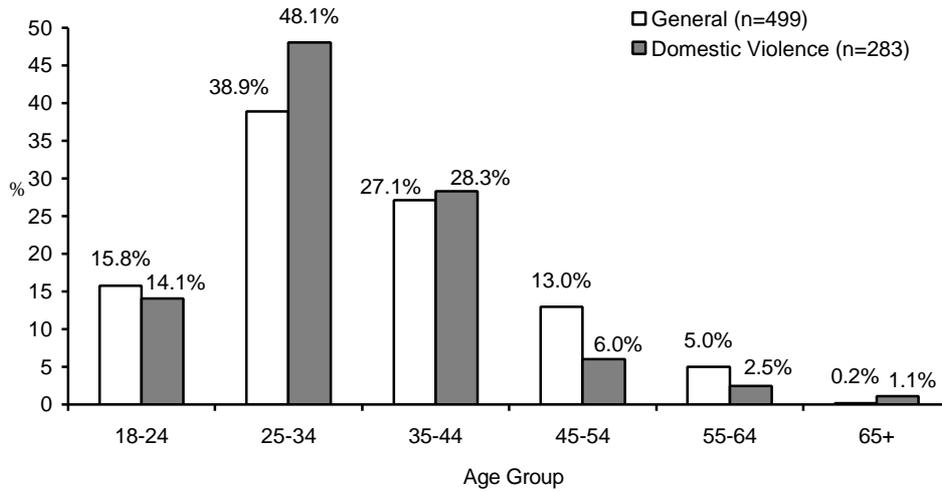
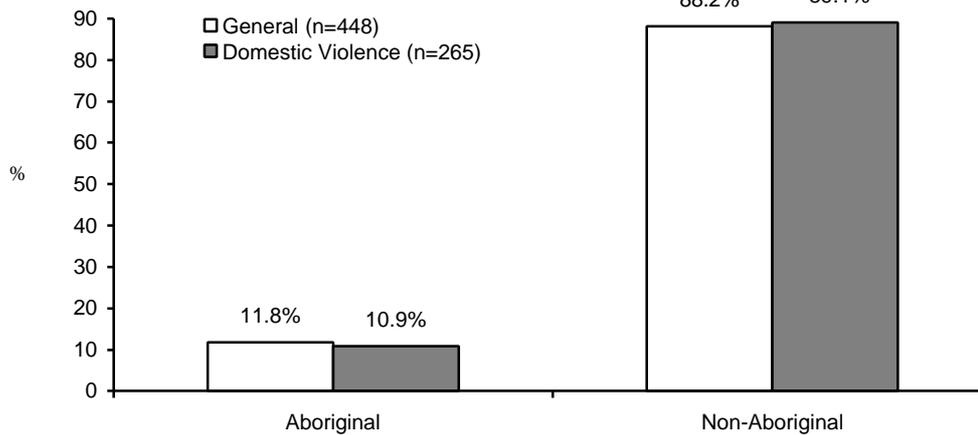


Figure 6
Aboriginality of restraining order breach defendants (1995 and 1996 combined)



Aboriginality of restraining order breach defendants

Racial identity was not recorded for 84 (10.5%) defendants involved in restraining order breach cases. Where racial identity was known, 11.8% of breach 'general' order cases and 10.9% of breach domestic violence order cases involved defendants who were identified as Aboriginal (see Figure 6).

Plea by restraining order breach defendants

Table 4 shows the plea entered for all restraining order breach offences finalised in 1995 and 1996 combined. In this table, the counting unit is the offence, rather than the case. Since a number of breach restraining order cases involved defendants with more than one breach offence, the total number of offences (1,302) is greater than the number of cases discussed previously (797).

As shown, a *guilty* plea was entered for 89.1% of 'general' restraining order breaches and 87.8% of domestic violence restraining order breaches. Relatively few offences had a *not guilty* plea (4.0% of 'general' breaches and only 1.7% of domestic violence breaches).

Table 4
Restraining order breach offences in 1995 and 1996: pleas entered

Plea	Breaches under the Summary Procedure Act		Breaches under the Domestic Violence Act	
	no.	%	no.	%
Guilty	730	89.1	424	87.8
Not Guilty	33	4.0	8	1.7
No Plea Entered	54	6.6	49	10.1
Heard Ex Parte	2	0.2	2	0.4
TOTAL	819	100.0	483	100.0

Table 5
Restraining order breach offences in 1995 and 1996: Outcome

Outcome	Breaches under the Summary Procedure Act		Breaches under the Domestic Violence Act	
	no.	%	no.	%
Convicted	682	83.3	413	85.5
Guilty - no conviction recorded	137	16.7	70	14.5
Withdrawn/dismissed	0	0.0	0	0.0
Not guilty	0	0.0	0	0.0
TOTAL	819	100.0	483	100.0

Outcome of restraining order breach offences

Table 5 shows the outcome recorded for all restraining order breach offences. For both 'general' and domestic violence breaches, the majority of offences resulted in a *conviction* (83.3% and 85.5% respectively), while the remaining offences received a *guilty -no conviction recorded* outcome. No breach offences finalised in 1995 and 1996 were *withdrawn* by the prosecution, *dismissed* by the magistrate or received a *not guilty* outcome.

Major penalty for restraining order breach offences

Table 6 shows the most serious penalty ('major penalty') for all restraining order breach offences in 1995 and 1996. Overall, penalties were very similar between the different types of restraining order. For both 'general' and domestic violence order breach offences, the most common penalty was a fine (37.0% and 37.3% of offences respectively) ranging from \$20 to \$1000, with a mean of \$190. Approximately 13.0% of offences in both categories received a bond without supervision. A penalty of suspended imprisonment was imposed for 8.7% and 10.1% of 'general' and domestic violence breach offences respectively, while imprisonment was received for 5.6% of both 'general' and domestic violence order breach offences.

The major difference in penalties between the two types of restraining order was in the percentage of breach offences which received a community service order, with a higher percentage of these imposed upon domestic violence breaches compared to 'general' breaches (8.3% compared with 5.0%). It is also evident that a large percentage of offences did not receive a penalty (29.9% of 'general' breaches and 24.0% of domestic violence breaches). However, it is possible that these offences are included in cases which have more than one breach offence. In such instances, it is not uncommon for the magistrate to record a penalty against another offence within that case which takes into account all offences within that case.

Table 6
Major penalty for restraining order breach offences in 1995 and 1996

Penalty	Breaches under the Summary Procedure Act		Breaches under the Domestic Violence Act	
	no.	%	no.	%
Imprisonment	46	5.6	27	5.6
Suspended Imprisonment	71	8.7	49	10.1
Bond Without Supervision	105	12.8	67	13.9
Community Service Order	41	5.0	40	8.3
Other Order	4	0.5	3	0.6
Restraining Order	4	0.5	-	-
Fine	303	37.0	180	37.3
Suspension of drivers licence	-	-	1	0.2
No Penalty*	245	29.9	116	24.0
TOTAL	483	100.0	819	100.0

**In cases involving more than one breach a Magistrate may sometimes record a penalty against only one offence but take into account all offences within the case.*

STALKING

From June 1994, as a result of amendments to the Criminal Law Consolidation Act 1935 contained in the Domestic Violence Act, it became an offence to 'stalk' another person. Stalking is a minor indictable offence, which may be dealt with in the Magistrates Court or the District Court. The maximum penalty for a stalking offence is five years imprisonment if the offender's conduct contravened a previous order, or if the offender was in possession of an offensive weapon at the time of the offence. In any other case, the maximum penalty is three years imprisonment.

The data here relate to cases finalised in the Magistrates Court. There were no cases finalised in the Higher Courts in 1995 or 1996 where stalking was the major charge.

Stalking is defined under the Criminal Law Consolidation Act 1935 (s 19AA) as follows:

"A person stalks another person if-

(a) on at least two separate occasions, the person-

- follows the other person; or
- loiters outside the place of residence of the other person or some other place frequented by the other person; or
- enters or interferes with property in the possession of the other person; or
- gives offensive material to the other person, or leaves offensive material where it will be found by, given to or brought to the attention of the other person; or
- keeps the other person under surveillance; or
- acts in any other way that could reasonably be expected to arouse the other person's apprehension or fear; and

(b) the person-

- intends to cause serious physical or mental harm to the other person or a third person; or
- intends to cause serious apprehension or fear."

Stalking cases finalised in 1995 and 1996

Table 7 details cases finalised in the Magistrates Courts in 1995 and 1996 which involved at least one charge of stalking. In 1995, 17 cases involving 28 separate stalking charges were finalised compared with 12 cases and 36 separate charges in 1996. As shown, several cases include more than one charge of stalking with one case in 1995 involving 11 charges, and with two cases in 1996 including 10 and 13 charges respectively. Approximately half of the cases also included other charges, the majority of which related to one or more breaches of a restraining order.

Table 7
Stalking offences finalised in 1995 and 1996

Number of cases	Counts of stalking per case	Other offences per case	Total counts of stalking offences
1995			
10	1	None	10
2	1	One count of induce witness	2
1	1	One count of indecent assault	1
1	1	Three counts of breaching SP* order	1
1	1	Three counts of breaching DV** order	1
1	2	One count of breaching bail	2
1	11	Three counts of breaching SP order	11
TOTAL 17			28
1996			
3	1	None	3
1	2	None	2
1	10	None	10
3	1	Two counts of threatening life	3
1	1	Five counts of breaching SP order	1
1	3	One count of breaching SP order	3
1	13	12 counts of breaching DV order and one count of threatening life	13
1	1	Six counts of breaching bail, one count of common assault and one count of damage property	1
TOTAL 12			36

* SP= 'General' restraining order under *Summary Procedures Act*.

**DV= restraining order under the *Domestic Violence Act*.

Age, sex and racial identity of defendants involved in stalking cases

The 17 stalking cases finalised in 1995 involved defendants who were male and aged between 22 and 60. Two of the defendants were aged between 18 and 24, four were aged between 25 and 34, seven were in the 35 to 44 year age range, three were aged between 45 and 54 and one was 60 years old. There were no stalking cases in 1995 which involved defendants identified as Aboriginal.

In 1996, the 12 finalised stalking cases involved nine male and three female defendants. Four of the male defendants were aged between 18 and 24 years, while five were aged between 37 and 49 years. Two of the female defendants were aged 38 years, while the third was aged 37. No stalking cases finalised in 1996 involved a defendant identified as Aboriginal. However, it should be noted that in two cases involving males, information on racial identity was unknown.

Victims of stalking; age, sex and relationship to stalking defendant

Victim information was available in 14 of the 17 cases finalised in 1995. Of these cases, all the victims were female, with ages ranging from 13 to 62 years. Two were between 13 and 19, four between 20 and 29, seven between 30 and 39 and one was over 60 years. Three of the victims did not know their stalkers, three were classified as being acquaintances of the defendant, four were ex-girlfriends, two were ex-de factos and two were ex-spouses.

In 1996, victim information was available for seven of the 12 finalised cases. As in 1995, all the victims were female, ranging in age between 15 and 40 years. One of the victims was

aged 15 years, one was aged 28, two were aged 32 years and three were 40 years old. Three of the victims did not know their stalkers, three were classified as neighbours and one was a spouse.

Outcomes

Table 8 gives the outcome of the stalking offences finalised in the Magistrates Courts. In both 1995 and 1996, a large percentage of the offences (71.4% and 55.6% respectively) were dismissed by the Magistrate. The charge of stalking was withdrawn for one offence in 1995 and six offences in 1996. Only 15 (23.4%) of the 64 stalking offences finalised in 1995 and 1996 resulted in a conviction.

It should be noted that while a stalking charge may be withdrawn or dismissed, the defendant involved may be facing other charges at the same time and may be convicted of one or more of these other charges. During 1995 and 1996 there were three cases out of 29 where a charge of stalking was dismissed but the defendant was convicted of other charges, including one or more breaches of a restraining order or bail conditions. Out of the 29 stalking cases finalised in 1995 and 1996, six resulted in a conviction for stalking, three resulted in a conviction for another charge, and 20 resulted in no conviction or finding of guilt for any charge.

Table 8
Stalking offences finalised in 1995 and 1996: Outcomes

Outcome	1995		1996	
	no.	%	no.	%
Convicted	6	21.4	9	25.0
Charge withdrawn	1	3.6	6	16.7
Dismissed	20	71.4	20	55.6
Committed for trial/sentence	1	3.6	1	2.7
TOTAL	28	100.0	36	100.0

Table 9
Stalking offences finalised in 1995: Penalties

Cases with a conviction for a stalking offence	No. of stalking offences within case receiving a conviction	Penalty
1995		
1	1	4 weeks suspended imprisonment and 18 month bond without supervision
2	1	26 weeks suspended imprisonment and 24 month bond with supervision
3	1	8 weeks suspended imprisonment and 36 month bond without supervision
4	1	125 hours community service
5	2	1) one week imprisonment 2) 6 weeks suspended imprisonment and 12 month bond with supervision
1996		
1	9	26 weeks suspended imprisonment and 24 month bond with supervision

Penalties for stalking offences

The six stalking offences which received a conviction in 1995 were from five separate cases, with one case including two convictions. In 1996, all of the nine stalking offences which received a conviction were from the same case. Table 9 details the penalties imposed for each stalking offence. For the most part the penalty involved a period of suspended imprisonment (between 4 and 26 weeks) and a bond (between 18 and 36 months). The two convictions from the same case received one week imprisonment for the first offence, as well as six weeks suspended imprisonment and a 12 month bond with supervision for the second offence. The overall penalty for the case involving the nine stalking convictions in 1996 was 26 weeks suspended imprisonment and a 24 month bond with supervision.

CONCLUSION

This information bulletin has provided a statistical overview of restraining orders and stalking offences finalised in the Magistrates Courts of South Australia during 1995 and 1996. In summary:

Issue of restraining orders

- There were 3,828 applications for the issuance of a final restraining order in 1995 and 1996.
- Of these 3,828 applications, 2,854 (74.6%) were issued as a final order.
- Almost half (48.5%) of the applications were for domestic violence restraining orders taken out against a family member, as defined by the Domestic Violence Act, 1994.
- Where sex was known, the overwhelming majority of restraining order cases involved defendants who were male, including 95.3% of domestic violence order defendants and 78.3% of 'general' restraining order defendants.
- Where age was recorded, the majority of restraining order cases involved defendants aged less than 45 years (85.3% 'general' and 87.1% domestic violence). The age group with the highest percentage of cases was the 25 to 34 years group (37.7% and 41.5% for 'general' and domestic violence cases respectively).
- Where racial identity was known, 7.2% of 'general' and 6.4% of domestic violence restraining order cases involved defendants who were identified as Aboriginal.

Restraining order breaches

- A total of 797 cases involving 1,302 breaches of a restraining order were finalised in the Magistrates Court in 1995 and 1996.
- Of these 797 cases, 288 (36.1%) involved one or more breaches of a domestic violence restraining order.
- Approximately 9 out of 10 *breach restraining order* cases involved a male defendant.
- The majority of *breach restraining order* cases involved defendants aged between 18 and 44 (81.8% for 'general' and 90.5% for domestic violence cases). The age group with the highest percentage of cases was the 25 to 34 years group (38.9% and 48.1% for 'general' and domestic cases respectively).
- Where racial identity was recorded, approximately 11% of cases involving breach restraining order defendants were identified as Aboriginal.
- The majority of restraining order breach offences resulted in an outcome of convicted (83.3% for 'general' and 85.5% for domestic violence). For the remaining offences the outcome was 'guilty, but with no conviction recorded'.
- The most common penalty for breaching a restraining order was a fine (ranging from \$20 to \$1000, with a mean of \$190). Other offences received a bond (13.0%) or suspended imprisonment (approximately 10%). In approximately 6.0% of breach restraining order cases the defendant was imprisoned.

Stalking

- There were 17 cases involving 28 stalking offences finalised in the Magistrates Court in 1995 and 12 cases involving 36 offences in 1996.
- Only three of the 29 stalking cases involved a female defendant.
- The age of the defendants involved in stalking cases ranged from 21 to 60 years. The largest single age group was the 35 to 44 years group, with defendants from 14 cases in this group.
- No stalking cases finalised in 1995 and 1996 involved defendants who were identified as Aboriginal.
- Where information on the stalking victim was available (21 cases), it was found that all of the victims in 1995 and 1996 were female.
- The age of stalking victims involved in cases finalised in 1995 and 1996 ranged between 13 and 62 years.
- Of the 21 stalking victims where information was available, only six did not know their stalker. For the remaining victims, the stalker was an acquaintance (3), neighbour (3), ex-girlfriend (4), ex spouse or defacto (4) or spouse (1).
- Only 15 of the 64 (23.4%) stalking offences finalised in 1995 and 1996 resulted in a conviction. However, in three cases where a charge of stalking was dismissed the defendant involved was convicted of other charges, including one or more breaches of a restraining order or bail conditions.
- The most common penalty for a stalking conviction was a period of suspended imprisonment (between 4 and 26 weeks) and a bond (between 18 and 36 months).

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