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Breach rate of Apprehended Domestic Violence Orders in NSW

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Aim: *To estimate the proportion of ADVOs breached and identify factors associated with a breach of a final order.*

Method: *Details of all ADVOs granted between 1 July 2013 and 30 June 2014 (inclusive) were extracted from the NSW COPS database and linked to breach ADVO incidents occurring after 1 July 2013 and before 30 June 2015 using defendant and victim identifying information. Breaches were assigned to a particular order if they occurred after the order issue date and before the order expiry date or before a higher ADVO order was issued. Multivariate analysis was undertaken to examine factors independently associated with the time to first breach of a final ADVO.*

Results: *Overall 23,240 provisional orders, 18,045 interim orders and 24,458 final orders were issued during the observation period. The breach rate was much higher for final orders (20%), which are longer in duration, than for provisional (5%) or interim (9%) orders. When breaches occurred, most often only one incident per order was recorded (88% of provisional order breaches, 73% of interim order breaches and 64% of final order breaches). Of all ADVOs which did record a breach, 34% were breached within one month of being granted, 23% within 1-3 months and 18% within 3-6 months. Male, Indigenous and younger POIs breached their final order sooner than other defendants. Final orders protecting just one victim, non-Indigenous victims or victims aged less than 20 took longer to be breached.*

Conclusion: *Only a minority proportion of ADVOs record a breach whilst the order is in effect. Where a breach does occur it most often happens soon after the order is issued and involves a single incident.*

Keywords: *Apprehended Domestic Violence Orders (ADVOs), domestic violence, breach ADVO*

INTRODUCTION

NSW police attend around 60,000 incidents of assault (NSW Bureau of Crime Statistics and Research [BOCSAR], 2016a) each year. Around half of these assaults are domestic violence related. Despite significant declines across many offence categories over the last 5 years (including non-domestic violence related assault), domestic violence rates in NSW remain largely unchanged (BOCSAR, 2016a).

Apprehended Domestic Violence Orders (ADVOs) are one important tool available to police and criminal justice authorities to help prevent further violence occurring in domestic settings. ADVOs are a civil order that can be granted by the Local Court in accordance with Part 4 of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW). If granted, the defendant named on the order must comply with three mandatory conditions; (1) not to assault, harass or threaten the protected person, (2) not to intimidate the protected person and (3) not to stalk the protected person (see Part 8 Section 36). The court may also specify any other conditions that they deem necessary to protect the victim(s). If a defendant breaches any of the conditions specified in the order then he/she can be arrested and charged with a criminal offence (attracting penalties of up to $5,500 and/or imprisonment for up to two years).

There are three types of ADVOs that can be issued in accordance with this legislation; Provisional Orders, Interim Court Orders and Final Orders. Provisional orders are short-term ADVOs that can be granted in urgent situations without the matter having to be brought before the court. Police officers apply for a provisional ADVO by phone, fax or online when they believe someone is in need of immediate protection. The orders are issued by a senior police officer or another authorised officer[1]

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and include a direction for the defendant to appear in court at a specified future date. Provisional orders remain in force until a further court order becomes effective or, in the absence of a further order, 28 days after it was issued.

An interim ADVO is a short-term order made by the court which can extend a provisional order or put protection(s) in place for the victim until a final ADVO application can be considered by the court. An interim court ADVO can be made in a defendant's absence or without a defendant being given notice of the court proceedings. An interim ADVO remains in force until the court makes a final ADVO, the police withdraw the interim ADVO, or the court dismisses the case.

A final ADVO can be made by the court after a defended hearing, if a defendant has been served with the ADVO documents but failed to appear in court or in cases where both parties consent to the conditions specified in the order. The duration of a final ADVO is specified by the court and can be as long as the court deems necessary to ensure the safety of the protected person (or 12 months if the court fails to specify a date of expiry). Both provisional and interim orders have the same effect as a final ADVO while they remain in force, and the penalties associated with contravening an ADVO are the same regardless of which type of order was in place at the time the breach occurred.[2]

In 2015, NSW Local Courts granted 27,699 final ADVOs for the protection of victims and their families (BOCSAR, 2016b); nearly 3,000 more than were granted in 2011. Given the sheer volume of orders issued across NSW each year, it is important to continually evaluate the extent to which ADVOs can serve to protect victims from further violence. Previous work by BOCSAR has suggested that ADVOs can be effective in reducing the frequency of violence in domestic relationships even if they fail to eliminate the violence in its entirety. Trimboli and Bonney (1997) undertook a study in which female victims of domestic violence were interviewed before and after they had obtained an ADVO and asked about their experience of a set of proscribed behaviours. Overall, these women reported significant reductions in stalking, threats of physical assaults, verbal abuse, nuisance phone calls and other forms of intimidation/harassment in the 4 weeks immediately after the ADVO was served on the defendant. The positive changes were even apparent amongst victims who maintained contact with the defendant and were still evident 6 months after the order was issued. More recent research confirmed these results (Trimboli, 2014) and further indicated that in the absence of specialist legal advice, ADVOs can still serve to improve the safety of most victims.

A number of recent intimate partner homicides perpetrated by males who were the subject of ADVOs has once again placed ADVOs under scrutiny and led some commentators to question their efficacy in protecting domestic violence victims. In the aftermath of these events media reports suggested that nearly half of all ADVOs issued in NSW are breached and called for major system reforms to be undertaken, including the strengthening of penalties for breaches of these orders (see 'Call for war on domestic violence as half of all AVOs fail' The Daily Telegraph, Jan. 18 2015). The breach rate reported in this article was estimated by dividing the total number of ADVO breaches recorded by police during a 12-month period (11,788) by the total number of final ADVOs issued in the same year (26,491). However, this calculation failed to take into account the following factors; (1) a single ADVO can be breached by the same defendant on multiple occasions, (2) breaches can relate to orders other than just final ADVOs and (3) the same defendant could breach multiple different order types.

The current brief presents the results from a detailed analysis of ADVOs issued in NSW and ADVO breaches recorded by NSW Police in order to more accurately quantify the proportion of all ADVOs that result in a breach on one or more occasions.

METHOD

Data source and linkage of records

Details on all ADVOs granted between 1 July 2013 and 30 June 2014 (inclusive) were extracted from the NSW Police Computerised Operational Policing System (COPS) database. Provisional, interim and final ADVOs were included in this extraction. Orders of different types were matched if the Criminal Names Index (CNI) of the Person of Interest (POI) and the CNI of the victim(s) were identical. Where the POI and victim(s) details matched to multiple orders of the same type issued within the specified 12-month period, only the order with the earliest issue date was selected for inclusion. All ADVOs were then linked to breach ADVO incidents recorded in COPS after 1 July 2013 and before 30 June 2015. Initially only orders and breaches which matched exactly on POI CNI and victim CNI details were linked. Where there were multiple victims, each POI/victim CNI combination was checked against the breach data and linked if a match was found using any POI/victim combination. In cases where victim details were missing from the breach, the two events were linked using just the POI CNI. A breach was only assigned to an order if the breach date occurred after the issue date of the order and before the order expiry date. In cases where the provisional, interim and/or final orders overlapped (e.g. the issue date of the final order preceded the expiry date of the interim order) the breach incident was assigned to the order with the issue date immediately preceding the breach date.[3] Demographic details relating to the POI and victim were also extracted from details contained in the ADVO records.

Sample

The sample was derived from all ADVOs granted in NSW between 1 July 2013 and 30 June 2014 (inclusive). POIs with provisional orders only were excluded (n=2,106). Further exclusions included POIs with: (1) an interim order made in June 2014 for which there was no final order (n=1,265) as timing precluded the identification of the final order; and interim orders with an expiry date after 30 June 2014 if there was no final order (n=389). This left a total of 32,669 unique victim-POI combinations during the 12-month period, including 30,481 distinct POIs.[4]

Outcome

The outcome of interest for this analysis was a breach of a provisional, interim or final order within the duration of the order, or up until 30 June 2015 if the order had not expired by the end of the observation period. Order duration was calculated from the date the ADVO was issued to the expiry date of that order. In cases where a 'higher' order was issued before an order expired (e.g. a final order issued against the same POI and victim before the interim order expired for that same POI/victim combination), duration was calculated from the ADVO issue date to the issue date of the higher order.

Explanatory variables

The following characteristics of the victim and POI were also considered when examining breach rates of final ADVOs[5]:

- POI gender: male or female
- POI Aboriginality: identified as an Aboriginal or Torres Strait Islander (ATSI), non-ATSI or unknown
- POI age when the first order was issued: grouped into 10-19 years; 20-29 years; 30-39 years; 40-49 years; 50 years and older
- Number of victims at first order: grouped into one; two; three or more
- Victim (first named) age: grouped into 10-19 years; 20-29 years; 30-39 years; 40-49 years; 50 years and older
- Victim (first named) Aboriginality: identified as an Aboriginal or Torres Strait Islander, non-ATSI or unknown
- Victim (first named) area of residency: classified as Sydney, Capital Region, Central Coast, Central West, Coffs-Harbour/ Grafton, Far West and Orana, Hunter Valley excluding Newcastle, Illawarra, Interstate/Overseas, Mid North Coast, Murray, New England and North West, Newcastle and Lake Macquarie, Richmond, Riverina, Southern Highlands and Shoalhaven, Unknown, Not Recorded.

Statistical analysis

The number and proportion of each type of ADVO which recorded a breach whilst the order was in effect are first presented. The number and proportion of orders recording multiple breaches are also presented by order type. The proportion of POIs breaching a final ADVO at 6 and 12 months are also reported using Kaplan-Meier estimates, with a censoring date of 30 June 2015. Finally, factors related to time to first breach of a final ADVO are examined using Cox proportional hazard regression analyses.

RESULTS

Duration and breach rate for all ADVOs

Overall 23,240 provisional orders, 18,045 interim orders and 24,458 final orders were issued during the observation period. Of the orders granted for the 32,669 POI/victim combinations, 18% (n=5,979) were final orders only (i.e. no accompanying provisional or interim order) and 5% (n=1,667) were interim orders only. The remaining combinations of orders were: provisional to interim (n=6,555, 20%); provisional to interim to final (n=8,029, 25%); provisional to final (n=8,656, 26%) and interim to final (n=1,794, 5%).

Table 1 shows the characteristics of all orders granted and the proportion of ADVOs recording a breach within the duration of the order. Median duration of each order issued was as follows: provisional orders 11 days (IQR 6, 17); interim orders

Table 1. Proportion of orders which were breached and number of breach incidents during order, by order type

	Provisional	Interim	Final
Variable	**N (%)**	**N (%)**	**N (%)**
Total	23,240	18,045	24,458
Breach occurred			
No	22,069 (95.0)	16,352 (90.6)	19,642 (80.3)
Yes	1,171 (5.0)	1,693 (9.4)	4,816 (19.7)
Number of breach incidents during order			
0	22,069 (95.0)	16,352 (90.6)	19,642 (80.3)
1	1,035 (4.4)	1,238 (6.9)	3,065 (12.5)
2	104 (0.4)	301 (1.7)	951 (3.9)
3 or more	32 (0.1)	154 (0.9)	800 (3.3)
Median duration (IQR) days	11 (6, 17)	64 (34, 119)	364 (364, 365)
Minimum, 95th percentile (days)	0, 25	0, 245	0, 730

Figure 1. Proportion of breaches by time to first breach

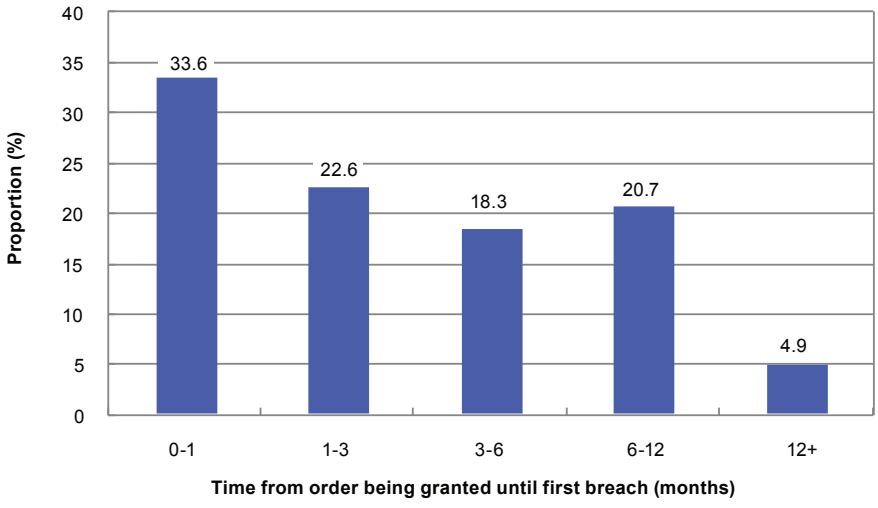

Table 2. Cohort characteristics and proportion of final ADVOs breached (N=24,458)

Factors at first order	N (col %)	% Breach
POI Gender [a]		
Male	20,288 (83.0)	20.8
Female	4,167 (17.0)	14.5
POI ATSI status		
ATSI	6,273 (25.6)	26.6
Non-ATSI	17,441 (71.3)	18.0
Unknown	744 (3.0)	0.3
POI Age		
10-19	1,995 (8.1)	22.4
20-29	7,241 (29.6)	20.2
30-39	7,288 (29.8)	21.0
40-49	5,353 (21.9)	19.5
50 and over	2,523 (10.3)	13.0
Missing	58 (0.2)	1.7
Victim (1) Age		
10-19	3,357 (13.7)	14.7
20-29	6,242 (25.5)	21.4
30-39	5,779 (23.6)	21.2
40-49	4,854 (19.8)	20.5
50 and over	4,158 (17.0)	18.2
Missing	68 (0.3)	17.6
Victim (1) ATSI status		
ATSI	4,567 (18.7)	26.3
Non-ATSI	18,406 (75.3)	18.8
Unknown	1,485 (6.1)	10.8
Victim (1) Statistical Division of residency		
Capital region	806 (3.3)	17.2
Central Coast	1,043 (4.3)	22.8
Central West	1,036 (4.2)	23.3
Coffs Harbour/Grafton	604 (2.5)	22.5
Far West/Orana	1,120 (4.6)	24.6
Hunter Valley (excl Newcastle)	1,159 (4.7)	21.5
Illawarra	921 (3.8)	23.8
Interstate/Overseas	202 (0.8)	10.4
Mid North Coast	1,151 (4.7)	22.2
Murray	552 (2.3)	18.1
New England & North West	1,108 (4.5)	19.3
Newcastle & Lake Macquarie	1,257 (5.1)	22.8
Richmond-Tweed	1,143 (4.7)	18.6
Riverina	1,039 (4.2)	19.8
Southern Highlands & Shoalhaven	528 (2.2)	23.3
Sydney	10,644 (43.5)	17.6
Number of victims		
1	18,376 (75.1)	19.0
2	3,195 (13.1)	20.8
3+	2,887 (11.8)	22.7

[a] *Three POIs had no gender information recorded*

Note. All bivariate associations with breaching a final order were significant at p<.001

64 days (IQR 34, 119) and final orders 364 days (IQR 364, 365). The median duration across all linked orders for each POI/victim combination was 374 days (221, 431).[6] In total there were 12,072 breaches recorded by police across all the orders examined. The breach rate was much higher for final orders (20%), which are longer in duration, than for provisional (5%) or interim (9%) orders. Further, when breaches occurred, most often only one incident was recorded per order (88% of provisional order breaches, 73% of interim order breaches and 64% of final order breaches). The median time to the first breach of any type of ADVO was 71 days (IQR 17, 185). Put differently, of those orders which did record a breach, 34% were breached within one month of being granted, 23% within 1-3 months and 18% within 3-6 months (see Figure 1).

Breaching a final ADVO

Table 2 displays the POI and victim characteristics for all final ADVOs granted during the observation period and these same POI/victim characteristics by the proportion of ADVOs breached. Most POIs identified in final ADVOs were male and aged between 20 and 39 years. Approximately one quarter of final orders were granted against an Indigenous POI and less than one in five (first named) victims were Indigenous. Nearly half of the (first named) victims were aged between 20 and 39 years and 14% were younger than 20 years. Three quarters of the orders specified only one victim, 13% specified two and 12% specified three or more. A higher proportion of male POIs breached a final ADVO than females (21% vs. 15%), as did a higher proportion of Indigenous POIs compared with non-Indigenous POIs (27% vs. 18%). There were also significant differences in the breach rate of final ADVOs by victim and POI age, victim's area of residence and the number of victims protected by the order.

Time to first breach of a final ADVO

For final orders, the median time from granting of the final order to first breach was 87 days (IQR 20, 207). Table 3 shows the estimated proportion of final ADVOs which were breached within the first 6 to 12 months of issue date. The estimated proportion of orders recording a breach was 13% within the first 6 months of issue and 18% within the first 12 months. Higher proportions of final ADVO breaches were observed for Indigenous (17% and 25%), male (13% and 19%) and POIs aged less than 20 years (14% and 21%) compared with their respective counterparts.

Table 4 shows individual factors which are associated with the time to first recorded breach of a final ADVO. A hazards ratio greater than one indicates that a final order with that characteristic recorded a breach sooner than an order without that characteristic (in the case of multi-category variables the reference case is indicated by superscript '1'). Final orders against male, Indigenous and younger POIs recorded breaches sooner than final orders made against other POIs. Final orders protecting victims aged less than 20 years, victims residing in the New England Statistical Division and those with just one

Table 3. Estimated proportion of POIs who breach their final ADVO at 6 and 12 months following issue date (censored at 30 Jun 2015; N=24,458)

	Estimated 6 month % breach (95% CI)	Estimated 12 month % breach (95% CI)
All final orders	12.5 (12.0-12.9)	18.2 (17.7-18.7)
POI ATSI Status		
ATSI (N=6,273)	16.5 (15.6-17.5)	24.6 (23.4-25.8)
Non-ATSI (N=17,441)	11.6 (11.1-12.1)	16.8 (16.2-17.4)
POI Gender		
Male (N=20,288)	13.0 (12.5-13.5)	19.1 (18.6-19.7)
Female (N=4,157)	9.8 (8.9-10.8)	13.5 (12.5-14.7)
POI Age		
10-19 (N=1,995)	13.7(12.3-15.4)	20.8 (18.9-22.7)
20-29 (N=7,241)	13.3 (12.5-14.1)	18.8 (17.9-19.8)
30-39 (N=7,288)	13.2 (12.4-14.0)	19.4 (18.4-20.3)
40-49 (N=5,353)	12.0 (11.1-12.9)	17.8 (16.7-18.9)
50+ (N=2,523)	8.4 (7.4-9.6)	12.1 (10.9-13.6)

victim took longer, on average, to record their first breach than other orders. Indigenous victims and victims residing in Newcastle & Lake Macquarie, Illawarra, Central Coast, Central West or the Hunter Valley Statistical Divisions were also at increased risk of their final ADVO being breached sooner.

DISCUSSION

Between July 2013 and June 2014 23,240 provisional ADVOs, 18,045 interim ADVOs and 24,458 final ADVOs were issued in NSW. Police recorded 12,072 ADVO breaches up until end of 30 June 2015 which could be linked to these orders. The breach rate was found to be much higher for final orders (20%), which are longer in duration, than for provisional (5%) or interim (9%) orders. Further, when breaches occurred, most often only one incident per order was recorded (88% of provisional order breaches, 73% of interim order breaches and 64% of final order breaches). Of all ADVOs which did record a breach, 34% were breached within one month of being granted, 23% within 1-3 months and 18% within 3-6 months.

The current work provides further evidence that ADVOs are effective in protecting victims from proscribed behaviours, such as assault, abuse, threats, intimidation and stalking. Four out of every 5 ADVOs issued during the 2013/14 financial year recorded no breaches whilst the order was in effect. This, we recognise, is likely to be a conservative estimate of the proportion of ADVOs that are actually contravened because; (1) conditions of an order may have been breached but the police were not notified of or did not detect the offence, (2) the ADVO breach was ancillary to other offences against the protected person and the police only recorded the more serious charges, and (3) breaches occurred during the order but after the end of the study observation period. Nevertheless these data suggest

Table 4. Cox proportional hazard regression for time to first breach (final order; N=24,458)

Factors at first order		Hazards ratio (95% CI)
POI Gender		
Male	***	1.51 (1.38-1.64)
Female [1]		1.00
POI ATSI status		
ATSI [1]		1.00
Non-ATSI	***	0.73 (0.68-0.79)
Unknown	***	0.01 (0.01-0.05)
POI Age		
10-19	***	1.71 (1.47-1.98)
20-29	***	1.41 (1.25-1.60)
30-39	***	1.50 (1.32-1.69)
40-49	***	1.41 (1.24-1.60)
50 and over [1]		1.00
Missing		0.24 (0.03-1.70)
Victim (1) Age		
10-19	***	0.69 (0.61-0.78)
20-29		1.02 (0.93-1.12)
30-39		1.04 (0.95-1.14)
40-49		1.06 (0.96-1.17)
50 and over [1]		1.00
Missing		1.08 (0.61-1.92)
Victim (1) ATSI status		
ATSI [1]		1.00
Non-ATSI	***	0.82 (0.76-0.89)
Unknown	***	0.57 (0.48-0.68)
Victim (1) Statistical Division of residency		
Capital region		0.89 (0.75-1.06)
Central Coast	***	1.27 (1.11-1.45)
Central West	*	1.16 (1.01-1.33)
Coffs Harbour/Grafton		1.14 (0.96-1.36)
Far West/Orana		1.03 (0.89-1.18)
Hunter Valley (excl Newcastle)	**	1.20 (1.05-1.37)
Illawarra	**	1.26 (1.09-1.45)
Interstate/Overseas	*	0.56 (0.35-0.87)
Mid North Coast		1.10 (0.97-1.26)
Murray		0.98 (0.80-1.20)
New England & North West	*	0.84 (0.72-0.97)
Newcastle & Lake Macquarie	***	1.27 (1.12-1.44)
Richmond-Tweed		0.97 (0.84-1.12)
Riverina		1.03 (0.90-1.20)
Southern Highlands & Shoalhaven		1.16 (0.96-1.39)
Sydney [1]		1.00
Number of victims		
1	***	0.84 (0.78-0.92)
2		0.92 (0.84-1.03)
3+ [1]		1.00

[1] *Referent category*

*Note. Adjusted for all factors in the model. *p<.05, **p<.01, ***p<.005*

that media estimates of one in every two orders being the subject of a breach are far wide of the mark.

We also identified several important factors associated with breaches of final ADVOs. Male, Indigenous and younger POIs breached their order sooner than other defendants. Meanwhile, final orders protecting just one victim, non-Indigenous victims or victims aged less than 20 took longer to record a breach. We were, however, limited in this analysis to the small number of variables recorded in the order and/or breach fields. One area where we lacked detailed information was the POI/victim relationship, in particular whether or not the defendant and victim were residing together at the time the order was issued. There was also no information available on which conditions of the order were breached. This limitation of the COPS dataset has been noted in other ADVO research undertaken by BOCSAR (Napier, Poynton & Fitzgerald, 2015) and underscores the need for standardised reporting of this information. Our multivariate analysis also found significant variations in breach rates across areas of residency. In particular, final ADVOs issued for victims residing in the Newcastle & Lake Macquarie, Central Coast, Illawarra and the Hunter Valley Statistical Divisions were breached sooner than other final orders. This disparity across areas could reflect a higher breach rate of ADVOs in these locations but would also be in part due to a higher level of proactive policing of domestic violence in the corresponding Local Area Commands.

The fact that 20% of final orders did record at least one breach and nearly 800 recorded 3 or more should not be ignored or downplayed. The consequences of these breaches would undoubtedly have had a significant and potentially devastating impact on the victim(s) involved. However, ADVOs should not be regarded as the only line of defence for protecting domestic violence victims. It is just one of many avenues that could be pursued by police and other government agencies in order to protect victims and their families from further violence. Support for victims who want to leave violent relationships and safe places for them to escape to are essential. Programs for perpetrators who are willing to undertake treatment must be readily accessible and, importantly, evaluated. Speedy resolution of criminal charges, improved conviction rates and effective deterrents also need to be secured (Weatherburn, 2016). Without these additional countermeasures in place, any short-term benefits produced by ADVOs will quickly erode.

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NOTES

1. Authorised officers include a Local Court or Children's Court Magistrate, a registrar of the Local Court or Children's Court or other persons authorised by the Attorney General as an authorised officer for this purpose.
2. A defendant can only be charged with breaching an AVO if they have been served the order (unless they were in court at the time that the order was made).
3. Only 2% of breach ADVO incidents recorded during the observation period could not be linked to a corresponding ADVO. Most of these would not have matched because of data entry errors.
4. Some POIs had different orders against different victims.
5. Other variables of interest but which were unavailable included person of interest area of residency; victims' relationship to the person of interest.
6. 5% of each order granted had durations greater than: provisional 25 days, interim 245 days and final 730 days.

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