

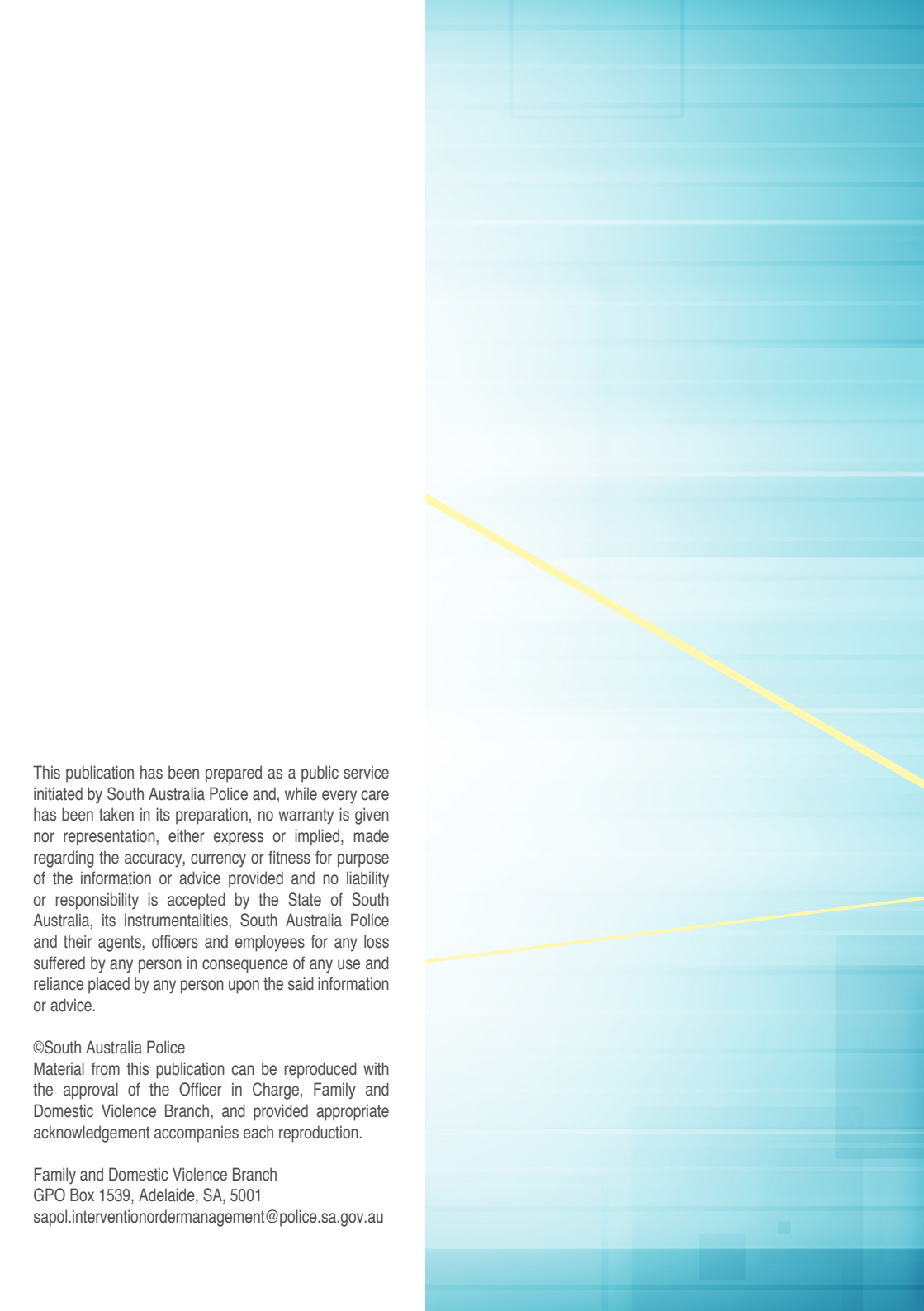
INFORMATION ABOUT **INTERVENTION ORDERS**



SOUTH AUSTRALIA POLICE
KEEPING SA SAFE



**Government
of South Australia**

The background of the page features a light blue gradient. On the right side, there are several overlapping rectangular shapes in various shades of blue. A prominent yellow diagonal line runs from the middle of the right edge towards the bottom left. Another yellow line runs horizontally across the lower third of the page, starting from the left edge and ending near the right edge.

This publication has been prepared as a public service initiated by South Australia Police and, while every care has been taken in its preparation, no warranty is given nor representation, either express or implied, made regarding the accuracy, currency or fitness for purpose of the information or advice provided and no liability or responsibility is accepted by the State of South Australia, its instrumentalities, South Australia Police and their agents, officers and employees for any loss suffered by any person in consequence of any use and reliance placed by any person upon the said information or advice.

©South Australia Police

Material from this publication can be reproduced with the approval of the Officer in Charge, Family and Domestic Violence Branch, and provided appropriate acknowledgement accompanies each reproduction.

Family and Domestic Violence Branch
GPO Box 1539, Adelaide, SA, 5001
sapol.interventionordermanagement@police.sa.gov.au

CONTENTS

What is domestic violence?	2
What is an intervention order?	3
How do I get an intervention order?	3
Police-issued orders	4
What happens when police issue an order?	5
Court-issued orders	6
Attending court for an application hearing	8
What happens when an intervention order is granted?	10
What happens next?	11
What happens if the other person breaks the order?	12
What about Family Court Orders?	13
Intervention orders issued after 25 November 2017	13
Intervention orders issued before 25 November 2017	14
What happens if I need to change the intervention order?	15
Where to call for assistance	16

WHAT IS DOMESTIC VIOLENCE?

Domestic violence is a pattern of abusive behaviours by one person against another, within an intimate relationship such as marriage, cohabitation, dating, or within a family including across generations. Domestic violence takes many forms including physical and sexual violence, verbal abuse, threats and intimidation, emotional and social abuse, stalking, economic deprivation, and property damage. It occurs in all sections of our community, across all ages and all cultures.

Domestic violence is sometimes referred to as domestic abuse, or family violence. Whatever the name it is given, all of these abusive behaviours are unacceptable in our community, and some of them are clearly against the law.

South Australia Police recognises that domestic violence has a damaging impact on victims, their children, family and friends. Police give the highest priority to the protection and ongoing safety of victims and their children, and try where possible, to hold the person responsible for the violence accountable for their actions.

An intervention order (formerly called a restraining order) may help protect you and your family if you are a victim of domestic violence. This booklet tells you what will happen if you contact the police about getting an intervention order. We hope it will answer your questions, and help you decide what to do.

WHAT IS AN INTERVENTION ORDER?

An intervention order is an order issued by either the police or the Court, forbidding a person (the defendant) from behaving towards you (the protected person) in ways which may harass, threaten or abuse you or which may be violent. The other person may be ordered **not** to do various things, such as not to come to your home and place of work, not to go to your children's school, not to follow or watch you, not to phone you or send messages to you. The other person may also be ordered to **do** certain things, such as to move out of the house they may share with you. An order can be made specifically for you and your situation.

It is an offence for the other person (defendant) to disobey the order. This is called 'breaching' the order. You should tell the police if you believe the person has breached the order.

HOW DO I GET AN INTERVENTION ORDER?

Intervention orders may be issued by the police (called an interim intervention order) or may be issued by the Court. In each case, there must be grounds for issuing an order. This means that the police or the Court must be of the view that you will be subject to an act of abuse by the other person, unless there is some intervention to help you. There are many examples of what an act of abuse is, and the police can listen to your situation and tell you if it fits the grounds for an intervention order.

If you have grounds, the police will decide to either issue an interim intervention order directly to the person who is being abusive, or to help you make an application to the Court to issue an order. The circumstances will determine which method is used. Each method is explained in this booklet. You should read about both methods so you know what you need to do.

POLICE-ISSUED ORDERS

If police are called to attend a domestic violence incident where a person has committed a criminal offence (such as hitting you or breaking your property), or has made threats to commit a criminal offence, and the person is present or is in police custody, then the police may be able to issue an interim intervention order, as well as investigate the alleged offence.

Firstly, the police will talk to you to find out what has happened. They will assess the risk to you and your children from the other person. If they think there are grounds for an intervention order, and that an order will help to protect you from further harm, they will issue an interim order at this time. Your children can be included on the order if they are also at risk.

As part of the process, the police will need a statement from you which is your account of what has happened and why you need an intervention order. If the police have already taken a statement from you about a criminal offence (such as if you have been assaulted), they may be able to use the same statement.

There may be other important information that you should tell the police about. For example, if you think the other person has a gun, make sure you let the police know about it. This is because, if an intervention order is made, the police will remove any guns in the defendant's possession and hold them at the police station.

You should also tell the police if there is a Family Court Order. This is so the police can make sure that your intervention order works with your Family Court Order. If you have a copy of your Family Court Order, it is helpful to give this to the police. If you don't have a copy, the police can obtain one from the Family Law Court.

WHAT HAPPENS WHEN POLICE ISSUE AN ORDER?

Once the intervention order is issued, the police will serve it on the other person (defendant) by giving them a copy and explaining the order to them. As soon as the defendant is given a copy of the intervention order, they need to abide by all the conditions listed on the order.

A police interim intervention order starts operating as soon as it is served.

You will be given a copy of the order too. In fact, each person named as a protected person will receive a copy, so if your children are listed, they will get a copy or if they are very young, you will be given copies for them.

The order that the police officer issues to the defendant is also a summons for that person to appear in court. It will specify the time, date and place for the court hearing. Generally, this happens within eight days of the order being issued. In country areas, it may take longer than this as the courts may not be held as often. **You do not have to go to this first court date.**

At this hearing, the magistrate will review the order and if they agree with it, it may continue as an interim order, or they may confirm it (put it in place permanently), or vary it (change the conditions of the order and reissue it to the defendant), or revoke it (cancel the order).

The police prosecutor or another police officer will let you know the outcome of the hearing.

COURT-ISSUED ORDERS

In other situations which are less urgent, or when the other person is not there, you need to apply to the court to issue an intervention order. The police will still help you to do this by preparing an application on your behalf.

The most common way is to go to a police station, where the police will listen to what has happened to you and decide if you have grounds for an intervention order. If you do, the police will take a statement from you, explaining your circumstances and why you need an intervention order.

Giving your statement might take several hours so to reduce this time, try to be as prepared and as organised as you can. Take with you any evidence or information you think will help to support what you are saying. This may include:

- any notes you may have made about what the other person has been doing, including when and where things have happened
- any photos or other evidence of damage the person has done to your property
- copies of notes, letters, emails or text messages that the other person may have sent you
- medical information or reports if you have seen a doctor
- copies of any Family Court Orders that apply to your children.

Again, tell the police if you think the other person has a gun. If an intervention order is made, the court will also order that the gun be taken away from the other person (defendant).

If possible, it is a good idea to arrange alternative care for your children so that they are not exposed to unnecessary stress while you are giving your statement. Talking to the police about your circumstances may be upsetting for you, and this in turn might upset your children. However, if you do not have alternate care available, it is fine to bring them with you to the police station.

Once your statement is completed, the police will prepare a court file which is sent to the police Prosecution Section. The police prosecutors will check that there are sufficient grounds to ask the court to make an order for you. If so, the police will appear in court for you.

You will usually have to come along to court, however the police will do the talking for you.

With court applications, the person you have applied to have an intervention order against will **not** be in the court for your application. If they are there for some other reason and you do not feel safe, tell a police officer or the court staff.

ATTENDING COURT FOR AN APPLICATION HEARING

If you have made an application to the court asking for them to issue an intervention order, the police will let you know which court to go to, and the date and time.

You should arrive a few minutes early so that you can pass the security check and find out which court room your matter will be heard in. The staff at the information desk will be able to tell you which court room you need to go to.

If you are running late or can't get to the court, ring and tell the police or the court beforehand and explain your reasons.

If you are attending a **metropolitan** court, a police officer from the Child and Family Investigation Section will meet and speak with you. If you are attending a **country** court, the police prosecutor will approach you.

There may be several other people at court who are also applying for an intervention order, so you will be asked to wait outside the courtroom until the magistrate is ready to hear your application. This is to protect your privacy.

When the magistrate is ready to hear your application, a court officer will ask you to come into the courtroom and sit in the seats at the back. When you hear the name of the person you are applying for an order against, the matter is being 'called on'. This is a court formality and means that the magistrate is ready to consider your application.

You should remain seated. You do not have to do anything at this stage unless asked to by the magistrate, court staff or a police officer.

If the magistrate needs to clarify something, they may ask you to step into the witness box so that you can be asked a question. Often though, they will just ask you while you are seated at the back of the court, and you can answer from there. The police officer may also ask you a question if they need more information. Listen to the questions carefully and answer them truthfully. When the magistrate has made his or her decision, he or she will tell you whether the intervention order has been granted and what the conditions are.

If you miss something or don't understand something, you can ask the prosecutor or Family Violence police officer after the hearing and they will explain what happened and answer any questions you may have.

WHAT HAPPENS WHEN AN INTERVENTION ORDER IS GRANTED?

When the police issue an intervention order, it **begins to operate as soon as it is served** by the police officer on the person named as the defendant. When the court issues an order, it is important to understand that the order **does not start working until the police hand a copy of it personally** (serving the order) to the other person (the defendant). This can take a few days after the court hearing, although the police will try to do it as quickly as they can.

If possible, don't tell the other person that the police are going to give them an intervention order as they may deliberately avoid the police so the order cannot be served. If the person is hard to find, you may be able to help by telling the police where else they might find the person, such as their work address, or places that they frequently visit.

The police will tell you when the intervention order has been served, however, if you are worried whether the order has started working yet, you can ask at your nearest police station at any time.

With a court-issued order, you will receive **three copies** of your intervention order in the mail or from the police a few days after you attended court. It is a good idea to keep one copy in a safe place, another copy with you (for example, in your handbag or car), and give the third copy to anyone else who might need it (for example, your workplace or the school your children attend). You can make more copies if you need to.

Read your copies carefully so that you are aware of what the other person (the defendant) can and cannot do (the conditions). That way, you know if the other person does something that breaks any of the conditions, in which case you should contact the police.

WHAT HAPPENS NEXT?

An intervention order will contain a court date for the defendant to go to court if they disagree with the conditions in the order. This applies to both a police-issued order and a court-issued order. The police will try to sort out any disagreement and will let you know if anything in the order changes.

If the person still disagrees with the order after this court hearing, then there will be a court case later on. At this point, you may be asked to come to court and you may have to give evidence if the order is being disputed. If at any time, the other person is at court at the same time as you, and you do not feel safe, then tell the police and arrangements can be made to try to make you feel safe.

It is important to remember that an intervention order keeps working until such time as it is altered or cancelled by the court. If in doubt about where things stand, ask the police for an update and an explanation. It is really important that you understand how the intervention order is operating and how it protects you.

WHAT HAPPENS IF THE OTHER PERSON BREAKS THE ORDER?

If the other person (defendant) breaks any of the conditions in the order, this is called a breach of the order. This is a criminal offence and the defendant can be charged.

You should be careful not to do anything to cause the other person to **breach** the order. For example, if the other person is not allowed to contact you, then you should not visit them, or contact them.

If a breach of the intervention order is taking place by the defendant in your presence or you feel you are in danger, you should immediately **dial 131 444 (or 000 in the case of an emergency)** and a patrol can be sent out to assist you.

If you think that a breach of the intervention order has occurred but you are in no immediate danger (for example, the defendant has telephoned you contrary to a condition in the order), **you should report this to your local police station** so that the police can investigate the matter.

Remember - your intervention order is only as effective as you allow it to be. Report all breaches promptly.

WHAT ABOUT FAMILY COURT ORDERS?

If children are involved, **it may be necessary to obtain legal advice** to help you decide whether you should apply to the Family Court for a Family Court Order. In some cases, you may already have a Family Court Order in place.

It is important to remember that the conditions in a **Family Court Order may override any conditions that have been made in an intervention order**. The police can explain this to you.

INTERVENTION ORDERS ISSUED AFTER 25 NOVEMBER 2017

New laws in Australia mean that a domestic violence-related intervention order issued anywhere in Australia **on or after 25 November 2017**, operates nationally. This means your intervention order protects you wherever you may be in Australia. The other person (the defendant) must obey the intervention order everywhere in Australia.

Somewhere on your order, generally above the list of conditions, you will see the words 'Nationally recognised DVO'. Police can act on a breach of a nationally recognised intervention order irrespective of which state or territory issued the order. A court can enforce, vary or revoke a nationally recognised intervention order irrespective of where it was issued.

INTERVENTION ORDERS ISSUED BEFORE 25 NOVEMBER 2017

If your intervention order was issued before 25 November 2017, it will operate **only** in the state or territory that issued it (for example, an order issued in Adelaide will only operate in South Australia).

If you have previously registered your intervention order to operate in an additional state or territory, this will continue unchanged. Your intervention order will protect you in the state or territory that issued it, **and** the state or territory that you registered it in.

If you would like your intervention order to work everywhere in Australia, you can choose to have your order **declared** by a court. You can do this by applying to any local court in Australia.

In South Australia, you need to fill out a court form - Form 46A. This form can be downloaded from www.courts.sa.gov.au, or a court office can give you a hard copy on request. The Form 46A can be lodged directly with the court office.

Alternatively, you can ask a Family Violence investigator or police prosecutor (if you have a current matter before the courts) to help you to get your intervention order declared.

WHAT HAPPENS IF I NEED TO CHANGE THE INTERVENTION ORDER?

If your circumstances change, and you wish to change (vary) any of the conditions in the intervention order or to cancel (revoke) the order, then you need to contact the police and tell them the reasons why you want the order changed.

- In the metropolitan area, contact the Child and Family Investigation Section.
- In a country area, contact your local police station.

Another court hearing will need to be scheduled for an order to be changed or cancelled. It is important for you to understand that only the court can change or cancel an order. Your order cannot be changed just by you and the other person agreeing to a change.

Both you and the other person will be advised of the time and date of the hearing. You **will** need to attend court for this. Often, the other person will also have to attend, but not always.

The police and courts recognise that sometimes situations change for the better and orders may need to change too. However, the police also need to feel satisfied that you will still be safe, and that you are not being pressured into making changes that might put you or your family at increased risk.

Sometimes, the police will not agree to appear in court for you in an application to vary or revoke an intervention order if they believe this action will increase the risk that you or your family will suffer further domestic violence.

WHERE TO CALL FOR ASSISTANCE

For an **emergency** situation 000

For **police assistance/attendance** 131 444

In the metropolitan area, contact your local **Child and Family Investigation Section**:

Eastern District	7322 4890	A/H 7322 4800
------------------	-----------	---------------

Northern District	8207 9381	A/H 8207 9411
-------------------	-----------	---------------

Southern District	8392 9172	A/H 8392 9000
-------------------	-----------	---------------

Western District	8207 6413	A/H 8207 6444
------------------	-----------	---------------

In country areas contact your local police station.

Go to www.police.sa.gov.au to find your local police station.

If you are a victim of domestic violence from a non-English speaking background, and need support and assistance in understanding the intervention order process, please contact the **Migrant Women's Support Program** (part of Women's Safety Services SA) on telephone 08 8152 9260.

A list of agencies which may be of further assistance and support to you as a victim of domestic violence, is available from your local police station.

NOTES:

[illegible]

