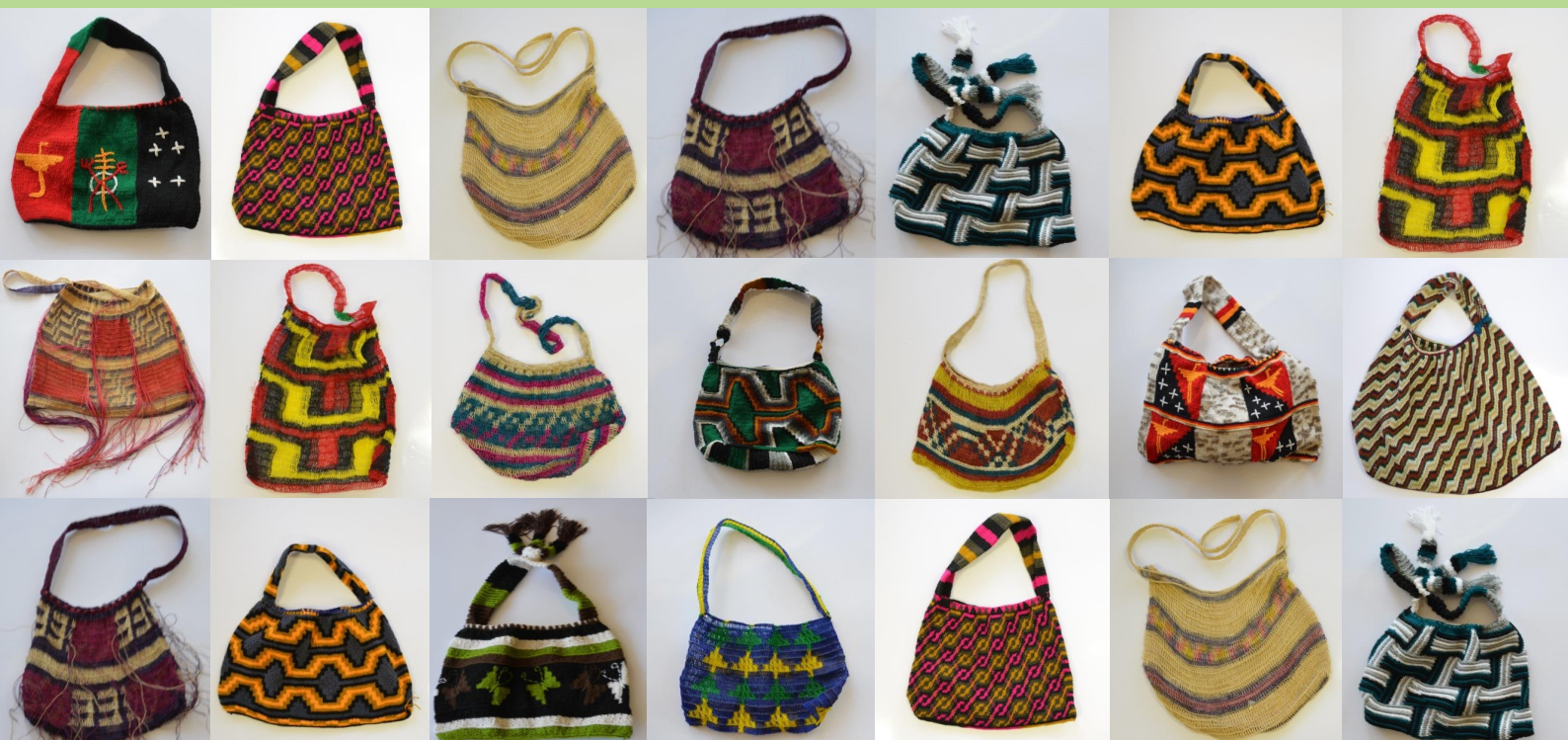


# FAMILY PROTECTION ORDERS IN PAPUA NEW GUINEA

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# ABBREVIATIONS

<b>ARB</b>	Autonomous Region of Bougainville
<b>CAP</b>	Community Auxiliary Police
<b>CIMC</b>	Consultative Implementation and Monitoring Council
<b>DC</b>	District Court
<b>DFV</b>	Domestic and family violence
<b>DJAG</b>	Department of Justice and Attorney General
<b>FPA</b>	Family Protection Act 2013
<b>FPO</b>	Family protection order
<b>FSC</b>	Family support centre (hospital-based)
<b>FSV</b>	Family and sexual violence
<b>FSVAC</b>	Family and Sexual Violence Action Committee
<b>FSVU</b>	Family and Sexual Violence Unit (police)
<b>GBV</b>	Gender-based violence
<b>HRD</b>	Human rights defender
<b>IPO</b>	Interim protection order
<b>IPV</b>	Intimate partner violence
<b>JSS4D</b>	Justice Services and Stability for Development Program
<b>LPA</b>	Lukautim Pikinini Act 2015
<b>LTI</b>	Legal Training Institute
<b>NCD</b>	National Capital District
<b>NCR</b>	Nazareth Centre for Rehabilitation
<b>NGO</b>	Non-government organisation
<b>PNG</b>	Papua New Guinea
<b>PO</b>	Protection order
<b>RPNGC</b>	Royal Papua New Guinea Constabulary
<b>SPM</b>	Senior provincial magistrate
<b>VCM</b>	Village Court magistrate
<b>VFC</b>	Voice for Change
<b>WHO</b>	World Health Organisation
<b>WHP</b>	Western Highlands Province



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# EXECUTIVE SUMMARY

## Introduction

Funded by the Australian Government through the Pacific Women Shaping Pacific Development program (Pacific Women), Justice Services and Stability for Development program (JSS4D) and the Pacific Research Program, the purpose of our research project was to investigate whether the family protection orders (FPOs) introduced under the Family Protection Act 2013 (FPA) were being accessed by, and improving the safety of, domestic and family violence<sup>1</sup> (DFV) survivors. The Act, as well as the introduction of civil restraining orders specifically targeted at preventing and reducing DFV, represented a significant milestone in efforts to address in DFV in Papua New Guinea (PNG).

The research project on FPOs in PNG was undertaken from late 2019 to August 2020. It was a collaborative project that involved researchers based in Australia and PNG, local researchers in various communities and several non-government organisations (NGOs). More than 25 people assisted with the research activities, which occurred in seven locations across PNG — Minj, Mount Hagen, Lae, Port Moresby, Popondetta, Buka and Arawa. A range of methods were employed during the project, including:

- » a survey of 180 young adults in Port Moresby and Lae
- » 211 interviews with 118 interim protection order applicants across the seven sites
- » meetings and interviews with at least 140 stakeholders across the seven sites
- » observations in two District Courts and the Family Court in Lae and Port Moresby
- » the collation of justice and client statistics in each of the seven sites.

The findings from the research are synthesised and summarised under the headings implementation and impact.

## Implementation

The stated intent of the FPA includes promoting safe, stable and strong families; preventing and deterring domestic violence at all levels of society; and ensuring there is effective protection for the victims of domestic violence. Upon application, an FPO can be issued by a court for a stipulated period of time, with conditions imposed on the respondent that seek to prevent further domestic violence. Those who can apply for FPOs include spouses, family members — including children — and any person treated by the spouse as a family member. Regulations for the FPA were gazetted, and guidelines produced by the Department of Justice and the Attorney General, in 2017. There are two types of FPOs: interim protection orders (IPOs), which are for 30 days and can be extended for another 30 days, and longer-term protection orders (POs), which can be imposed for up to two years. Breaching an order's conditions is a criminal offence with a maximum penalty of up to two years imprisonment. Under the FPA, Village Courts can issue IPOs and District Courts can issue both IPOs and POs. In terms of whether IPOs and POs are known about and being issued, our project found the following.

## Awareness, knowledge and practical help

Based on previous large scale surveys conducted on law and justice topics in 2015 and 2018, there is now more public awareness of IPOs, with approximately one-fifth of the population having heard of IPOs in 2018. Our survey of young adults suggests that a higher proportion, closer to one-third, of this mostly well-educated group in urban centres know about IPOs. However, the level of understanding of FPOs, most notably POs, and knowledge of the process is often limited, with, for example, some people assuming applicants can only be women.

Our research indicates that family and friends and the police are the two key groups most likely to advise the general public, including DFV survivors, about FPOs. Similarly, the police, in addition to specialist FSV services if they operate in the local area, are the agency most likely to offer practical help with completing an FPO application. Such assistance is much needed, with our research indicating that as many as a third of applicants cannot read or write English well or at all. The police Family and Sexual Violence Units (FSVUs) in particular are the frontline service where many survivors will first hear about and obtain guidance on FPOs. However, based on FSVU records, IPOs were recorded as an outcome in only approximately 10 per cent of cases, which requires further investigation.

## **Trends and patterns in numbers**

Available data and stakeholder perceptions indicate that more IPOs are being issued, especially since 2017, but there is considerable variation in uptake across the provinces. In 2018, only six District Courts registered more than 100 IPOs — Kokopo, Lae, Popondetta, the National Capital District (NCD) Family Court, the Port Moresby District Court and Goroka. Very few were recorded in some provinces, including other Highlands locations. Statistics garnered from our research sites show a comparable pattern in 2019, which suggests a stabilisation in numbers, a limit in the capacity of the courts to deal with applications and that only in Lae and Port Moresby are many POs being issued.

## **Applicants and respondents**

Many DFV survivors have longstanding histories of abuse and violence, and applying for an IPO can be a big step, frequently triggered by a recent incident and underlying factors or triggers such as alcohol and drug abuse, financial neglect by the respondent and his relationships with other partners. Based on the characteristics of our survey sample, stakeholder opinions and Femili PNG client data for Lae, we estimate that approximately nine out of 10 IPO applicants are women, the respondent is usually a male spouse and that most women are living with at least two children. The majority of IPO applicants had the support of their family to take out an IPO and the financial means to live on their own, although in many cases this was through the precarious businesses of 'table marketing' and gardening, or, for a few, relying on money from family.

The applicants expected the orders to prevent or stop the abuse and violence. For the majority, it appears the orders did result in an improvement in their safety. According to the IPO applicants, the most common initial reaction of respondents at the time of service of the order was anger, followed by fear, though the most common action was to comply or accept the order, followed by threatening or furious behaviour.

## **System and process challenges**

Many challenges were raised by stakeholders in relation to the justice system that apply generically to all matters reported to the police or addressed through the District Court and Village Court systems. These challenges relate to physical resources, such as intermittent and uneven access to vehicles, fuel, printers, paper and ink. The formal legal system depends on written records, which generates difficulties for those responsible for making the system work as well as clients of the system. As in the broader service landscape, there are also challenges around having skilled or gender-sensitive staff, often-high rates of absenteeism and insufficient numbers of crucial personnel.

Observations in District Courts revealed that applicants are often confused about the process, and the terminology used does not help, especially surrounding POs. Additionally, courts are not designed with the safety of court users in mind, and the names of IPO applicants are publicly displayed.

Among those we interviewed, the average time between their application and an IPO being issued was 14.8 days. IPO applicants stressed that they would like a timelier process, especially for the issuing of IPOs, as well as for police to assist more, notably with the service of orders and breaches of orders. The relatively high rate



at which applicants withdraw or do not appear, and the low rate of conversions of IPOs to POs, can be partly attributed to a lack of knowledge about an already slow and unresponsive process — in addition to pressures exerted by respondents. Other factors that inhibit the process are the costs associated with multiple court appearances, especially if the applicant has to travel to an urban centre, and the affect other community justice processes may have had on the applicant's willingness to pursue an order.

At the heart of these challenges is a picture of variable and not always commendable practices that should instead be based on principles that adhere to victim rights and universal access to protection and applied in a consistent and safe fashion.

## **Impact**

In order to assess whether FPOs acted as intended, the primary research materials were reviewed for indicators of impact, with the most relevant being the interviews with IPO applicants.

### **Individual applicants and respondents**

Based on our research, the majority of applicants who are issued an IPO issued feel safer as a result (81.3 per cent of IPO applicants interviewed). However, many complainants are cautious about expecting this feeling of safety to be sustained over the longer term. Among our sample of IPO applicants who were followed up with for two months after they applied, we found that their perceptions of safety became more polarised, either feeling increasingly safer or less safe. Such a finding underlines specific times of risk, such as during the service of the order and the subsequent few weeks after the order is served, as well as the need to provide support to survivors over the longer term, especially with obtaining POs.

What contributed to feeling safer, for the IPO applicants, included having a local specialist FSV service, family support, somewhere to live and police intervention or action. In terms of process, what was seen as helpful included the respondent appearing before the District Court or Family Court magistrate and/or the police being involved.

It does not appear that having an IPO or PO results in the separation of couples. In many cases, separation had already occurred, and if physical separation was an IPO condition it was often only a short-term measure. In terms of living arrangements, again there was evidence of short-term changes, including stays in safe houses, and only a minority of interviewees appeared to have moved in with family and relatives. The majority of interviewees were financially independent either through a wage or marketing and/or gardening, although the latter was viewed as precarious, which meant that some had experienced adverse economic effects because of the situation. In fact, most of the evidence indicated positive outcomes such as greater feelings of empowerment and improved mental health for both successful IPO and PO applicants and their families as a whole.

The corollary to these positive outcomes for complainants was the impact of the IPOs on the respondents. For a minority of the IPO applicants, there was no desistance in the abuse or violence, and this should not be ignored, especially if the survivor cannot access family support. However, our survey found that the majority of IPO respondents (70.1 per cent) complied with the IPO, which related to their respect or fear of the law and the courts, an understanding or acceptance that their behaviour had to change and a range of practical reasons. The most common forms of breaches experienced by complainants were verbal abuse and threats by phone or text, though not many of these were reported to the police by the interviewees. The available FSVU and District Court data revealed few reports of charges being laid or convictions recorded for breaches of IPOs or POs.

## Justice system, service delivery and society

The introduction of FPOs has certainly had an impact on the justice system. It has created an extra workload for District Courts, but has also given the FSVUs and other frontline services that have contact with DFV survivors another avenue through which to seek justice and protection.

Their introduction has strengthened the ties and coordination between specialist FSV services, the courts and the police. However, there remains no link between criminal and civil matters, nor an articulated stance on how community-based processes should work with FPOs. The Nazareth Centre for Rehabilitation (NCR) is the exception, with a well-reasoned position that gives primacy to the law, particularly the FPA, while also encouraging a parallel process — dialogues with families — to increase the probability of a woman's safety back in her village.

FPOs are a central feature of the FPA that are becoming more well known and demonstrate that the state, at least symbolically, supports DFV survivors and the cessation of abuse and violence. How much this may lead or contribute to shifts in societal views of gender roles and matrimony is impossible to quantify, but our survey of young adults suggests that certain kinds of abusive or violent behaviours are not viewed as the prerogative of the husband by this age group.

### Seven key conclusions

At the end of the research project, seven key conclusions were reached:

- » FPOs are becoming more well known, but the processes are not well understood.
- » Increasing awareness is important, but the system needs further funding and resources to respond to demand.
- » Police have a critical role to play but do not always fulfil their role effectively.
- » Specialist FSV services make a substantial difference by supporting and helping survivors both in times of crisis and over the longer term.
- » Obtaining orders depends on access to District Courts and committed magistrates.
- » FPOs improve safety for most applicants; however, service of the order is a time of risk.
- » Having family and church support can improve the effectiveness of FPOs and reduce the risks to DFV survivors.

## Recommendations

We found examples of both progress and effective local arrangements, and believe it is important to build on these gains. There is a general perception among stakeholders that FPOs can help DFV survivors, as well as that they are a less expensive option than other generic preventative orders. At the research sites, we heard of activities that sought to educate the communities and train key stakeholders on the FPA. Stakeholders reported improvements in service provision for DFV survivors, with specialist FSV services often demonstrating exemplary practices. In Bougainville, we heard of examples of men's programs and working with village leaders and justice processes, and encountered committed police, court officials and magistrates at all of the research sites.

Despite these encouraging developments, based on our findings and conclusions, we have identified nine recommendations for action.

### **1. That justice sector stakeholders improve public awareness and knowledge of FPOs.**

Efforts to better inform the general public need to span a range of audiences and focus on different sections of the population. It should be clear that orders are preventative in nature and act as a warning, with criminal sanctions only brought to bear if the conditions of the orders are breached. Using local networks can be invaluable in disseminating such information, through linkages and workshops with human rights defenders (HRDs), community leaders and schools. A tailored strategy is required for young adults in the main urban centres and could use, for example, social media to better inform this age group. In addition, court users would benefit from the provision of accessible legal information, for example, a leaflet on IPOs and POs that court staff could provide explaining the terminology, process and what to expect.

### **2. That the government of PNG and the donor community provide ongoing, long-term funding to civil society organisations to improve and expand victim support services for FPO applicants across the country.**

The system needs to be bolstered to keep up with the demand for FPOs. There should be more specialist FSV services and safe houses that provide immediate and longer-term support for survivors. A suite of skills is required of the workforce, including case work, trauma-informed practice, counselling and working with children and families. Various practice tools such as risk assessments and protocols for sharing case information could be developed and shared across services. To promote awareness and sensitivity within organisations and improve coordination, DFV 'champions' or mentors could be appointed within non-specialist services. Given that many applicants have low literacy levels, any in-person support (ideally trauma informed) that could be provided by the courts, NGOs or public solicitor's staff would be of great assistance.

### **3. That donor community support targets capacity building, and key agencies involved in the FPO process prioritise skills development.**

Key weaknesses in the system and process could be mitigated through the following measures:

#### **Frontline services**

Investment should be made in practical training sessions for frontline services (such as safe houses, FSVUs, FSCs and public solicitor and community development offices) on how to assist survivors with IPO applications and, most importantly, affidavits to ensure they cover the relevant information. Such workshops should involve IPO clerks.

#### **Village Courts**

Officials and magistrates need guidance and applied practice completing forms in order to issue and register IPOs.

#### **Police**

An emphasis on police responsibilities in relation to serving orders and summons and responding appropriately to reports of breaches of orders by laying charges should be incorporated into training and professional development and monitored by managers.

#### **District Court magistrates**

Magistrates should receive more training on DFV, including the FPA and the relevance of DFV to the family, civil and criminal jurisdictions. We recommend a circular or other mechanism distributed to all magistrates that:

- » emphasises that IPOs may be required urgently and encourages the issuing of urgent IPOs via email or over the phone<sup>2</sup>

- » draws attention to the way DFV survivors are often harassed and threatened by texts and phone calls, and highlights that the conditions of FPOs could explicitly forbid such behaviour
- » reminds them that FPOs can be ordered at the time of sentencing for criminal matters, or while criminal cases are still being determined.

#### **4. That the government of PNG considers options for improving the specialisation and efficiency of courts to process FPOs, as well as other matters relating to domestic violence and family law.**

A survivor may have matters also being heard in the Family Court and under both the civil and criminal tracks.<sup>3</sup> Individual magistrates may not be aware of this, nor of earlier court proceedings. Introducing a 'flag'<sup>4</sup> to track DFV cases involving the same parties that is accessible in a timely fashion would help magistrates be fully informed of concurrent actions. In addition, there are various ways DFV could be better addressed through priority and special listings, specialised courts or designated magistrates, as well as the adoption of safe court principles wherever possible. Given the socio-economic and cultural diversity across PNG, different approaches may be required in different provinces.

#### **5. That both civil society and the donor community give consideration to expanding programs that work with FPO respondents.**

The majority of FPO respondents are men. Building on the trial of a men's program in Bougainville and other male advocacy initiatives, we recommend continuing to test and develop initiatives that work with men through male advocacy training and networks, men's behaviour-change programs and couple or family counselling.

#### **6. That the Magisterial Services of PNG work towards nationally consistent and timely reporting on FPOs.**

Nationally consistent and timely reporting could assist in providing a more accurate picture of FPO use across the country. The redesigned report format should include clear fields relating to the numbers of IPOs and POs applied for, granted or dismissed, as well as the time taken to obtain the order. Data fields should also cover breaches and whether counselling, mediation or compensation was ordered by the court.

#### **7. That national and provincial stakeholders such as the Family and Sexual Violence Action Committee (FSVAC) use available data to monitor how FPO processes are working.**

We recommend the continued collation and review of whatever data can be accessed related to the following:

- » assisting or advising survivors about FPOs, including the number of clients seen by FSVUs, safe houses, the public solicitor's office and specialist FSV services
- » timeliness in issuing IPOs, including the time taken between lodgement and the issuing of an IPO and the time taken between an IPO being issued and its conversion to a PO
- » variability in registering IPOs and issuing POs, including annual numbers for every District Court across PNG
- » enforcement of charges, including recorded reports and charges for breaches of orders by police and courts.

#### **8. That justice sector agencies consider how FPOs or similar mechanisms can be more accessible in rural areas.**

Since Village Courts are not likely to start issuing IPOs, even when they know they can, guidelines could be developed for preventative orders tailored to addressing and preventing DFV that can be issued by Village Court magistrates with the intent and conditions of IPOs. A further reform could involve amending the FPA to extend the provisions related to Village Courts and FPOs.

**9. That the good practices employed to issue FPOs during the COVID-19 state of emergency are continued by the justice sector.**

The lessons learnt from the 2020 lockdown should be consolidated and used to develop guidelines that ensure key services remain accessible while still endeavouring to protect the workforce and clients from the pandemic (or whatever risk is at hand).



# CHAPTER 1. CONTEXT AND METHODOLOGY

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## 1.1. Introduction

The research project on FPOs in PNG was undertaken from late 2019 to August 2020. It was a collaborative project that involved researchers based in Australia and PNG, local researchers in various communities and several NGOs. More than 25 people assisted with the research activities, which occurred in seven locations across PNG — Minj, Mount Hagen, Lae, Port Moresby, Popondetta, Buka and Arawa (see Figure 2). As is so often the case, and is discussed in a subsequent section, the project did not quite go according to the original plan.

Funded by the Pacific Women and JSS4D programs, the purpose of the project was to investigate whether the FPOs introduced under the FPA were being accessed by, and improving the safety of, DFV survivors. The Act, as well as the introduction of these civil restraining orders specifically targeted at preventing and reducing DFV, represented a significant milestone in efforts to address DFV in PNG. To date, there has been no substantial research undertaken to examine the Act's impact in PNG, nor that of similar legislation in other Pacific Island countries.

This chapter situates the research within the PNG context, most notably in relation to the extent and nature of DFV and the legislative, programmatic and policy responses to FSV. One section also describes the intent of the FPA and its provisions that relate to FPOs, as well as the regulations and guidelines that were introduced several years after the legislation. The second half of the chapter comprises an overview of the methodology, ending with a section that explains how the project's findings are summarised in this report as well as separate papers and other outputs.

## 1.2. Domestic and family violence in PNG

### Nature and extent of domestic and family violence

There have been several valiant attempts to estimate the extent of DFV across PNG, which is an extraordinarily difficult environment in which to conduct surveys. An early and comprehensive study undertaken by the PNG Law Reform Commission in the 1980s concluded that more than two-thirds of families in PNG experienced domestic violence (PNGLRC 1992). Most recently, the 2016–18 national PNG Demographic and Health Survey suggests that more than half of women aged between 15 and 49 years had experienced physical violence after the age of 15, and just under a third had experienced sexual violence (Hukula 10/9/2020). Based on mainly estimates from a range of sources, including the World Health Organisation (WHO) Multi-Country Study on Women's Health and Domestic Violence against Women, PNG ranks highly in terms of both lifetime and recent prevalence of physical and/or sexual violence by an intimate partner against a woman compared with other countries in the Asia Pacific region. For PNG women aged 15 to 49 years, the estimated lifetime prevalence was 68 per cent, and 33 per cent for the previous 12 months (ODE 2019).

However, PNG is a country of considerable socio-cultural diversity and economic inequality. Though our research was conducted in major urban centres and towns, these locations are populated by migrants and visitors from rural areas, and we endeavoured to draw on any research or survey work done in the relevant provinces or locations. This research includes:

- » In a survey conducted in six provinces on perceptions of crime and safety, more than one-third of participants in Morobe Province indicated they or their family had experienced domestic violence in the past year (see Table 1). This was a higher proportion than in Oro, the Autonomous Region of Bougainville (ARB) or the National Capital District (NCD)/Central Province.

- » A 2009 survey in the NCD found that women were five times more likely to be victimised at home than on the street, and to be victims of violence perpetrated by men known to them, typically a partner or relative (LJSS 2009). Women also feel vulnerable working as market and street vendors in Port Moresby and using public transport (UN Women 2014).
- » In ARB, a survey of a stratified random sample of 1743 people aged 18 to 49 years (864 men and 879 women) was undertaken in 2012 and 2013 for the *Family, Health and Safety Study* (Jewkes et al. 2015). The survey found that intimate partner violence (IPV) was common: 85 per cent of males said they had perpetrated IPV and 75 per cent of women said they had experienced it; 32 per cent of men said they had perpetrated emotional abuse, 28 per cent women said they had experienced it; 29 per cent of men said they had perpetrated economic abuse, 23 per cent of women said they had experienced it; 19 per cent of men said they had perpetrated physical abuse, 22 per cent of women said they had experienced it.
- » In Western Highlands Province (WHP), FHI360 conducted family wellbeing surveys in 2014 and 2018. The 2018 survey showed that, in the previous year, the incidences of IPV reported by women in WHP included 38.5 per cent physical assault, 47.4 per cent being forced to have sex and 60.4 per cent psychological/emotional abuse (n=156). When comparing the 2014 and 2018 results, a positive finding was a decline in reported incidences of marital rape from 70.5 per cent of respondents to 47.4 per cent. Similarly, reports of being beaten by a husband or partner dropped from 50 per cent of women respondents<sup>5</sup> to 38.5 per cent<sup>6</sup> (FHI360 2019). Despite these positive signs, the statistics highlight the very high levels of violence and abuse towards women in the region.
- » A 2013–14 community survey in Jiwaka Province with more than 1000 participants revealed that women and girls experience multiple forms of violence, with the most common being wife beating, rape and sorcery accusation-related violence (in descending order) (VFC 2015).

**Table 1. Common types of crime respondent or his/her family experienced if said he/she or family had been a victim of crime in past 12 months, by key provinces (%)**

	ARB n=96	NCD/ Central n=79	Morobe n=93	Oro n=75
Alcohol-related crime	52.1	24.1	43.0	72.0
Damage to or stealing of property	26.0	25.3	24.7	37.3
Domestic violence	26.0	13.9	36.6	24.0

Source: PNG Perceptions of Crime and Safety survey (Sustineo 2018:71).

## Risk factors

The transformative effects of extraction industries, commoditisation, Christianity, Western models of justice and the law and biomedicine on PNG society (Jolly 2012) have resulted in highly visible inequalities between those who have and those who do not have economic and political power, as well as affected gender roles and gendered inequities. Women have more formal educational and employment opportunities nowadays, largely in urban settings, but it is almost exclusively men who hold formal positions of economic and political power. This is not to say that there are no women leaders, but they are found instead in community settings as well as some fields of service delivery and business. Many women also now have a degree of financial independence through table marketing and small business enterprises. However, women continue to experience a subordinate

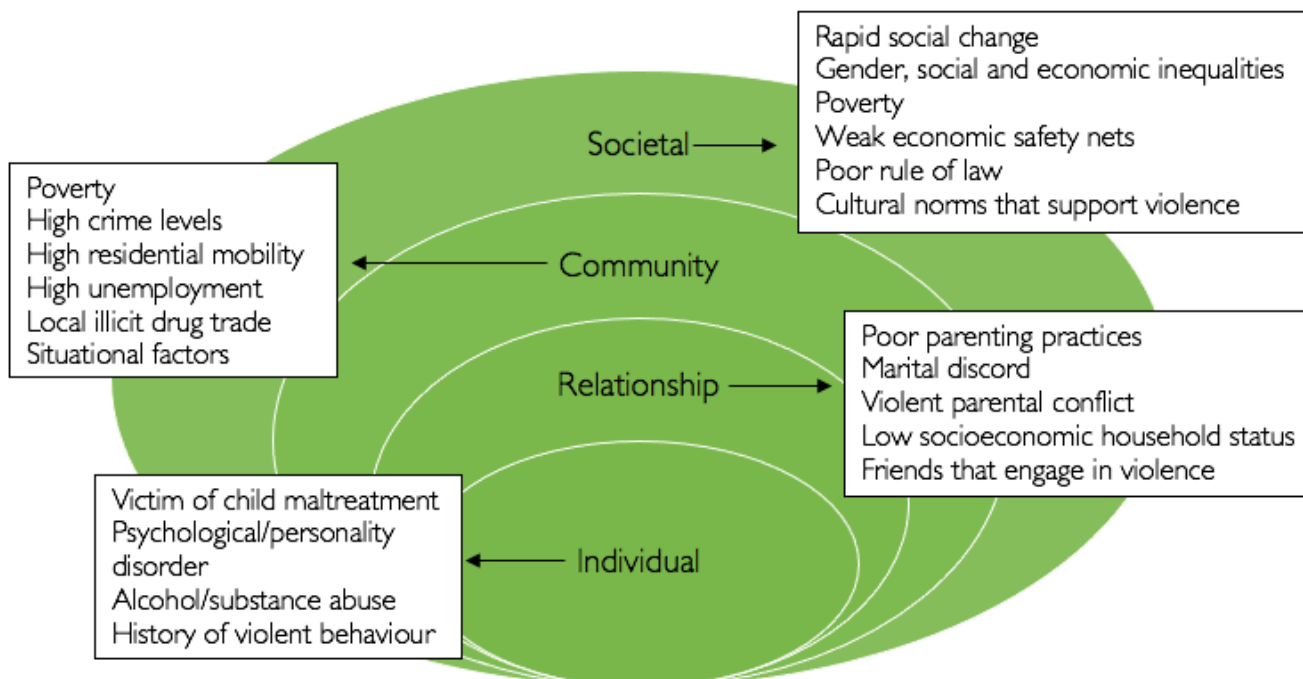


status. There are widely accepted views about the respective roles of husbands and wives within marriages and the right of the latter to mete out punishment in certain circumstances (Jolly 2012), and these arrangements involve and affect the extended family on both sides.

For example, a survey in Bougainville found that the majority of men and women felt that women should obey their husband, though less than half of the women believed a woman cannot refuse to have sex with her husband and that her husband has the right to punish her if she does something wrong (Jewkes et al. 2015).<sup>7</sup> In depth qualitative research identified men’s sense of entitlement as the key factor that explained DFV; this was evident in the way husbands used their earnings for personal expenditure and exhibited controlling behaviours motivated by sexual jealousy and/or the perceived failure of wives to satisfy their expectations (Eves et al. 2018). In Bougainville, as well as elsewhere, men’s alcohol consumption was widely regarded as escalating or exacerbating violence (ibid.).

Risk factors that contribute to DFV are captured by the socio-ecological framework adopted by the WHO (see Figure 1). In collectivist-oriented societies, the same factors can be both assets and risks. For example, family and extended kin networks can ostracise and place pressure on survivors, but can also be a source of support and sustenance. The pressures on women to endure abuse and neglect and not report it to authorities are worldwide in nature, but there are specific factors that make reporting abuse especially difficult in collective-oriented, low-income and patriarchal societies. In Bougainville, women revealed a strong sense of shame about being the victim of their husband’s physical violence, and none of the women interviewed ever reported their spouse to the police or accessed the law and justice system (ibid.:10).

**Figure 1. Risk factors: socio-ecological framework**



Source: Adapted from the diagram used by the WHO (2021).

## Barriers faced by survivors

As canvassed in a report on the earlier pilot study that helped inform this larger project (Putt et al. 2019), a range of factors militate against survivors accessing justice and support. In terms of the former, these include:

- » significant under-reporting of domestic, family and sexual violence to police
- » inadequate support for and representation of survivors during the criminal justice process
- » an under-resourced, biased, poorly skilled and inefficient justice apparatus and
- » widespread reliance on alternative (non-state) justice bodies and processes, including compensation and mediation.

To access justice, victims of domestic violence may complain or report to any number of entities, including local law and justice *komitis* (committees), Village Courts and police stations. Craig and Porter (2018) found that many women in Lae and Port Moresby urban settlements were dissatisfied with these options because the ways in which DFV complaints were dealt with often reinforced male dominance within the family unit and local law and justice institutions. In Jiwaka Province, the community survey showed that in the few instances where women did complain to the authorities, there were 'serious biases against women and girls in the deliberations and processes of the Village Courts system and in the law enforcement agencies, particularly the police' (VFC 2015:2).

Most evident in rural areas are local justice processes such as village or neighbourhood-based dispute management. In Port Moresby and Lae, recent research reveals that these processes and deliberations may not handle DFV matters in a way that helps the survivors (Craig and Porter 2018). In Jiwaka, the community survey highlighted how the focus is on the welfare of the family and the community, which may disadvantage the survivor:

***Overwhelmingly they are dealt with by the women's or girls' extended families or by the communities. Compensation is the usual procedure.***

***Importantly, in these situations of violence against women, the welfare of the women and girls is usually not the focus of the mediation or compensation processes. Instead, the welfare of the women involved may be considered secondary to the welfare of the family or community as a whole. (VFC 2015:2).***

In terms of access to support services, survivors may struggle to find an appropriate service and there may be significant costs and risks associated with approaching a service. Government services such as community development are poorly resourced and specialist women's/FSV services run by NGOs and funded by donors are thinly spread across the country.

### 1.3. Policy, program and service responses to DFV in PNG

At a national level, significant milestones have included the introduction of or amendments to legislation relating to FSV, such as the 2002 amendments to the criminal code that affected sexual offences and crimes against children. The Lukautim Pikinini Act 2015 (LPA) was then introduced in 2007, replaced in 2009 and again in 2015, and sought to improve the protection of children. The most relevant milestone to this study, and a real watershed, was the FPA in 2013, which created a specific domestic violence offence and a civil regime of FPOs. This is discussed further in subsequent sections.

The National Strategy to Prevent and Respond to Gender Based Violence 2016–2025 includes a parliamentary committee and a national secretariat to oversee and support efforts to tackle gender-based violence (GBV).

However, to date, no dedicated government resourcing appears to have been allocated to the strategy. Instead, much of the funding to improve responses to GBV has flowed from the donor sector and aims to:

- » strengthen and improve the justice response to violence against women and girls
- » improve support for survivors through specialist services, advocacy and referral networks and
- » prevent violence against women and girls through community education and public awareness campaigns.

In practice, this has meant a myriad of initiatives and a not necessarily coordinated approach to capacity building, with multiple programs delivering training and awareness for justice-sector practitioners and professionals. Specialist FSV positions and units have also been created within the formal justice sector, such as the FSVUs in the police, the Family and Sexual Offences unit in the Office of the Public Prosecutor and Family Support Centres (FSCs) in the health sector (see Putt and Dinnen 2020a). A patchwork of non-government and faith-based organisations run FSV services in various forms and with varying levels of skills across the country and are very much dependent on precarious funding sources. There has also been a concerted effort to educate the community about GBV, including through a national free information and counselling telephone line (the I-Tok Kaunselin Helpim Lain (Telephone Counselling Help Line)) and a range of media, much of it generated by the national FSVAC.

#### **1.4. Current service provision and the justice system**

At a cumulative level, a recent evaluation found evidence of improved access to justice for women in PNG compared with a decade ago (ODE 2019). However, across the country, government service delivery is frayed and uneven, and the justice system slow and under-resourced. The national and provincial capitals are hubs of service delivery, both in terms of justice services such as the District Courts and substantial police stations as well as social welfare and health services. It is in these locations that survivors have the best access to support and the option to pursue civil protection and criminal complaints. Considerable work has gone into building referral networks and facilitating coordination through provincial FSVACs, but most of this effort is centred in the urban centres.

Quite distinct pictures of service availability and responsiveness emerged in each of the research sites.<sup>8</sup> Similarly, a diverse array of actors may reflect views that do not necessarily support a victim reporting DFV to the police or other authority figures, which does not result in a systemic response that supports the prosecution of the perpetrator. Again, much depends on location. Local community and church leaders and politicians can be very conservative, but, in some contexts, community organisations and coalitions exist that assist survivors and lobby for change. In addition, aid funding contributes to variations by organisation and location.

This is where training and awareness raising on FSV and the FPA is more likely to occur. For example, for the past five years JSS4D has focused its support on Northern, Western, Gulf, Hela, Morobe and Southern Highlands provinces, including the ARB. In these target provinces, significant investments have been made in training Village Court officials, provincial and district administration staff, frontline police and FSVU officers, CSO representatives, DFV service providers, women, youth and community leaders on the FPA and IPOs, promoting gender equality, addressing DFV, human rights and law and order. Coordination between formal justice agencies and civil society organisations, including those providing DFV-related support services, has also been strengthened through support for sub-national bodies such as the Provincial Coordinating and Monitoring Committees and Law and Justice Working Groups/Committees. These committees play a critical role in coordinating and implementing DFV awareness and training activities at the provincial and district levels.

In the past eight years, Pacific Women has funded violence prevention and response activities in 16 provinces. In the 2019–20 financial year, 60 per cent of their projected \$12.66 million expenditure was committed to achieving the program's 'Violence Prevention and Response' outcome.

## 1.5. Family Protection Act (FPA)

PNG's FPA was passed by parliament in 2013 and certified in March 2014. The purpose of the Act is to:

1. provide an offence for domestic violence
2. establish a regime for FPOs
3. preserve and promote harmonious family relationships and
4. prevent and deter domestic violence at all levels of society (FPA 2013:1).

Family protection regulations were passed in 2017 and provide more detail on procedures and forms. Guidance notes for the FPA were published by the Department of Justice and Attorney General (DJAG) in 2017.

Before the FPA was introduced, though there was no specific domestic violence offence, there were (and still are) a number of violent and sexual offences that a DFV offender could be charged with (see Putt and Dinnen 2020a for a list). Likewise, before the introduction of FPOs under the FPA, other types of restraining orders were (and still are) available under the District Court and Village Court Acts.

The FPA defines domestic violence and makes it a criminal offence to commit an act of domestic violence or breach an FPO. The Act provides a comprehensive list of actions that constitute domestic violence when committed against a family member. The definition of family member in the FPA includes various relationships (spouse, child, step-child, parent, parent-in-law, grandparent, sibling, sibling-in-law) as well as 'any other person who is treated by the spouse as a family member'. The term spouse covers heterosexual relationships where the couple is or has been married, is living or has lived together in a marriage-like relationship or where an individual is a biological parent of a child with another person (whether or not they are or have been married or live or have lived together). Spouse does not cover casual or boyfriend/girlfriend type relationships (unless they have had a child together).

The acts that constitute domestic violence include assault, psychological abuse, harassment, intimidation, sexual abuse, stalking, offensive behaviour, damaging property and threats of assault, sexual abuse or property damage. The regulations provide further definitions for assault, psychological abuse, stalking and sexual abuse.

The guidance notes explain that serious sexual offences and major physical injury can be pursued through offences under the Criminal Code Act 1974 and advise police to carefully consider which legislation to use when laying charges. The document also notes that although single acts may appear minor or trivial, they may amount to a pattern of behaviour that would be considered domestic violence (DJAG 2017:7).

The maximum penalties under the FPA are as follows:

- » Domestic violence offence (s6): fine up to K5000 or up to two years in prison, or both.
- » Breach of IPO or PO conditions (s20): Fine up to K10,000 or up to three years in prison, or both.

District Courts sit in their criminal jurisdiction while they hear matters related to domestic violence offences or FPO breaches. They sit in their civil jurisdiction when conducting FPO hearings (IPOs or POs).

Village Courts can also grant IPOs (see Division 3 of the FPA); however, the regulations clarify that only District Courts can grant POs.

## 1.6. Family protection orders (FPOs)

The FPO regime established by the FPA includes two types of orders: interim protection orders (IPOs) and protection orders (POs). IPOs and POs offer the same level of protection and only vary in terms of duration (DJAG 2017:9). This section explains how FPOs work. The information is taken from the FPA, family protection regulations and DJAG guidance notes.

## Duration

IPOs and POs commence at the time the order is served on the respondent. IPOs remain in force for up to 30 days and can be renewed once for a further 30 days (FPA s14(2)). POs remain in force for the period specified in the order, which can be up to two years. If no period is specified, the PO remains in force for six months (FPA s19). IPOs and POs can be revoked, renewed or varied by a District Court.

## Process

An IPO application can be made to a Village Court or District Court. No fees are payable to the court in relation to FPOs (FPA s25). The Family Protection Regulation 2017 includes 11 forms relating to FPOs. They are:

- » Form 1. **Authorisation to apply for an IPO or PO** — used when someone else is completing the application on behalf of the complainant
- » Form 2. **IPO application** — used by complainant to apply for an IPO at a Village Court
- » Form 3. **IPO** — used by a Village Court to issue an IPO (order template)
- » Form 4. **IPO application** — used by complainant to apply for an IPO at a District Court
- » Form 5. **IPO** — used by a District Court to issue order (order template)
- » Form 6. **PO application** — used by complainant to apply for a PO at a District Court
- » Form 7. **PO** — used by a District Court to issue a PO (order template)
- » Form 8. **Application to extend, vary or revoke an FPO** — used by complainant to apply to vary, extend or revoke an IPO or PO
- » Form 9. **Counselling report** — used by a counsellor to report if counselling was conducted, is not considered appropriate or parties failed to attend
- » Form 10. **Mediation report** — used by a mediator to report if mediation was completed, is not considered appropriate or parties failed to attend, or the outcome of mediation and
- » Form 11. **Referral of a Village Court IPO for enforcement** — used by a Village Court magistrate to notify a District Court of an alleged breach of an IPO.

An application can be done in writing using the appropriate forms and with the District Court, the form needs to be accompanied by a completed summons upon complaint and an affidavit in support of the application. If the application is made orally, the court clerk or Village Court or District Court magistrate must convert it to a written application. If the complainant is unable to appear in court, someone may apply on their behalf but must complete Form 1.

An IPO can be granted where the court believes on reasonable grounds and based on the balance of probabilities that the complainant is in danger of any form of domestic violence. The respondent does not have to be in court. The District Court can grant a PO on its own initiative if criminal matters are being heard or the defendant has been found guilty of offences where domestic violence is involved.

The IPO commences from the time it is served on the respondent. If issued by the District Court, the IPO will be accompanied by a summons to the respondent informing him or her of a date to appear in court to respond to the complaints against him or her. A summons should be served at least 72 hours before the appointed time of the hearing. If the respondent is not present in court, the court can still hear the matter as long as the summons has been served or all reasonable efforts have been made to serve the summons.

Conditions that can be imposed in both IPOs and POs are specified in sections 8–10 of the Act. These conditions can stipulate that the respondent be of good behaviour to protect the complainant and other family members, prohibit contact and/communication between the complainant and respondent, prohibit the respondent from being in or near specified premises, grant the complainant exclusive occupancy to a residence, direct the return of property and prohibit the damage of property.

Under section 11, the court may direct either or both the complainant and the respondent to participate in counselling, mediation or both. The regulation specifies that both parties must consent and the court is satisfied that attendance will not jeopardise the safety of the complainant and other family members. If counselling is ordered, the clerk of the court is responsible for making the arrangements. Mediation can be performed by the District Court or Village Court magistrate or a neutral person. A non-judicial mediator has to report back to the court within 14 days. Mediation can be used to determine any compensation that needs to be paid. The court can order a respondent to pay a complainant compensation when the complainant has suffered personal injury, damage to property or financial loss as a result of domestic violence.

If an IPO made by a Village Court is breached, the complainant may apply to a District Court to enforce the order. The District Court has to satisfy itself that the Village Court acted appropriately, that the IPO was justified and that it was breached before it is able to make a determination. With breaches of IPOs and POs, the complainant can go directly to the police and have the respondent arrested and charged or make an application to enforce the order in the District Court. The complainant is required to submit a copy of the IPO or PO, an information form (Form 16), a summons upon information (Form 17) and an affidavit in support of the application. The court cannot hear the matter until an affidavit of service of the summons on the respondent is provided.

## 1.7. Approach to the project

The pilot study indicated an increase in IPO applications after the regulations were issued, at least in Lae (Putt et al. 2019). The purpose of the larger study was to see what impact the availability of FPOs has had in other locations.

It was very much a collaborative research effort involving two ANU researchers based in Australia, two PNG academics and 10 of their students and at least nine local researchers spread across the sites. In some locations, the staff of FSV specialist services — Femili PNG in Lae, VFC in Minj and FHI360 in Mount Hagen — conducted interviews with survivors. The project would not have been possible without the assistance and support of these key NGO services and the NCR in Bougainville. The contributions of the many members of the research team are acknowledged in the video titled *The Use and Efficacy of Family Protection Orders in Papua New Guinea, Part 1: The Research Process*.<sup>9</sup>

The cooperation and support of key government agencies was also crucial to the conduct of the project. Letters were sent to the heads of various organisations such as the Royal Papua New Guinea Constabulary and the Chief Magistrate explaining the project and its objectives.

Approval to undertake the project was granted by the PNG Science and Technology Secretariat on behalf of the PNG Science and Technology Council. The ANU Human Research Ethics Committee reviewed the project proposal to ensure adherence to ethical practices. It was an applied research project with a stated commitment to produce and disseminate findings that would be useful and relevant to key stakeholders.

PNG is a challenging environment in which to conduct research, and it is a testimony to the care and commitment of the team members that so much was achieved. There were, of course, limitations. There were no robust administrative data sets to draw upon, nor were there the resources to apply rigorous sampling frames for the

interviews and surveys — but this should not detract from what was achieved. There was also the need to be flexible, as in the second half of the project the COVID-19 pandemic and the state of emergency introduced to combat it disrupted the original project plan and approach. For example, the initial project timeline was May 2019 to July 2020, but due to a later start date (October 2019) and the difficulties of conducting interviews during the state of emergency restrictions in 2020, primary research was not completed until August 2020.

## 1.8. Methods

### Framework

The main aim of the project was to investigate the expectations, use and efficacy of FPOs and to determine whether they are providing timely and effective protection for victims of domestic violence. The secondary aim, related to the overall objective, was to assess the processes associated with obtaining FPOs and the response when orders are reported as breached. A further underlying objective was to build research capacity and experience in PNG. Similar to the pilot study, but conducted in more locations and with a broader remit, the project was guided by the following key research questions.

#### Key research questions

- » What do the complainants want when seeking protection orders and what do they expect as a result of being issued an interim or full protection order?
- » How is the process being conducted?
- » How many orders are being granted and are they meeting the needs of complainants?
- » Are the conditions of the orders being respected? If not, are they being breached? What are the consequences of breaches?
- » How are IPOs and POs actually being used by complainants to try to ensure their safety?
- » What are the practice changes reported by District Court and Village Court officials relating to FPOs?

Five original research sites were agreed with Pacific Women and JSS4D, but the number was expanded to seven due to opportunities that arose to include nearby locations. The locations of the seven sites — Port Moresby, Lae, Popondetta, Arawa, Buka, Minj and Mount Hagen — span the ARB, the NCD and the provinces of Morobe, Oro, Jiwaka and Western Highlands (see Figure 2).

Figure 2. Locations of research activity



Source: CartoGIS Services, CAP, The Australian National University 2020.

A range of research methods were employed during the project, including:

- » a survey of 180 young adults in Port Moresby and Lae
- » 211 interviews with 118 IPO applicants across the seven sites
- » meetings and interviews with at least 140 stakeholders across the seven sites
- » observations in two District Courts and the Family Courts in Lae and Port Moresby and
- » the collation of justice and client statistics in each of the seven sites.

More is said on each of these in the following sections.

### Survey of young adults

Led by two PNG academic members of the research team, Dr Francis Essacu at the Papua New Guinea University of Technology in Lae and Ms Geejay Milli at the University of Papua New Guinea, a survey of young adults was conducted in Port Moresby and Lae towards the end of 2019 and in early 2020. Titled Attitudes and Perceptions of Domestic Violence, and Knowledge of the Law and Services, the survey had 20 questions divided into five sections on perceptions of DFV, attitudes towards gender and violence, knowledge of PNG family violence law and FPOs and sources of help for victims.<sup>10</sup>



There were three interrelated questions that guided the development of the questionnaire:

- » What are the attitudes towards and perceptions of DFV among young adults?
- » What is their knowledge of the law and POs?
- » What kind of services are they aware of and likely to recommend to survivors of DFV?

Most of the survey questions were multiple choice. In both locations, the fieldwork teams sought to interview a cross-section of young adults aged 18 to 30 years. In Port Moresby, young adults were also invited, primarily through social media, to participate in an online version of the survey. Irrespective of whether the interviews were face to face or completed online, it was made clear that participation was entirely voluntary and confidential. Information about DFV or relevant services was also made available to participants.

In Port Moresby, the research teams led by Ms Milli undertook 98 face-to-face interviews, initially approaching young adults in public locations and subsequently through snowball sampling of local households and friends. The interviews were conducted over two time periods — October 2019 and March 2020. Twenty-four young adults completed the survey online. The first research team included three students, while the second included two.

In Lae, a research team of five led by Dr Essacu conducted face-to-face interviews in October 2019 with 58 young adults in a cross-section of locations across the Lae metropolitan area.

There are limitations to the survey. As the results indicate, a disproportionate number of participants were tertiary students. It was also a huge challenge to complete robust sampling of the target population in a complex and often risky and potentially unsafe environment such as Port Moresby or Lae. As such, the approach and modalities varied somewhat between the locations. However, it should be stressed that an underlying objective of the survey was to give tertiary students the opportunity to be involved in a study and apply the skills they had been taught. Given that no survey on this topic had been done in PNG before, let alone with young adults, and the limited resources available, the research teams achieved a lot in managing to complete the survey with a total of 180 participants<sup>11</sup> and produce results that can inform future research and community education with young adults.

Table 2 presents the main characteristics collected about the participants. In response to the question about their current place of residence, 66.3 per cent said Port Moresby and 33.7 per cent said Lae. The age range of participants was 17 to 37 years, with an average age of 24.2 years and the majority aged in their twenties. Six were aged in their thirties, though we had aimed to collect responses from those aged 30 and under; and nearly one-fifth were under 21 years (n=31, 17.2 per cent). Slightly over half were females (51.7 per cent) and 48.3 per cent were male. In terms of the province where they mostly grew up, 20.1 per cent said the NCD, 18.4 per cent said Morobe and 10.1 per cent said the Western Highlands. The rest were from a wide range of provinces. The most common completed educational level was a university degree (32.2 per cent), followed by grade 11–12 (26.7 per cent) and college (15.6 per cent). More than one-third (40.2 per cent) were currently tertiary students and almost one-fifth (17.3 per cent) were in full-time work. The most common relationship status was single (48.3 per cent), followed by married (22.8 per cent), in a relationship or de facto relationship (16.6 per cent) and divorced/separated (11.1 per cent).

**Table 2. Key characteristics of participants**

<b>Current place of residence</b>	Port Moresby	66.3%
	Lae	33.7%
<b>Age</b>	Range	17–37 years
	Average	24.2 years
<b>Sex</b>	Female	51.7%
	Male	48.3%
<b>Province where mostly grew up</b>	NCD	20.1%
	Morobe	18.4%
	Western Highlands	10.1%
	Other provinces	51.4%
<b>Completed educational level</b>	University degree	32.2%
	Grade 11–12	26.7%
	College	15.6%
	Other categories	25.5%
<b>Current occupation</b>	Tertiary students	40.2%
	Full-time work	17.3%
	No work/looking for work	12.8%
	Other categories	29.7%
<b>Relationship status</b>	Single	48.3%
	Married	22.8%
	In a relationship or de facto	16.6%
	Divorced/separated	11.1%
	Other	1.2%

Source: *Young Adults' Attitudes towards and Perceptions of Domestic Violence and the Law Survey*.

Further information about the survey and its results can be found in the separate research paper titled *Domestic Violence, the Law and Related Services in Papua New Guinea: A Survey of Young Adults in Port Moresby and Lae* by Judy Putt, Geejay Milli and Francis Essacu.

### Interviews with IPO applicants

The original plan was to interview IPO applicants in each of the sites and then conduct three follow-up interviews two, four and eight weeks after the initial interview. The reason for this was to gain a more accurate account of what happens after an IPO application is made as well as the immediate effects of each of the processes on the applicants. As has been demonstrated elsewhere, survivors' perceptions of safety and justice can alter over time depending on circumstances and their experience with the system (eg. Holder 2018). However, a number of factors militated against continuing with this method. Firstly, in some places the volume of IPO applications going through the court was low and not generating enough applicants to approach. Secondly, it was often difficult to conduct follow-up interviews, even by phone, as the following outlined attrition rate shows. Thirdly, and most significantly, the state of emergency restrictions resulted in the closure of the District Courts; only in exceptional circumstances were IPO matters being heard.

The decision was made to replace the original interview instruments with one questionnaire that could be used to interview people who had applied for an IPO in the past year. The end result was that two samples were generated, with some overlap in the questions asked of both samples.

Conducted from November 2019 through August 2020, the surveys resulted in a total of 211 interviews with 118 participants. The two samples were:

- » **Sample A:** Sixty-one participants who had applied for an IPO in past year or so. The interviews were conducted in four locations — Lae (n=24 participants), Minj (n=16), Bougainville (n=13) and Mount Hagen (n=8).
- » **Sample B:** Fifty-seven participants completed a first interview at the time of the IPO application; 46 did a second interview; 24 a third interview; 23 a fourth interview. The interviews were conducted in four locations — Popondetta (n=20 participants), Port Moresby (n=20), Lae (n=10) and Bougainville (n=7).

At least nine out of ten interviews (94%) were conducted face to face when Sample B's first interview and Sample A interviews are combined. With Sample B interviews, the proportion that were face to face declined with each subsequent interview — the first interview 98.2% per cent, second interview 70.0 per cent, third 66.7 per cent and fourth 43.5 per cent. This was the intention, as it was more convenient to conduct follow-up interviews by phone once rapport had been established during the initial interview.

**Table 3. Number of IPO applicant interviews by location**

	Port Moresby	Lae	Popondetta	Bougainville (Buka and Arawa)	Mount Hagen	Minj	Total
Sample A (only one interview conducted)	0	24	0	13	8	16	61
Sample B							
First interview	20	10	20	7	0	0	57
Second interview	18	7	20	5	0	0	50
Third interview	6	0	15	3	0	0	24
Fourth interview	5	0	15	0	0	0	20

As Table 3 shows, the Popondetta and Port Moresby interviews were completed as originally planned, while in Minj and Mount Hagen interviews were only done with those who had applied in the past year or so. Both types of interview were conducted in Bougainville and Lae.

Despite these differences across the locations, there were commonalities across the two samples. These included the participants' average age and level of English literacy, the number of participants who had children living with them and the average number of children and the participants' source of income at the time of either their first or only interview (see Table 4). There were noticeable differences between the two samples in relation to the participants' locations of current residence at the time of interview, current living arrangements, age range and whether the participant was living with a spouse (see Table 4). Sample A, where the interviews were conducted in Lae, Bougainville, Mount Hagen and Minj, was more likely to be not living with their spouse. With Sample B, 28.1 per cent were staying in a safe house, compared with 8.3 per cent of Sample A, at the time of interview. Sample A were more likely to be living in a village.

Table 4. Key characteristics of the two samples of IPO applicants

	Sample A	Sample B	Total
<b>Number</b>	61	57	118
<b>Face to face</b>	89.8%	98.2%	94%
<b>Age range/average (years)</b>	Range: 21–49  Average 36.1	Range: 18–60  Average: 34.4	Range: 18–60  Average: 35.2
<b>Read and write English not well/not at all</b>	33.3%	29.8%	31.6%
<b>Have children at home</b>	88.3%	91.2%	89.7%
Average number of children	2.7	2.9	2.8
Included adult children	12	12	24
<b>Location of current residence</b>	n=61	n=57	n=118
1. Town	13.1%	29.8%	21.2%
2. Settlement	29.5%	31.6%	30.5%
3. Village	55.7%	24.6%	40.7%
4. Other	0	5.3%	2.5%
5. Don't know	1.6%	8.8%	5.1%
<b>Current living arrangements</b>	n=60	n=57	n=117
1. At home with respondent	36.7%	31.6%	34.2%
2. At home, with family/relatives	25.0%	15.8%	20.5%
3. Left home, with family/relatives	13.3%	19.3%	16.2%
4. Safe house	8.3%	28.1%	17.9%
5. Other	16.7%	5.3%	11.1%
<b>Current source of income</b>	n=61	n=57	n=118
1. Marketing and/or gardening	55.7%	52.7%	54.2%
2. Salary/wages	26.2%	29.8%	28.0%
3. Husband/relatives/none	16.4%	15.8%	16.1%
4. Don't know	1.6%	1.7%	1.7%
<b>Currently has a husband/wife</b>	n=60	n=56	n=116
1. Yes, living with him/her	43.3%	51.8%	47.4%
2. Yes, but not living with him/her	50.0%	41.1%	45.7%
3. No, divorced or died	5.0%	3.6%	4.3%
4. Never had one	1.7%	3.6%	2.6%

In total, the overwhelming majority of participants were women (96.6 per cent). Participants ranged in age between 18 and 60 years, with an average age of 35.2. Just under one-third (31.6 per cent) said they could read and write English not well or not at all. The majority had children living at home (89.7 per cent), with an average of 2.8 children per participant. Of those with children, 24 participants had at least one adult child. More than half were living in a town or an urban settlement, with the rest primarily resident in a village. One-third (34.2 per cent) were living at home with the respondent and one-fifth were at home but with family and/or relatives (20.5 per cent). Just over a third had left home, with half of these staying with family and/or relatives

and the rest in a safe house. Almost all of the participants had a husband/wife, with an equivalent proportion either living with or not living with him/her.

## **Interviews and meetings with key stakeholders**

Across the seven locations, meetings and interviews were held with at least 140 stakeholders during field visits by either ANU or local researchers. These consultations built on both the knowledge of the local researchers and partner NGOs (Femili PNG, FHI360 and VFC) and the past experience of the university-based researchers in PNG and Australia. A cross-section of government and NGO services assisted in each location, including police, District Court magistrates and staff, FSCs, safe houses, Department for Community Development and Religion officers, the Office of the Public Solicitor and so forth. In the non-government sector, various church-based organisations were involved in health and social services including Mercy Works, the Salvation Army, Anglicare and NCR. National and provincial public servants were also consulted, along with advisers such as the Australian Federal Police, the New Zealand police, JSS4D and those engaged as lawyers in the justice system.

## **Court observations**

In the Lae pilot study (Putt et al. 2019), observing the proceedings of the District Court when IPO and PO matters were listed was found useful to better understand the process in action. For this project, members of the research team observed proceedings in two Port Moresby courts and one Lae court. Permission was granted by the Chief Magistrate to attend and observe the Family Court<sup>12</sup> in Port Moresby, as this is the only dedicated family court in the country and plays a lead role in dealing with FPOs in the NCD. From January to March 2020, a total of 33 court hearings were observed by research team members — 16 at the Waigani District Court, 14 at the Family Court in Port Moresby and three at the Lae District Court.

## **Justice and client statistics**

In each location, police and District Court data was sought on IPO applications, PO conversions and breaches. It has been well-documented that service and justice statistics are often maintained on an ad hoc basis and not easy to access (Putt and Dinnen 2020a). For this project, the most useful statistics were from the FSVUs and District Courts, as well as several key FSV specialist services. FSVUs are expected to record their activities and the outcomes in accordance with templates, but the monthly statistics are not necessarily sent to the national office; even where they are, they are not always entered into a database. The Magisterial Service of PNG has a reasonable, though increasingly outdated, electronic case management system. However, the collection of statistics on IPOs and other key information is only completed on a monthly basis by the IPO clerk. Most data was sourced from local services in each location. Tables 5 and 6 provide summaries of the types of data and periods covered by location.

Table 5. Key justice data by source and location

Source	Port Moresby (PM)	Lae	Popondetta (Pop)	Arawa	Buka	Mount Hagen (MH)	Minj	National
<b>Police FSVU*</b>	Boroko, Gordons, Waigani FSVUs Number and type of matters, outcomes/status 2018–19	Lae central FSVU Number and type of matters, referrals, outcomes/status June 2015–July 2019 variable number of months	Pop FSVU, Number of IP and PO matters, breaches 2017, 2018, Jan–May 2019	Arawa FSVU 2011–19 Number and type of matters, outcome/status etc.	Buka FSVU 2017, 2018, Jan–April 2019 Reported cases by outcomes/status			
<b>District Court (DC)</b>	Boroko, Waigani, PM DC, NCD Family Court IPOs granted, 2018 FPO cases by outcomes, NCD Family Court, Jan–June 2019	Lae DC IPOs and POs granted, 2017, 2018 and 2019	Pop DC, number of IPOs registered 2017, 2018, 2019, Jan–March 2020	Arawa DC, Number of IPOs registered 2019	Buka DC IPOs and POs registered and granted, 2018, 2019	MH DC, IPO and PO outcomes, Jan–Sept 2019	Minj DC IPOs registered and completed 2019	Number of IPOs registered, by province and by court 2018
<b>Legal Training Institute</b>	Number and type of cases, 2018							

\*FSVU data in Port Moresby, Lae and Bougainville was obtained for a separate project on FSV offences (see Putt and Dinnen 2020a).

Table 6. Key client data by source and location

Source	Port Moresby (PM)	Lae	Popondetta (Pop)	Arawa	Buka	Mount Hagen (MH)	Minj	National
<b>FSC</b>					Buka FSC 2017, 2018, Jan–June 2019 Type of cases, referrals	MH FSC, number and type of incidents, 2012–18, Jan–Nov 2019		
<b>Femili PNG</b>	Number of clients granted IPOs and POs 2018–19, 2019–20	Number of clients granted IPOs and POs, 2014–15 to 2019–20						
<b>NCR</b>				Safe house number of clients, ARB, 1/4/15 –31/3/19	Safe house number of clients, ARB, 1/4/15 –31/3/19			
<b>I-Tok Kaunselin Helpim Lain</b>								2019–20 number of calls

## 1.9. This report

This introductory chapter has discussed the high rates of DFV in PNG and efforts to address and prevent the abuse and violence, including the National Strategy to Prevent and Respond to Gender Based Violence 2016–2025. A key legislative reform was the introduction of the FPA, which created a specific criminal offence for domestic violence and the civil regime of FPOs. Given the difficult environment, it was not certain whether the FPOs would improve DFV survivors’ access to justice and protection. Over the past year, the research project has employed mixed methods involving local researchers and collaborating partners to assess whether the orders are being used and contributing to better outcomes for survivors. Research was undertaken in seven locations across PNG, in both urban centres and towns. This chapter gave a brief description of the key methods used, particularly the survey of IPO applicants across the research sites and the survey of young adults in Port Moresby and Lae. As far as we are aware, neither group has been surveyed in this way and on this topic before in PNG, and the experiences and perceptions of the IPO applicants were especially informative and helped shape the report’s findings.

The next two chapters present findings based on integrating the evidence that emerged from the project’s collective activities. The second chapter presents the available data on the number of orders being issued and the key stages of the process. The views of IPO applicants and stakeholders, as well as court observations, provide a more detailed perspective on how well the FPO regime is working. The third chapter concentrates on whether the orders are having any impact, and if that impact is having an effect on individuals, local service providers, communities and the general public. The final chapter summarises the implications of the findings and provides seven key conclusions, as well as the recommendations that flow from these conclusions.

For further background and information on the research, additional theme papers are available online<sup>13</sup> and site-specific reports are available from the authors on request.

Mount Hagen police station  
Source: Judy Putt





# CHAPTER 2. IMPLEMENTATION

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## 2.1 Introduction

In the first few years after the FPA was enacted, several research and evaluation reports highlighted that there was limited uptake of the FPOs, and therefore access to protection. An evaluation of the FSVUs reported that only a fraction of cases were being dealt with via an IPO application or referral, and that the process to obtain an IPO was too difficult and time-consuming (GHD 2015). Both this evaluation and another research report in the same year refer to widely varying practices and fees among police, as well as Village Courts and medical services (GHD 2015; HRW 2015). Inconsistent and not necessarily helpful responses by police to complainants' requests for assistance and breaches of orders were also deemed problematic (Hameed et al. 2016). However, in Lae at least, by 2018, the data revealed increasing numbers of applications and a timelier process (Putt et al. 2019).

This chapter focuses on the accessibility and issuing of FPOs in a wider array of settings in 2019–20, as well as the process involved. It summarises the project findings in relation to:

- » awareness of FPOs
- » referral pathways for FPOs
- » applying for an IPO
- » the issuing of orders
- » conversions to POs
- » observations on processes in District Courts and
- » parallel or additional processes.

## 2.2 Awareness of FPOs

There are clear indications that more people are aware of FPOs now compared to five years ago. In 2018, nearly one-fifth of respondents (19.8 per cent) to a large-scale crime and safety survey said they were aware of IPOs or POs, while almost 80 per cent said they were not. An earlier large-scale survey in 2015 had slightly different wording, asking whether the respondents knew about IPOs or POs, as well as a different sampling frame, but the results indicated that only 6.6 per cent said they knew and 85 per cent said they did not (Sustineo 2018).

The 2018 survey revealed that an almost equivalent proportion of males and females<sup>14</sup> reported being aware of IPOs or POs, but there were considerable differences in levels of awareness between provinces. Table 7 presents the results for four of the six provinces in which the survey was conducted, as these were provinces in which our study was done. ARB had the highest proportion of participants aware of IPOs or POs (29.7 per cent) followed by Oro (25.6 per cent). These awareness levels may have been boosted by training and awareness raising, as both ARB and Oro are JSS4D priority provinces. In the provinces with the country's largest urban centres, Lae and Port Moresby, approximately one in five of the participants were aware of IPO and POs .

Table 7. Awareness of IPOs or POs in ARB, NCD/Central, Morobe and Oro in 2018 (%)

	ARB (n=234)	NCD/ Central (n=51)	Morobe (n=55)	Oro (n=70)
Yes	29.7	18.9	20.5	25.6
No	70.3	79.6	79.5	74.5
Don't know/no answer	0.0	1.5	0.0	0.0

Source: Sustineo 2018.

Undertaken in 2019 and early 2020, our survey of young adults in Lae and Port Moresby revealed a higher level of awareness. Nearly one-third (30.6 per cent) of participants said they were aware of IPOs and POs, with a similar proportion of males (31.4 per cent) and females (30.1 per cent) saying they were aware of IPOs and POs. A higher proportion of the total sample said they were aware of the FPA (50.8 per cent), and a very high number (91.6 per cent) were aware that there was a specific crime called a domestic violence offence (see Table 8).

Table 8. Knowledge of the Family Protection Act 2013 and its provisions (%)

	Yes	No	Don't know
Family Protection Act 2013	50.8	36.9	12.3
Specific crime called a domestic violence offence	91.6	5.6	2.8
IPOs or POs	30.6	52.8	16.7
Disobeying an IPO/PO is a crime*	33.3	11.9	54.8

Source: Young Adults' Attitudes towards and Perceptions of Domestic Violence and the Law Survey.

\*Only 168 respondents answered this question. Fifty-five respondents indicated that they had heard of an IPO/PO, while 56 said they knew it is a crime to disobey a condition of the order.

n=178-80

For some (20 per cent), this knowledge was based on knowing someone who had applied for an order; while a few had direct experience as an applicant or respondent. Of participants who knew someone who had applied for an order and had heard about its efficacy, almost twice as many thought it was helpful compared with those who believed it was not. Women were more likely to know someone who had applied for an IPO or PO, and those who did were more likely to say the order was unhelpful.

Many responses to an open-ended question asking what participants thought IPOs or POs do suggested a basic or general understanding of the orders. Most of the 52 respondents referred to protection, but only a minority had a clear understanding of the basis of the orders and referred to the legislation. One woman referred to her direct experience:

***Protection order worked for me. It protected me against my husband bashing me up. When my husband was restrained from beating me, he obeyed the law and now I'm at peace. IPOs are there to protect either men or women from violence, abuse and others.***

In some cases, the orders were viewed as only applying to, or favouring, women. Seven of the 25 women believed the orders only applied to women and children, while nine of the 27 men believed they only applied to women and children. A man who had an IPO issued against him was not happy about it. As he explained:

***POs protect women and children. I wonder if it protects men too. My wife committed adultery yet got a PO against me to get our children from me. Looks like it worked for her only even though I put my case forward. My wife is using IPOs to bully me. I feel it works unfair in this sense. She was guilty in court for adultery yet got POs on me.***

Another man clearly felt that the orders favour women:

***It is an order that protects the weak and abused. But women nowadays are using this as a safe haven for them to cover up for their wrong and putting innocent men as guilty ones. This order has become bias for listening to women over men and not getting both sides of a story.***

The 2018 survey indicated that the main ways in which respondents heard about IPOs or POs differed somewhat by province (Sustineo 2018). In the NCD/Central, Morobe and Oro, a friend or family member was the most common source, with 51.0 per cent, 50.9 per cent and 40.0 per cent of respondents nominating this category, respectively. The police were the next most common source, cited by 45.1 per cent, 29.1 per cent and 38.6 per cent of respondents in each province. In ARB, the police were most common (52.5 per cent), followed by a friend or family member (48.8 per cent). Respondents in Oro were significantly more likely than those from other provinces to nominate the newspaper, radio, social media and NGOs.

Our interviews with IPO applicants show that they are more likely to hear about the orders from the police (including FSVUs), followed by a specialist FSV service and family or friends (see Table 9). Ninety-nine people answered the open-ended question. According to the responses, the woman or man may have been referred to one or more services before being told about the orders. Clearly, in locations where an FSV specialist service exists, such as Femili PNG in Lae and Port Moresby and Voice for Change in Minj, these services provide crucial information about the orders and the process. The police, including FSVUs, operate in all of the sites and have a vital role in informing survivors about the option of taking out an IPO.

**Table 9. Where IPO applicants heard about IPOs (number and %)**

	Number	%
<b>Specialist FSV service</b>	19	19.2
<b>Police (including FSVUs)</b>	23	23.2
<b>Family Support Centre (and other health services)</b>	12	12.1
<b>Welfare</b>	2	2.0
<b>Family and/or friends</b>	19	19.2
<b>Work and/or colleagues</b>	9	9.1
<b>Village Court</b>	3	3.0
<b>Other*</b>	12	12.1
<b>Total</b>	99	99.9

\*Includes safe houses, community leaders, HRDs, courts and workshops.

### **2.3 Referral pathways for FPOs**

Clients of a range of social or justice services may have experienced DFV. Established in 2000 as a national peak body, the FSVAC sits under the Consultative Implementation and Monitoring Council (CIMC) and acts

as an information sharing and coordination mechanism. The CIMC-FSVAC<sup>15</sup> brings together and builds the capacity of critical stakeholders, including FSV specialist units and services, to improve referral pathways for survivors. Such committees now exist at the national, provincial and even district level.<sup>16</sup> Resources have been produced including the CIMC-FSVAC guidelines on referral pathways (FSVAC 2019) and its survivor advocate flip chart. In an effort to broaden the knowledge of FSV, what is prohibited by law and what services are available among the general public, the CIMC-FSVAC has published and disseminated FSV posters and pamphlets, including on child neglect and abuse, relevant laws and services and sorcery accusation-related violence. For example, a brochure on the FPA, in English, explains what an FPO is, the differences between an IPO and PO and what happens if a breach occurs.

At our research sites, we endeavoured to find out how the referral pathways were operating in practice when it came to providing information about or assistance with IPOs. Available data and interviews with stakeholders supported the findings from the survey of IPO applicants. The key agencies that referrals are made to, and where survivors are most likely to get practical help with POs, were specialist FSV services and/or the police. In terms of the latter, it appears that the police in the FSVUs did directly help with IPO applications, but are less likely to do so now. Instead, referrals are made to specialist FSV services, where they exist (Minj, Lae, Port Moresby; in Bougainville, survivors are referred to NCR safe houses and, in one location, an FSC).

Based on the statistics of the 8896 valid callers to the ChildFund PNG I-Tok Kaunselin Helpim Lain for the 2019–20 fiscal year, very few (2.3 per cent) were referred by counsellors for legal support for IPOs and/or given information on IPO or POs.<sup>17</sup> In most instances, the most reported issue was intimate partner violence. Almost half (46.9 per cent) of the 115 female callers who were recorded as being given IPO/PO information or a referral for legal support were from the NCD, while more than a third (35.8 per cent) were from the NCD or Morobe Province. We are not sure why information about or referrals for IPOs were so rarely provided by the telephone counsellors, but it warrants further investigation.

On the ground, available data from specialist FSV services such as Femili PNG in Lae and the FSCs (in Lae, Buka and Mount Hagen) indicate that police are a key, if not the primary, service that they receive clients from or refer clients to (Putt and Dinnen 2020b, Mount Hagen site report). However, referrals to the police may be to different sections, with, for example, sexual assault survivors referred to the Sexual Offences Squad and serious physical assaults to the Criminal Investigation Division. Where they exist, FSVUs are widely viewed as the main frontline police service for FSV survivors. Many FSVU clients walk in and/or are referred there by social and health services. Based on statistics from five FSVUs (Boroko, Gordons and Waigani in Port Moresby, Lae Central and Arawa), key indicators showed that FSVUs are primarily dealing with more minor criminal offences and a considerable number of civil matters that relate to family or domestic discord and fracturing relationships. Much depends on the staff, the station and the location of the FSVU. Table 10 shows key indicators of FSVU work for either the year 2018 or for 2018–19 for the five FSVUs. Boroko FSVU, for example, appeared to be dealing with a large number of both criminal and civil matters, while the Gordons and Lae Central FSVUs seemed to handle a greater proportion of criminal matters compared with civil matters. Arawa FSVU had a relatively high arrest rate, while Waigani FSVU had a low proportion of matters recorded as pending (Putt and Dinnen 2020a).

Table 10. Key indicators for FSVUs, 2018 or 2018–19

FSVU	Total no. matters (per month)	No. criminal matters (per month)	% assaults (criminal matters)	No. civil matters (per month)	% adultery (civil matters)	% arrests	% referrals to welfare	Pending
Boroko 2018–19	87.5	46	60%	41.5	20.7%	5.4%	28.4%	15%
Gordons 2018–19	91	71	51.2%	20	27.2%	6.1%	10.7%	12.5%
Waigani 2018–19	43	30	50.4%	13	30.9%	7.6%	15.8%	6.3%
Lae 2018	20.3	14	80.9%	6.3	11.8%	NR	*44%	NR
Arawa 2018	13.2	9.1	61.5%	4.2	80%	12%	NR	17%

Sources: FSVU central coordinating office, JSS4D Lae office and Arawa FSVU (from Putt and Dinnen 2020a).

NR = not recorded

\*Percentage of referrals, not complaints

It was estimated that between 22 and 47 per cent of cases recorded by the five selected FSVUs were civil matters — with about one-third being the average — and therefore did not have a criminal justice outcome. Fewer than 10 per cent of the FSVU cases resulted in an arrest by an FSVU officer. In terms of civil matters, between 10 and 30 per cent of the cases were recorded by the five FSVUs as being referred to what is categorised as ‘welfare’.

FSVUs do offer advice and assistance regarding FPOs, however; this does not appear to be a common outcome or case status compared to ‘referrals’ or ‘pending’. For the available FSVU data, IPOs were recorded as an outcome in approximately 10 per cent of cases. This included 8.5 per cent of the FSVU central data,<sup>18</sup> 11.1 per cent of the Lae central FSVU and 6.1 per cent of the Arawa FSVU. What was actually covered by the category ‘IPO’ was not defined in most instances, except for the Arawa statistics, which defined the category as ‘advised to proceed through IPO/IPO or PO served/IPO or PO obtained’ (Putt and Dinnen 2020b). Despite the relatively low proportion of IPO outcomes, FSVUs and the police in general are a vital source of information about IPOs based on the responses from IPO applicants.

## 2.4 Applying for an IPO

### Reasons and expectations

IPO applicants were asked why they applied for an IPO. Of the Sample A participants, a total of 58 respondents (56 women and two men) answered this open-ended question. Reasons given included wanting to stop or prevent the violence, verbal abuse and threats, and for the applicant and her/his children to be protected. The most common verbs used were ‘protect’ (n=11) and ‘stop’ (n=12). In addition, several applicants mentioned wanting to help the respondent and/or ‘save our marriage’, and referred to the effect on the children. The responses often included accounts of longstanding violence and abuse. For example:

- » ***The respondent used to hit me and bashed me up, threatened to kill me and swearing at me all the time. I was psychologically abused and not feeling good.***

- » ***I suffered for eight years from my husband's abuses and end this violence perpetrated on me.***
- » ***I want the orders to protect me and my children which I suffered severe abuses from him and I literally was mentally affected and was referred to psychiatric ward in ....***
- » ***Because my husband continued to assault me physically, emotionally and verbally. He always threatened to kill me and my children. I did not feel safe and needed an IPO.***
- » ***To protect me from being beaten, threatened and swearing. To protect me from sexually transmitted infections.***

In one location, a specialist FSV service has tested the situations and relationships covered by IPOs by helping those accused of sorcery submit an application. As one interviewee explained, he wanted an IPO 'to stop family members go on about accusing me [of sorcery], threatening me and bothering my life with my wife and children'.

A number of underlying factors or triggers were viewed as contributing to the violence, abuse and neglect. These included:

Alcohol and drugs (n=4)

- » ***Because the respondent continuously smoking marijuana and drinking alcohol and never cared about me. He used to beat me all the time and ask me for money.***
- » ***He was getting worse drinking beer and having affairs with other women. He had no budget for the family. Most of the time he came home late at night. He has no time for the kids and there was no peace in the house so I decided for an IPO.***
- » ***I have been suffering silently from abuse especially when [the respondent] was under the influence of alcohol.***

Demanding money and/or not assisting the household financially (n=5)

- » ***His selfish behaviour, no financial support and respect for me as first wife. All attention goes to other women.***
- » ***Because my husband was fighting me for money, he sold all my pigs for money and did not come and give any to me or the children. I was upset and pressured. It was an ongoing battle.***

Other women/more than one wife (n=5):

- » ***The respondent had more than two wives. He used to beat me up and even to the point of death. Therefore the IPO was to protect me.***
- » ***Because the respondent is a violent person. He verbally abused me for many years and used physical force to beat me. He has affairs with many women and threatens me most of the time and said to kill me and my son, after my son decided for me to go back to my village for safety.***

Other factors included jealousy, and several women said they felt they were too old to deal with the abuse anymore:

- » ***Because I understood that the IPO would help me and the problem that I was facing. He was physically abusing me. He was jealous over very little things.***
- » ***I've lived whole of my life in violence and decided to end this as I was aging.***

Although the interviewers never directly asked the applicants about their experiences of DFV, the excerpts above illustrate how long standing and severe the abuse can be, and what a big step it can be to apply for an FPO.

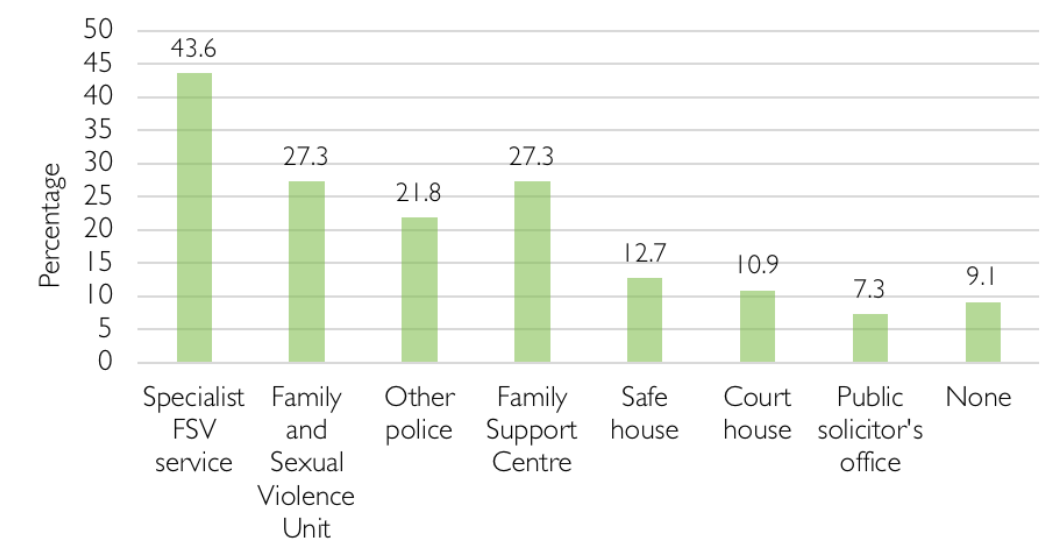
### **Assistance and support**

As noted previously, the documentation required for an IPO application can be cumbersome and difficult to complete, particularly for applicants with low literacy levels. Obtaining assistance with court documentation is an issue across PNG. In Port Moresby, court staff were observed directing applicants to the Office of the Public Solicitor and the police FSVUs for assistance. In smaller towns, court staff mentioned that they provide assistance to applicants if they have time. In some locations, so-called 'street lawyers' exist who charge fees for assistance with legal documentation. Poor quality documentation reduces the effectiveness of the process and causes matters to be left pending.

The literature identifies a constellation of factors that inhibit applying for an order, including economic dependence and the absence of family support. As a result, both Sample A and B interviewees were asked whether they had the support of family to take out an IPO and whether they had the financial means to live on their own. For both samples, three-quarters said they did have the support of family, 71.2 per cent (n=59) and 75.4 per cent (n=57), respectively. A similar proportion of Sample A (74.6 per cent) said they had the financial means to live on their own, but a slightly lower proportion (61.4 per cent) of Sample B said the same. In their responses, some women revealed they relied on their husbands for an income, but the majority were able to eke out a living via marketing or had a job. The significance of financial independence and family support is discussed in more detail further on.

Sample A interviewees were asked whether they had any help applying for an order, as there is a form to complete and an affidavit to compose. That almost one-third of all interviewees said they could not write or read English well or at all highlights the importance of assistance. As Figure 3 presents, the distribution of responses corresponds closely to the key service that informed or advised the interviewee about IPOs in the first place. Nearly half of the interviewees (49.1 per cent) indicated that the police (including the FSVU) had helped them, while a slightly lower proportion (43.6 per cent) nominated a specialist FSV service. Less than 10 per cent had no assistance, while the rest had help from an FSC (27.3 per cent), a safe house (12.7 per cent), the court house (10.9 per cent) and/or the public solicitor's office (7.3 per cent).

**Figure 3. Service that helped with IPO application, Sample A (%)**



Source: Survey of IPO applicants, Sample A.

n=55

Note: respondents could tick more than one category.

## 2.5 Issuing of orders

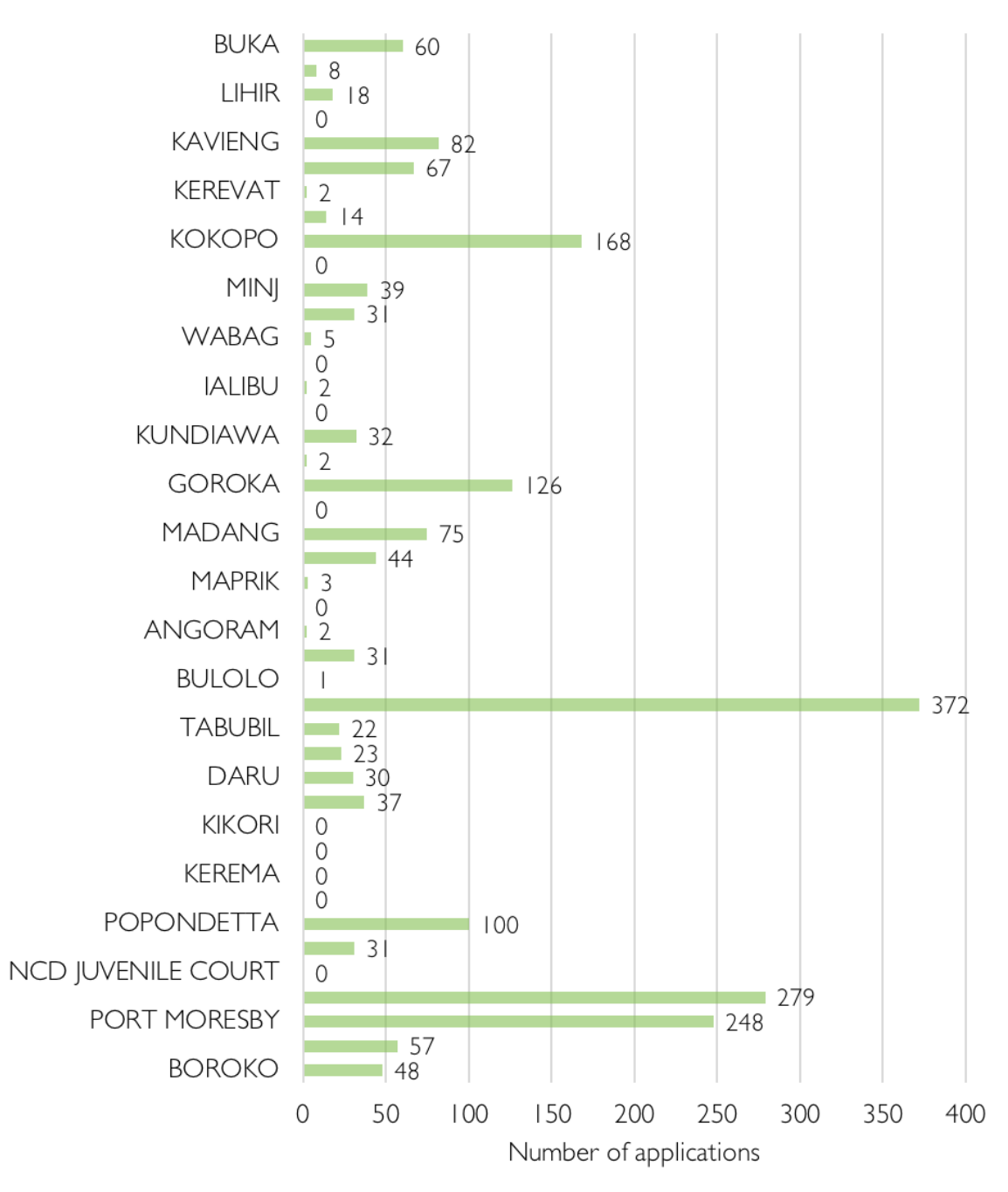
### Numbers and trends

A national picture of where IPOs have been registered by the District Courts is available for 2018. Figure 4 shows that the largest number registered was by the Lae District Court (n=372), followed by the NCD Family Court (n=279) and the Port Moresby District Court (n=248). However, when the numbers for these two courts are combined with the numbers for the Waigani and Boroko courts, the total number for Port Moresby is 632 registrations. Only three other courts had 100 or more registrations — Kokopo (n=168), Goroka (n=126), and Popondetta (n=100). The other research sites had less than 100, with Buka recording 60, Minj 39 and Mount Hagen 31. Census estimates<sup>19</sup> of ward, district and provincial populations, and the volume of criminal matters being dealt with by the same District Courts, indicate that some courts have less IPOs registered than would be expected.

Highlands courts have notably low numbers, as demonstrated by Mount Hagen, which has the third largest urban population in PNG yet only 31 registered IPOs in 2018. At the Mount Hagen District Court, a total of 38 IPO or PO cases were registered for 2019, of which 26 were completed and 12 were still pending in mid-March 2020. Based on more detailed statistics for January through September 2019, only a minority of registered cases result in an order. During those nine months, six IPO and POs were issued and 10 were struck out or dismissed (see Table 11). No breaches were recorded. Many registered cases experienced multiple adjournments, with 57 recorded for the nine-month period.



**Figure 4. Number of IPO applications registered by District Courts, 2018**



Source: Data provided by Magisterial Services of Papua New Guinea.

Table 11 presents the IPO and PO statistics for 2019 that were shared with the research team. They indicate that the volume of IPO cases registered by the courts in each of the sites has not changed much since 2018, except for a large increase in registered IPOs in the NCD Family Court (based on six months of data), and what appears to be an increase in Lae.<sup>20</sup> The Lae District Court and the NCD Family Court continued to have very high numbers of IPOs registered and/or granted compared with the other five locations. Popondetta also continued to have a very high number of IPOs registered relative to the size of its population, but very few POs. More is said on PO conversions in section 2.6. The terminology used in the data provided by the courts (e.g. registered, lodged, obtained, issued, granted, completed) can be confusing and raises the question of whether there is consistency in the recording of data. Wherever possible we tried to obtain both the number of orders registered and granted.

**Table 11. IPO and PO statistics by research site, 2019**

<b>Mount Hagen</b>	38 IPO/PO cases registered	
<b>Minj</b>	48 IPOs registered 35 completed	
<b>Lae</b>	350 IPOs granted	126 POs granted
<b>Port Moresby — NCD Family Court (January–June 2019)</b>	250 IPO/PO cases registered 94 IPOs granted	77 POs granted
<b>Popondetta</b>	105 IPOs registered	3 POs registered
<b>Arawa</b>	19 IPOs registered	
<b>Buka</b>	40 IPO/PO cases registered 36 IPOs granted	

Source: District Courts in each location.

The best available data on FPOs is for the clients of Femili PNG in Lae. This data indicates trends in the issuing of IPOs and conversions to POs. With a well-established system, there is also a sufficient volume of data on the issuing of IPOs to allow an examination of trends, unlike many other places in PNG.

Table 12 shows that the demand for IPOs has increased among Femili PNG clients in Lae, doubling from 205 wanted in 2014–15 to 414 in 2019–20. However, the number that lodge an IPO is consistently and considerably less, no doubt because of the limited and fluctuating capacity of the District Court to deal with and issue POs, as well as clients deciding not to follow through, especially when there are delays or other external pressures (see Putt et al. 2019). It is notable, however, that the actual number of IPOs and POs granted has climbed steadily (see Figure 5), except for a spike in 2016–17 when a large number of IPOs were issued, with 151 and 83 obtained in 2019 and 2020, respectively.<sup>21</sup>

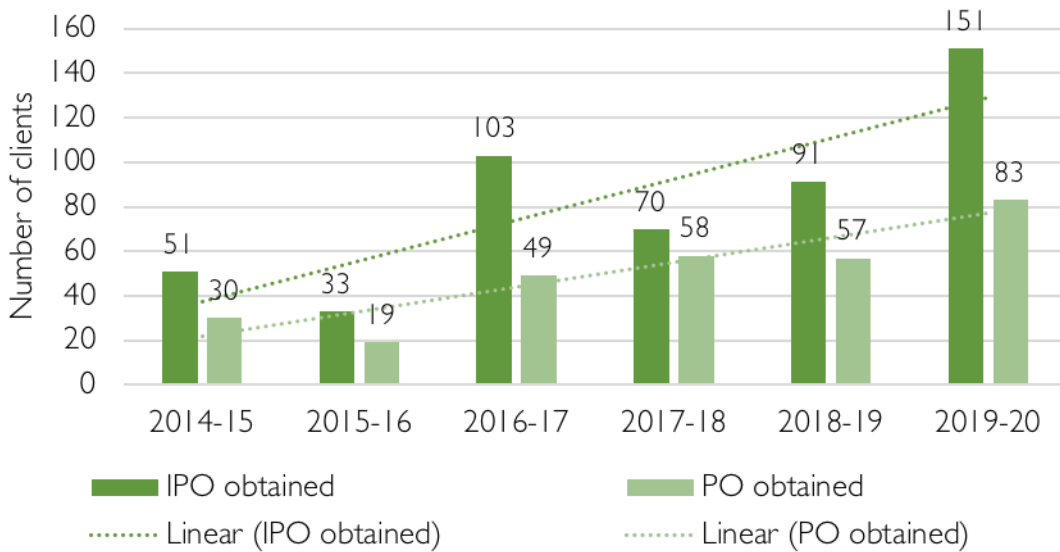
**Table 12. The number of IPOs wanted, lodged and obtained, and POs obtained, to Femili PNG clients (Lae operations) per fiscal year, July 2014 to June 2020**

	<b>IPOs wanted</b>	<b>IPOs lodged</b>	<b>IPOs obtained</b>	<b>POs obtained</b>
<b>2014–15</b>	205	83	51	30
<b>2015–16</b>	275	76	33	19
<b>2016–17</b>	220	126	103	49
<b>2017–18</b>	473	90	70	58
<b>2018–19</b>	451	111	91	57
<b>2019–20</b>	414	175	151	83

Source: Femili PNG Data Platform.

Note: 'IPOs wanted' counts clients who were first registered in a particular year and wanted an IPO. 'IPOs lodged', 'IPOs obtained' and 'POs obtained' count clients who obtained that outcome in that year.

Figure 5. Number of Femili PNG clients who obtained IPOs and/or POs, 2014–15 to 2019–20



Source: Femili PNG Data Platform.

Femili PNG began operating a case management centre and safe house under the Bel Isi PNG initiative in 2017–18. The number of Femili PNG clients in Port Moresby who had IPOs and POs granted increased from 2018–19 to 2019–20. In 2018–19, 50 IPOs were granted to Femili PNG clients, which doubled to 103 the following year. The number of clients who were granted POs also increased, from 31 in 2018–19 to 42 in 2019–20.

### Characteristics of applicants and respondents

There are no national statistics available on who applies for IPOs or on the respondents to the orders. However, from what stakeholders, including court officials, say, the overwhelming majority of complainants to the police and/or who apply for IPOs are women, and the respondents are their spouses or former spouses. Our interviews with IPO applicants were almost all with women aged on average 35.2 years and, as detailed in Chapter 1, the majority (89.7 per cent) were living with, on average, 2.8 children (see Table 4). We do not know for certain if this was a representative sample of all applicants, though we suspect an increasing, albeit small, number of men are now applying for orders. Of the IPO applicants we surveyed, 87.6 per cent said a spouse or former spouse was the respondent. The few other respondents were in-laws, a cousin and a girlfriend/current partner of the spouse. For the past six years, Femili PNG in Lae has had predominantly female clients, varying between 90 per cent and 96 per cent each fiscal year. The most common age category for clients is between 21 and 40 years of age. A similar profile is likely for their clients who apply for IPOs.

### Reasons for not being issued

With regard to IPO applicant interviews conducted for this study, when both samples are combined, the majority (81.3 per cent, n=107) of those who answered said their application was successful. This is no doubt a higher proportion than that for the general population, as many of the interviewees would have agreed to participate because they had an order and/or were in locations where they were being supported by a specialist FSV service. The earlier pilot study in Lae showed that having the support of Femili PNG increased the likelihood of a person’s application resulting in an IPO (Putt et al. 2019). The views and practices of the magistrate are also a crucial factor in an IPO being issued.

For those interviewees who were not successful, 12 responded to an open-ended question asking the reasons. The responses clustered around four main causes that were not mutually exclusive:

- » Problematic individual magistrates who wanted evidence akin to a criminal case and/or referred the applicant to the police or counselling.
- » Unhelpful, obstructionist court counter staff (which was very pronounced in one site).
- » Applicants not wishing to pursue the order due to fear of the respondent and/or his or her family.
- » Applicants not wishing to pursue the order because the respondent's behaviour had already changed for the better.

### Non-issuing of IPOs by Village Courts

Despite awareness raising and training on the FPA in some locations, e.g. Morobe, Oro and Bougainville, we found little evidence of Village Courts issuing IPOs across the seven sites.

Reasons for this related to the Village Court magistrates' and officials' lack of confidence and knowledge, or the view that existing mechanisms (preventative orders) worked better for their courts. Some Village Court officials said they felt they needed more training, as well as the required forms and stationery, before they could issue IPOs. Where awareness sessions had been run, interviews with Village Court officials indicated that, from their points of view, there is no reason to issue IPOs since preventative orders are more familiar, last longer and involve less bureaucracy (i.e. less paperwork and involvement of the District Court).

In other locations, stakeholders acknowledged that the Village Courts would be dealing with family disputes, domestic violence and even serious criminal offences, but thought that court officials would not be aware of the FPA and their ability to issue IPOs. Except for one in Popondetta, none of the District Courts had recorded IPOs being issued by the Village Courts and registered with them.

### Time taken to get an IPO

Femili PNG client data in Lae revealed that the average period between application lodgement and the granting of an IPO was 15.9 days for clients who applied between August 2014 and May 2018. In the pilot study report, it was highlighted that this average was over the fortnight limit usually allowed for a stay in the local safe house. Although the time in days fluctuated over the years, the overall linear trend was a slight decline in the length of time it took (Putt et al. 2019).

For this study, 80 IPO applicants responded to a question about how long it took to obtain an IPO. The answers ranged from the same day they applied to 240 days. When the latter is excluded, the average length of time was 14.8 days. However, there were marked differences across the sites. For example, Sample A (comprising interviewees in Lae (n=24), Minj (n=16), Bougainville (n=13) and Mount Hagen (n=8)) had an average time of 21.3 days (with the outlier of 240 days excluded) compared to an average of 7.3 days for Sample B (interviewees in Lae, Bougainville, Port Moresby and Popondetta).

In several locations, there were often repeated adjournments after the IPO application was lodged at the District Court. This was noticeable in the records kept for Arawa and Mount Hagen. With the latter, based on detailed statistics for January to September 2019, only a minority of registered cases resulted in an order. Fifty-seven adjournments were recorded for the nine-month period and only six IPOs and six POs were issued. In many instances, adjournments are due to the non-appearance of the applicant and/or respondent.

Adjournments can pose considerable difficulties and risks for applicants, as the following quotes illustrate:

- » ***The respondent was complaining every day and putting pressure on me. He said that I will suffer and he drank beer every night and disturb me. I was in fear and on the second hearing I explained the situation to the magistrate...***

- » ***From the courthouse to the [specialist FSV service] office was costing me K2, which is very costly given the money problems these days ... I was going to and from for a month until I gave up.***

While the option to adjourn a matter remains a necessary mechanism for courts, multiple adjournments are frustrating for those seeking safety through FPOs and can cause victims to give up on the process. In many cases there are reasonable explanations for adjournments, while in others they appeared to be due to disorganisation of the court or a lack of clear communication with the parties. Some reasons noted for adjournments included:

- » proof of service not on file
- » applicant not present
- » respondent not present
- » magistrate not present
- » magistrate needed more time to read the particulars and was not ready to make a ruling
- » documentation missing and
- » documentation incomplete or not completed to standard.

## **Service of order**

As explained in the previous chapter, an IPO commences from the time it is served on the respondent. If issued by the District Court, the IPO will be accompanied by a summons to the respondent informing him/her of a court date to respond to the complaints made against him/her.

Challenges relating to the service of court documents were experienced across all research sites. The Family Protection Regulation 2017 has two clauses relating to service. Firstly, section 8(1) states that the District Courts Act applies to the service of documents. Secondly, section 8(2) states that the court may direct the complainant or a member of the police force to serve documents made under the FPA or FPOs.

Civil society representatives reported that it is often left up to the applicant (complainant) to serve the order, however this responsibility can put them in unsafe situations. As a result, many IPOs and accompanying PO summonses are not served and the PO hearing is adjourned since there is no proof of the service of the order on file at the court. The same applies to a breach: a breach of an order cannot be prosecuted if there is no evidence of the original order being served on the respondent.

For the system to improve, it is important to ensure that there are clear, safe and adequately resourced processes in place for the service of court documents. Lae appeared to be an exception, where the close working relationships between Femili PNG, the court and the police meant service was more likely to be completed. In Lae, we were told that Femili PNG caseworkers collect the documents from the court and take them to the police who will then attempt to serve them on the respondent. The caseworkers follow up with the police to ensure that the documents were served and the proof of service was lodged with the court.

In our survey, 47 IPO applicants (44 females and 3 males) in Sample A answered an open-ended question about how the respondent reacted when he/she received the summons. Their answers covered a range of reactions, including surprised, humiliated/humbled, speechless, scared or afraid, accepting, disbelieving, frustrated, angry and furious. Similarly, a range of actions was described, such as complying, moving away, going into hiding, chasing or threatening the applicant. Based on these answers, eight response categories were created, with

some answers falling under more than one category. For example, one interviewee said the respondent initially appeared to accept it then retaliated a fortnight later. Alternatively, another interviewee said the respondent was angry at first but then accepted it.

- » ***He pretended to accept the fact that I took him to court but still texting and threatening me.***
- » ***He reacted but then came to realise accepted the conditions. He is now adhering well to the orders.***

Table 13 lists the number of responses in each category. The most common initial emotional reaction was to be angry (21.3 per cent of interviewees), followed by scared, surprised and speechless. In terms of actions, the most common category was compliance (31.9 per cent of interviewees), followed by threats and moved away or left. Two participants said the respondent lodged an affidavit. Although it is apparent that many respondents do comply and/or are scared, it is important to stress that when the summons or order is served can be a time of great risk for applicants, who often serve the summons themselves. One-fifth of the interviewees reported that the respondent, in most instances a husband or former husband, reacted with anger, and almost 15 per cent said he was furious and/or threatening.

**Table 13. Respondents’ reactions to the service of order/summons**

	Number	% of interviewees
<b>Initial reaction</b>		
Surprised	6	12.8
Speechless/said nothing	5	10.6
Scared/afraid	8	17.0
Angry	10	21.3
<b>Action</b>		
Accepted it/complied	15	31.9
Moved/left/went into hiding	6	12.8
Furious or threatening behaviour	7	14.9
Lodged an affidavit	2	4.2

Source: Survey of IPO applicants.

n=47 participants

Examples of responses include:

- » ***I attempted to serve my husband with his IPO summons but he heard it before I was going to serve him that I was going to take him to court and he ran off today. I don’t know of my husband’s location, but I continue to attend court.***
- » ***He was angry thus persuaded my family to revoke the order but it did not work out the way he expected.***
- » ***He was happy and complied. He did save money for reconciling with my family.***

## Conditions of the IPO

When issuing IPOs or POs, magistrates include the conditions of the orders. The types of conditions that can be placed on an order are set out in sections 8–10 of the FPA. These sections include provisions for conditions relating to good behaviour, individual protection, property, counselling and mediation. In addition to those listed in the Act, the court is also able to impose any other condition it sees fit (DJAG 2017:12)

FPOs can be put in place for parties with diverse circumstances. For example, in some cases a husband and wife may have separated, in others they may continue to live together. Sometimes, the conditions of the order were reported by the parties to be impracticable. For example, one order observed in court proceedings included the condition that the respondent was prohibited from communicating with the applicant, even though they continued to cohabit.

In another case observed in 2020, the conditions of the order included 'defendant and complainant be directed to participate in counselling, mediation or both'. However, there is a shortage of counselling services and there does not appear to be a systematic way for courts to link parties with counselling services so they can fulfil the conditions of their order. It is important that magistrates tailor the conditions of orders to the situations of the parties and the services available rather than rely solely on the example conditions provided in the Act.

In an open-ended question, IPO applicants who were issued an IPO were asked about its conditions. Conditions typically related to the respondent refraining from physical violence, threatening behaviour, abusive language, harassment or intimidation. In some instances, the respondent was asked to stay a certain distance (for example, 100 metres) from the complainant, the interim custody of children was ordered or the respondent was ordered to stop drinking. In a few cases, attendance at counselling was ordered. At one research site, the IPO applicants recalled that police were 'enforced' to arrest respondents if orders were breached, but it is not known whether this condition was included in other locations.

## 2.6 Conversions to POs

### Numbers and trends

At a hearing, the District Court may convert an IPO to a longer-term PO, which can apply for up to two years. If the respondent is not present, the court can still hear the matter as long as the summons has been served or all reasonable efforts have been made to serve the summons.

As Table 11 shows, in most locations there is not much evidence of POs being issued by the District Courts. The key exceptions were the NCD Family Court and the Lae District Court. There were 94 IPOs and 77 POs granted in the NCD Family Court during the first six months of 2019 and 350 IPOs and 126 POs granted in the Lae District Court during 2019. These numbers imply that a significant majority of applicants in the NCD Family Court convert their IPOs to POs, while a somewhat lower ratio do so in the Lae District Court. Popondetta District Court had very few POs, with only three POs registered compared with 105 IPOs.

The six years of data for Femili PNG clients in Lae shows that the annual number of POs issued to clients has always been lower than the number of IPOs, with the annual numbers of POs issued increasing at a slower rate than IPOs (see Figure 5). In 2019–20, 151 clients were recorded as obtaining IPOs, but only 83 received POs, a lower IPO/PO ratio than in the two previous two years. However, the number of POs being issued may have been affected by court closures during the state of emergency introduced in late March 2020, as no hearings could be held and only emergency IPOs were issued.

## Reasons for not applying for a PO

In Popondetta, the reasons given by key stakeholders for the low number of POs included the approach taken by the senior provincial magistrate (SPM) to IPOs and the deterrent effect of serious penalties that were meted out in two IPO breach cases. The magistrate took a proactive approach, often dealing with IPO applications on the same day and conducting IPO hearings with both parties in his office, during which he explained the order and counselled them. In such circumstances, it was argued that a longer-term PO was not necessary.

After Sample B interviewees were granted an IPO, they were asked whether they wanted to apply for a PO. A large majority (82.9 per cent) of the 41 interviewees said yes. At the next interview, it turned out that among those who participated (n=23), one-fifth said they had attended a PO hearing and a slightly higher proportion, a third (34.8 per cent), said they were granted a PO.<sup>22</sup> The reason for the low number of interviewees who had actually obtained a PO at this point in the process (one month after applying for an IPO) is not clear, and may be related to further adjournments in the case, the applicant and/or respondent not turning up or the process or availability of a longer-term order not being well understood. At the fourth and final interview, six of the 20 interviewees (30 per cent) said they had a PO.

Of Sample A, less than one-third obtained a PO, with 31.9 per cent of the 47 interviewees saying they had, 63.8 per cent saying they had not and 4.3 per cent saying they did not know. There were 47 responses to an open-ended question as to why the interviewee had or had not obtained a PO. Six categories were devised based on these responses, as presented in Table 14. There was a clear distinction between those in Lae (n=20) and those who were clients of Femili PNG — all of whom said a PO was granted or pending — and those in the other three locations. The interviewees in Bougainville, Minj and Mount Hagen were either satisfied with the outcome from the IPO (n=15), did not know about the process of obtaining a PO (n=4) or found that the IPO or process had not worked to date and given up (n=5). The three 'other' responses included the husband's ill-health, not bothering as the husband had moved on to be with another wife and the interviewee feeling safe staying with parents and relatives.

Of those who had not proceeded with a PO conversion (n=27), more than half (55.5 per cent) indicated that the IPO was enough or that the respondent had changed or complied, 18.5 per cent didn't know what else to do or didn't understand the process and 10.6 per cent said the IPO had not worked.

**Table 14. Reasons for proceeding or not proceeding with a PO (number and %)**

	Number	% of responses
<b>PO pending</b>	10	21.3
<b>Converted to a PO</b>	10	21.3
<b>IPO enough; respondent changed and/or complied</b>	15	31.9
<b>Interviewee did not know process and/or what else to do</b>	4	8.5
<b>IPO or process did not work; given up</b>	5	10.6
<b>Other</b>	3	6.4

Source: Survey of IPO applicants, Sample A.

n=47

## 2.7 Breaches of orders

While non-compliance with an IPO or PO is a criminal offence, we found little evidence of breaches being dealt with in line with the FPA legislation. According to the FPA (s20(1)), a person can be fined K10,000 or imprisoned for up to three years (or both) for breaching an FPO.



Discussions with stakeholders, including court officials and police officers, revealed that there is a lack of clarity regarding the roles of each service when it comes to breaches. Stakeholders also explained that some police do not lay breach charges because they 'don't have the wording' to use in the charges. This was confirmed by one stakeholder, a lawyer, who said that the police 'were excited when we provided training and gave them the wording to use for breach charges'. More is said on breaches in the next chapter.

## 2.8 Observations on processes in District Courts

The preceding sections were informed by statistics collected at each of the research sites and interviews with key stakeholders (court officials, police, public solicitor's staff and NGOs) and IPO applicants. This section outlines the findings from District Court observations undertaken by the research team.

While a number of practices were observed that positively contribute to a functioning FPO system, there are multiple issues regarding the process that require some attention. Additionally, processes and practices can differ greatly between provinces and, in the case of Port Moresby, between courts in the same city. The following is a discussion of barriers to an effective process, followed by some factors that enable the process.

The following key areas were identified as barriers to an effective system and process:

### Information about the process

For many applicants and respondents, being involved in an IPO or PO process is their first experience with the court system. Court front counters are often very busy and it can take some time to queue for assistance. While the larger courts have dedicated IPO clerks, they are not always readily accessible to members of the public.

Parties were observed to lack clear information about a number of aspects of the process, including which court room to go to for their hearing and at what time. Courts in cities such as Lae and Port Moresby have large numbers of people gathering outside the court rooms, which can make it difficult for parties to hear their names being called when it is time for them to enter the court room.

Parties are generally unfamiliar with the court environment and were observed to be unsure of how to conduct themselves while the court was in session. Some were visibly confused and stressed about the ordeal. Parties were also not sure what to do after a hearing and did not know where and when to collect any orders that were granted.

Furthermore, some applicants reported not being informed of their hearing date, which resulted in matters being struck out due to non-appearance of the applicant.

### Safety

While good safety practices were observed for clients with an NGO caseworker (see the following section on civil society), no specific safety measures were observed for general court users. For court hearings relating to domestic violence, it is good practice for the parties to have separate waiting areas and for private and safe entry and exit points to be made available. Being able to see or be seen by their abuser can be a fearful and traumatising experience for victims.

Another area of concern was the publishing of names on public court lists, which could lead to further risk for applicants, particularly in small communities. Busy and open court rooms also mean a lack of confidentiality, which can have implications for applicants' safety.

### Court set-up

The court infrastructure was not designed with women's needs in mind. Some applicants were observed struggling with noisy children — particularly those who were residing at a safe house and did not have easy

access to a relative or other person who could assist with the children while the applicant attended court. In one of the smaller provincial capitals, the magistrate conducts IPO hearing in his office, which provides a more informal and family-friendly setting.

### Terminology

The research team observed that among the general public, including court officials, there is a lack of differentiation between IPOs and POs. 'IPO' has become commonly used to refer to any matter related to FPOs. While the FPA is clear in using FPO as an umbrella term that includes both IPOs and POs, the terms themselves seem to be rarely used. We noticed that courts also don't differentiate between the terms, listing all matters as 'IPO' on their notice boards, even PO hearings.

The acronym 'PO' is also problematic. While it stands for protection order (DJAG 2017), we at times heard POs being referred to as 'permanent orders' and 'preventative orders'. The use of 'permanent order' shows that there is an understanding that POs are longer lasting than IPOs, however no orders are permanent; POs can remain in force for a maximum of two years. We suspect that 'preventative order' is sometimes used due to confusion with preventives orders issued by Village Courts and other types of restraining orders issued by District Courts.

Although the terminology used is not exactly a barrier to an efficient process, it does impact the general understanding and community awareness of FPOs.

A number of factors were also observed in Port Moresby and Lae that enable a fairer and more effective process:

### Civil society

In Lae and Port Moresby, court staff are greatly assisted by the presence of Femili PNG, which helps with communication between the court and applicants and ensures documentation is in order.

In terms of safety, excellent practices were observed where the applicant was a client of Femili PNG. In those cases, the applicants had transport provided and were able to enter both the court premises and individual court rooms via the back door or staff entrance. Women who were residing at a safe house were able to attend an IPO hearing without being sighted by people in the public areas of the court.

Courts refer clients to organisations such as Femili PNG when they receive IPO applications that are incomplete or not at the required standard. Of the court files reviewed by the research team, the quality of documentation, such as affidavits, was greatly improved when the applicant was assisted by a service such as Femili PNG, which has lawyers on staff in both Port Moresby and Lae.

### Staff commitment

In many locations, dedicated and passionate IPO clerks and magistrates keep the system running despite many obstacles, such as a lack of the resources they need to carry out their duties.

### Communication by and knowledge of magistrates

Magistrates were observed to be effectively communicating with applicants and respondents during hearings. Parties were given a choice about the language used in the proceedings, and the magistrates took care to ensure that parties understood any orders issued and the consequences if the orders were not complied with. (We are cognisant that magistrates may conduct themselves differently when no external observer is present).

The magistrates observed in Lae and Port Moresby were knowledgeable when issuing orders. They understood that applicants were sometimes in life and death situations and were careful to ensure the conditions of the orders issued were relevant for the individual cases.

Good training practices were observed, such as newly appointed magistrates sitting in on IPO and PO hearings

with experienced magistrates before taking cases themselves. All FPO hearings observed in Port Moresby were presided over by female magistrates.

### Court scheduling

The schedule for hearing days was observed to be working well in some locations. For example, in Lae, IPO and PO hearings are conducted on Tuesdays and Thursdays, as well as any other weekday where the matter is urgent.

## 2.9 Parallel or additional processes

Families can experience a range of issues that lead them to seek assistance from the police or courts. In addition to domestic violence, these issues may include 'family law' matters such as divorce, adultery, child custody and maintenance.

While some matters fall under the criminal jurisdiction (domestic violence offences, breaches of FPOs), others (such as FPOs and many family law matters) belong to the civil jurisdiction. Criminal and civil matters have different standards of proof. For civil matters, the standard is 'on the balance of probabilities', whereas criminal offences must be proven 'beyond reasonable doubt'.

The legal system is complex and can be difficult to navigate. While there are 'formal' avenues to resolve family issues, more 'traditional' dispute resolution mechanisms, such as mediation and compensation, are also widely used in PNG.

In our interviews with IPO applicants, we asked a multiple choice question about other legal or mediation processes involving the interviewee and the respondent to the order at the time of the IPO application. Table 15 presents the results. In total, a minority (15.4 per cent) said they were involved in criminal charges, while more than half (56 per cent) said they were involved in Family Court matters.<sup>23</sup> The location where the applicant resided had an impact on whether there was family-instigated mediation and a case before the Village Court, as Sample A, which included interviewees from Minj and Mount Hagen, had higher proportions of both (see Table 15).

**Table 15. Other processes involving the respondent at the time of the IPO application, Samples A and B (%)**

	<b>Sample A</b> <b>Lae, Minj,</b> <b>Bougainville,</b> <b>Mount</b> <b>Hagen</b> <b>n=45</b>	<b>Sample B</b> <b>Popondetta,</b> <b>Port Moresby,</b> <b>Lae and</b> <b>Bougainville</b> <b>n=46</b>	<b>Total</b> <b>n=91</b>
<b>Criminal charges</b>	15.2	15.2	15.4
<b>Family Court matters</b>	54.3	56.5	56.0
<b>Village Court case</b>	21.7	4.3	13.2
<b>Family-instigated mediation</b>	34.8	6.5	20.9
<b>Other</b>	15.2	17.4	16.5

Source: Survey of IPO applicants.

Note: Respondents could tick more than one category.

In Bougainville, NCR advocates an approach that includes 'dialogue' in parallel with the court IPO process. While the court process invokes the power of the state, the dialogue is necessary to settle the situation at the community level and ensure the woman is safe in her village.

The high proportion of Family Court matters reflect the complex nature of family relationship breakdowns, which can involve multiple issues that need to be worked through concurrently (e.g. divorce, adultery proceedings, property disputes, disputes over child custody and financial claims for child or spousal maintenance).

The relatively low number of criminal charges in train at the same as IPO applications is consistent with findings of other recent reports, which show low levels of both arrests by FSVUs and successful criminal prosecutions of domestic violence offences in the District Courts (Ganaii 2017; Putt and Dinnen 2020a, 2020b; Putt et al. 2019).

Under the FPA (section 22), the District Court can issue an FPO when handing down a sentence for a domestic violence conviction.<sup>24</sup> As far as we could ascertain, this provision is not being widely utilised and only the SPM in Buka has done this on several occasions.

## 2.10 Conclusion

This chapter has shown that there is more public awareness of IPOs, more are being issued, especially since 2017, and there is considerable variation in the registration and issuing of IPOs across the provinces. The level of understanding of FPOs, most notably POs, and the knowledge of the process is often limited, with, for example, some people assuming applicants can only be women. Two key groups appear to be most likely to advise the general public, and DFV survivors, about FPOs: family and friends and the police. Similarly, the police, in addition to specialist FSV services if they operate in the local area, are the agency most likely to offer practical help completing an application. Such assistance is much needed, with our research indicating that as many as a third of applicants cannot read or write English well, or not at all. FSVUs, in particular, are the frontline service where many survivors first hear about and obtain guidance on FPOs. However, based on FSVU records, IPOs were only recorded as an outcome in approximately 10 per cent of cases. The reasons for this low level of IPO outcomes for FSVUs require further investigation.

Our research highlights that many DFV survivors have longstanding histories of abuse and violence, and that applying for an IPO can be a big step, frequently triggered by a recent incident as well as underlying factors or triggers such as alcohol and drug abuse, financial neglect by the respondent and/or the respondent's relationships with other partners. Based on the characteristics of our survey sample, stakeholder opinions and Femili PNG client data for Lae, we estimate that approximately nine out of 10 IPO applicants are women, the respondent is usually a spouse and most women are living with at least two children. The majority of IPO applicants had the support of their family to take out an IPO as well as the financial means to live on their own, though in many cases this was through the precarious business of table marketing and gardening, or, for a few, relying on money from family.

The applicants expected the orders to prevent or stop the abuse and violence. For the majority, it appears the orders did result in an improvement of their safety. The impact of the orders on the applicants, the respondents, service delivery and the general community is discussed further in the next chapter.

Village Courts are not issuing IPOs, and only six District Courts had more than 100 IPOs registered in 2018—Kokopo, Goroka, Lae, Popondetta, the NCD Family Court and the Port Moresby District Court. Statistics garnered from our research sites show a comparable pattern in 2019, which suggests a stabilisation of numbers and a limit to the capacity of the courts to deal with applications. Only in Lae and Port Moresby are many POs being issued. Femili PNG statistics also indicate an increase in the annual number of IPOs and POs obtained by their clients in the Lae District Court in 2019–20, despite the state of emergency during this period.

The reasons for the variability in the numbers of IPOs being issued, conversions to POs across courts and times taken to obtain IPOs is connected to systemic issues and factors extraneous to the process that affect the complainant. Our research, including court observations, identified both challenges for and opportunities to improve the process. These relate to information and communication, safer and timelier practices, commitment by key practitioners and professionals, the availability of skilled and properly resourced caseworkers and recognising the significance of additional community-based processes that may be in play. Chapter 4 expands on these issues.



# CHAPTER 3. IMPACT OF ORDERS

## 3.1 Introduction

It is never simple to establish whether a reform or new initiative has had the desired impact, or unforeseen consequences. A vast body of literature testifies to challenges of seeking to attribute outcomes to a single intervention in the complex real world. In the pilot study on FPOs, the additional challenges of undertaking research on DFV were highlighted, along with current evidence on the efficacy of POs, primarily centred on research in high-income countries (Putt et al. 2019). In this chapter, we draw on our research, mainly the survey of IPO applicants, to identify and assess measures of change and impact that are due to FPOs. As a result, the chapter covers:

- » survivors' feelings of safety
- » impact on survivors' wellbeing, family life, and circumstances
- » impact on perpetrators
- » impact on service delivery and the justice system and
- » impact on the community/general public.

## 3.2 Survivors' feelings of safety

In our interviews with IPO applicants, we asked about their feelings of safety after they were successful in obtaining an IPO. As noted in the previous chapter, when both samples are combined, the majority (81.3 per cent, n=107) of those who answered the question said their application was successful. Sample A was asked to recall whether having an IPO made them feel more or less safe after it was issued at some point in the past year, while Sample B was asked soon after they received the IPO. As Table 16 presents, a similar distribution in responses was evident, except for a greater proportion of Sample B feeling less safe. In total, half of the 89 interviewees (52.8 per cent) said they felt 'more safe' and 27 per cent said they felt 'a lot more safe', which adds up to a significant majority, 79.8 per cent, feeling safer.

**Table 16. Applicants' feelings of safety after the IPO was issued, Samples A and B (%)**

	Sample A n=48	Sample B n=41	Total n=89
<b>Much less safe</b>	0	2.4	1.1
<b>Less safe</b>	10.4	17.1	13.5
<b>About the same</b>	6.2	2.4	4.5
<b>More safe</b>	54.2	51.2	52.8
<b>A lot more safe</b>	27.1	26.8	27.0
<b>Don't know</b>	2.1	0	1.1

Source: Survey of IPO applicants.

Though the number of interviewees was small, with just over 20 IPO applicants in Sample B, it was notable that their perceptions of safety became more polarised at the third and fourth interviews. The proportion who felt very unsafe after one month, 8.3 per cent, increased to 13 per cent after two months, while those

feeling very safe increased from 54.2 per cent to 65.2 per cent. From the responses to open-ended questions, it was apparent that applicants felt it took time to determine whether the IPO had a positive effect on the respondent. In some instances, the respondent appears to have become more threatening or abusive, but an increasing majority of applicants over time felt they were safer.

Questions in the survey asked what had contributed to the interviewees feeling safer. As noted in the previous chapter, nine out of 10 respondents to the IPO applications were a partner or former partner (89.8 per cent for Sample A, 86 per cent for Sample B). How the respondent reacted to the issuing of the IPO was critical to whether the applicant felt safer. Sample B interviewees were asked what had helped them feel more safe in the two months since they applied for the IPO, and again, though the sample was small (20 interviewees), their responses suggested that the support of family was most vital, followed by having somewhere to live and police intervention or action. Where a specialist FSV service was available, this was mentioned by all participants. In the same period, what made the applicants feel less safe was by far threats or attacks by the respondent.

There were 45 responses to an open-ended question asked of Sample A about what would have made them feel safer. Eight (18.8 per cent) said they were happy with the outcomes and nothing was required. With the remaining 37 responses, eight categories were created to summarise the themes. Table 17 shows the distribution of responses across the categories, with the most common being police action, followed by greater awareness among community and family, and being with family or relatives. When the categories of police action, quicker court processes and more effective services are combined, improvements to services and justice responses were viewed by many (43 per cent) as important.

**Table 17. Factors that would have made applicants feel safer, Sample A**

	Number of responses
<b>Police action</b>	8
<b>More awareness among community and family</b>	7
<b>Being with family or relatives</b>	6
<b>Other*</b>	6
<b>Effective services</b>	4
<b>Quicker court process</b>	4
<b>Relocation</b>	2

Source: Survey of IPO applicants, Sample A.

n=37

\*Other includes better support, a longer-term PO, the perpetrator changing

The success or failure of other processes may also have had a bearing on the applicants' feelings of safety, especially past the expiry of the IPO, as was canvassed in Chapter 2.

With Sample B, in response to a question about what process made a difference during the two months after their IPO application, the most positive comments referred to the respondent appearing before the District or Family Court magistrate and/or the police being involved, as the following illustrate:

- » ***Appearing in court and listening to the magistrate give him his orders had a big impact on his behaviour afterwards and even his arrest and going to jail is a big relief for me.***



- » ***Listening to the magistrate tell him what he's been doing wrong made me feel even more safe.***
- » ***Seeing police assisting me and how the magistrate made him see how serious his actions are made him change his behaviour.***

Very few (two out of 16 interviewees) said a police arrest and/or criminal charges made a difference, no doubt because these things seem to have rarely occurred. In some instances (six out of 16), mediation was viewed as helpful. In relation to mediation, the interviewees appeared to be referring to either court-arranged counselling or to where the magistrate counselled both parties, as was the case in Popondetta. Comments included:

- » ***After mediation, we both listened to each other and he stopped womanising. Always at home with us and attending to family duties.***
- » ***Improved my family life and have full authority over my house while he lives with his new wife.***
- » ***The stopping of domestic violence has strengthened our marriage and improved family life.***

### **3.3 Impact on survivors' wellbeing, family life and circumstances**

In the first chapter, reference was made to barriers identified in the literature that prevent a victim of DFV from accessing justice and protection. A woman's economic dependence on a husband was a key issue, as well as not having the option to live elsewhere or remain at home while he moved out. In our survey of IPO applicants, we asked various questions about sources of income and living arrangements to ascertain what impact, if any, applying for and receiving an IPO had on the applicant. It was difficult to interpret the results, as various changes in circumstance could have occurred, and their causes were not always clear. Additionally, the applicants' experiences of the process and its outcomes varied considerably. Nevertheless, several key factors emerged, including whether the couple separated, whether they reconciled, the applicants' support from family, relatives and specialist FSV services, and the reactions to and compliance of the respondent to the order. These factors are expanded upon in the following sections.

#### **Separation**

In stakeholder consultations, we were told that many people believe FPOs cause the dissolution of marriages and the break-up of families. This is certainly not the stated aim of the FPA, and it is not necessarily a condition of an IPO or PO that the couple live apart. Based on the stated circumstances of the interviewees in Sample B at their first interview and at the time of their IPO application, just over a third were currently living with the respondent to the order. For both samples, nearly nine out of the 10 respondents were a current or former spouse. When the interviewees were directly asked whether they currently had a husband, just over half of Sample B (51.8 per cent) said they did and were living with him, while 41.1 per cent said they did but were not living with him. The lower proportion of Sample A (who had applied for an IPO in the past year) who were living with a husband (43.4 per cent) suggests that at least some, though a relatively small fraction of, applicants end up no longer living with their partners after going through the IPO process and/or obtaining an order (see Table 4).

In short, there is very little evidence that applying for an IPO or having one issued triggers long-term separation. Several SPMs said they go out of their way to explain to respondents that even where the applicant and respondent are living apart and the order confirms that this should continue, it is only a short-term measure. Whether the IPO is renewed for another 30 days or converted to a longer-term PO with a condition set

of separate residence depends on whether the situation changes and whether a variation to the order was applied for. It seems that DFV and marital discord had already prompted a degree of separation between some of the parties interviewed.

## Living arrangements

Of a total of 117 interviewees, approximately one-third (34.1 per cent) reported that they were no longer living at their usual home. Table 17 shows that those in Sample B were more likely to be in a safe house at the time of the interview (28.1 per cent) or living with family or relatives (19.3 per cent) when they applied for an IPO than those in Sample A, who had applied for an IPO in the past year or so. These results indicate that quite a few women move out of home at the time of crisis and then apply for an IPO as a response to the crisis. Some of them, depending on how the respondent behaved and other factors, then return home. Several interviewees commented that they would have preferred to return to their province or place of origin. A stakeholder in Bougainville said that survivors from other parts of PNG were very vulnerable and without the means to return to their place of origin. Femili PNG in Port Moresby and Lae assists clients with relocation costs, but this comprises very few cases. During the Lae centre's six years of operations, less than six per cent of clients each fiscal year were assisted with repatriation, with the proportion decreasing from 2017–18. In 2019–20, only 2.6 per cent of clients were recorded as being repatriated.

## Income

Overall, of the 118 IPO applicants who answered this question, only 16.1 per cent said they had no income or that the source of their income was their husband or relatives (see Table 18). The majority of interviewees in both Samples A and B had an income from either a salary/wages (28 per cent) or from gardening and/or marketing (54.2 per cent). However, several of those who relied on gardening and/or marketing were interviewed after the state of emergency was introduced and noted that they were being adversely affected and their income was precarious.

**Table 18. Current living arrangements and sources of income, Samples A and B (%)**

	Sample A Past year	Sample B First Interview	Total
<b>Current living arrangements</b>	n=60	n=57	n=117
1. At home with respondent	36.7	31.6	34.2
2. At home, with family/relatives	25.0	15.8	20.5
3. Left home, with family/relatives	13.3	19.3	16.2
4. Safe house	8.3	28.1	17.9
5. Other	16.7	5.3	11.1
<b>Current source of income</b>	n=61	n=57	n=118
1. Marketing and/or gardening	55.7	52.7	54.2
Salary/wages	26.2	29.8	28.0
3. Husband/relatives/none	16.4	15.8	16.1
4. Don't know	1.6	1.7	1.7
<b>Currently has a husband/wife</b>	n=60	n=56	n=116
1. Yes, living with him/her	43.3	51.8	47.4
2. Yes, but not living with him/her	50.0	41.1	45.7
3. No, divorced or died	5.0	3.6	2.6
4. Never had one	1.7	3.6	2.6

Source: Survey of IPO applicants.

One interviewee gave an example of what she considered the comprehensive assistance Femili PNG had given her, which included a referral to safe accommodation and then a maternal uncle's residence, assistance with a business start-up kit and the promise of repatriation once the PO was obtained.

### **Individual and family wellbeing**

The majority of interviewees who felt safer because of IPOs had positive comments about their impact on themselves and their family life. Comments often related to feeling empowered or more in control, including:

- » ***I have regained my strength and have readjusted myself. No more fear, I control and respect the IPO/PO and my decision.***
- » ***Improved my family life and full authority over my house while he lives with his new wife.***
- » ***I am now empowered and felt safe knowing that the orders are already in place.***
- » ***I was suffering emotionally and it affected my diet from assaults (verbal). Now I am happy and healthy and feel empowered.***
- » ***No more violence and disagreements. Communication between both of us and kids is respected. We happily go to church together.***
- » ***I have recovered from the mental health illness after being supported by my parents and through Femili PNG. I was assisted with emergency food supply, clothings, business start-up kit together with my parents. I have recovered financial benefit and can move on with my parents.***

Given how many of the IPO applicants had children, and the number of children, most aged under 18, it is understandable why the family as a whole was viewed as benefiting from an end to abuse and violence.

The overwhelming majority of interviewees said they would suggest an IPO to a friend or family member — 100 per cent of Sample A and 93.6 per cent of Sample B. This suggests that even those who did not obtain an IPO or found that it had no effect still saw it as worthwhile to apply for one and that, for most, applying for an IPO resulted in sufficient improvements in their own and their family lives to warrant advocacy.

### **3.4. Impact on perpetrators**

In a number of different scenarios, perpetrators continue to commit DFV, and their behaviour may continue or even escalate. These scenarios include situations where DFV continues despite an IPO being issued and situations where the applicant was not successful in obtaining an IPO. The previous chapter summarised reactions of IPO respondents based on interviews with IPO applicants. A minority were angry (16.9 per cent) and a lower proportion reacted furiously and/or were threatening (11.9 per cent).

A minority of interviewees (18.7 per cent) did not obtain an IPO, which, as flagged in the previous chapter, could relate to problems with the system and/or the applicant not wishing to pursue the order. A small but important number of applicants indicated that they continued to experience abuse and violence:

- » ***None have made a difference because I was unsuccessful in obtaining an IPO. I am still living with my husband who still abuses me.***
- » ***When he is drunk I escape to my village which is some kilometres away from the school community.***

That the respondents continue to threaten and assault the applicants should not be a surprise. Even with the case management support of Femili PNG, which frequently involves obtaining IPOs and POs, client data for six years of the Lae operations indicates that the proportion of clients who report abuse and violence post-intake is 26 per cent for any abuse, 13 per cent for physical violence and five per cent sexual violence, with children having lower rates than adults. However, our research suggests that the majority of applicants who obtain an IPO experience a cessation or reduction in abuse and violence, at least in the short term, as outlined below.

## Compliance with orders

Table 19 presents the responses of 87 interviewees, almost all of whom were women, who said they had obtained an IPO and answered a question about whether the respondent complied with the order. Similar proportions of Samples A and B, a total of 70.1 per cent, said they did.

Table 19. Proportion of IPO applicants who said the respondent complied, Samples A and B (%)

Respondent complied	Sample A (n=47)	Sample B (n=40)	Total (n=87)
Yes	68.1	72.5	70.1
No	27.7	27.5	27.6
Don't know	4.3	0	2.3

Source: Survey of IPO applicants.

The earlier section that described respondents' reactions to the issuing of an order along with open-ended responses to why applicants felt more or less safe provides some insight into the high levels of compliance. Many respondents were reported to have complied with the order for three key reasons: fear of and respect for the law and the courts, an understanding or acceptance that their behaviour needed to change and a range of practical reasons.

The most common explanation for compliance was fear, which resulted in the respondent desisting and/or leaving the home, as these responses illustrate:

- » **Order was on paper and he was scared. And now he never touches me.**
- » **My husband is scared of breaching the orders so he is complying to the orders and withdraw from causing violence.**
- » **Husband was humbled and he really heard from the magistrate and was scared of breaching the orders and saw the importance of the justice.**
- » **Felt relaxed, it really helped me. He saw the court orders and felt defeated and took off.**

The fact that the order was on paper and issued by a court was also significant:

- » **Because this is a court order so I know he will comply to the orders.**
- » **He thought I could not go this far to get help and now having court orders with him makes him humiliated.**

As noted previously, some interviewees indicated that their partner/ex-partner realised they had acted wrongly, typically as a result of counselling:

- » **His realisation came when we were counselled and he started taking household responsibilities.**

Several interviewees also referred to practical motives for compliance, such as wanting to see children or not being able to see the interviewee because she/he was staying with family:

- » ***Now that the order is in place, police also explained to him plainly. He also expressed himself in court that he wants his family back.***
- » ***When I moved out of the house to live with my parents, I knew that he was not easy for him to come near me and the kids in respect of my parents.***

A number of interviewees were sceptical about how long the respondent would continue to adhere to the conditions initially set by the IPO, and, in a few cases, extended by a PO, without relapsing into past abusive and violent behaviour. One interviewee claimed the respondent's improved behaviour lasted for no more than a year:

- » ***After going through counselling (both individual and couple), he was behaving very well for a while but after one year he was beginning to come back to his violent behaviour, particularly when he was drunk.***

We did not interview IPO respondents for this study, but doing so in the future would shed further light on factors that contribute to compliance.

## **Breaches of orders**

The minority of interviewees who felt less safe or about the same also gave short answers to an open-ended question about why they felt that way. The explanations related to the respondents' reactions to the IPO, the interviewees feelings of vulnerability and past experience, as the following comments illustrate:

- » ***About the same because anything might happen, he is aware of it but he can do something harmful to me and run away before the law intervenes.***
- » ***Because he didn't care about the IPO and never followed it. He was more worried about the fact that his so-called reputation was affected.***
- » ***Because I am living in another province far away from my family and relatives so still being threatened by word of mouth.***
- » ***I felt less safe due to past experiences in which the respondent filed reports with the police and welfare for negligence.***

Where the interviewee said the respondent had not complied, an open-ended question was asked about details of the breach. The majority of answers referred to verbal abuse and threats by phone or text directed at the applicant and/or his/her family.

- » ***He kept on sending threatening words via phone SMS. He also took the child away for a night and returned the next day.***
- » ***He breached an order stating that he be restrained from threatening, harassing and intimidating behaviour towards me, the complainant.***
- » ***Calling me through mobile phone or sending me texts saying swearing words.***
- » ***The respondent sent text messages and rang me over the phone to threaten me. Also sending messages through family relatives and frightened the family.***
- » ***Respondent persuaded my family and relatives and he even talked to me over the phone and threatened me.***
- » ***Said yes, but verbal abuse hasn't stopped.***

A total of 31 interviewees responded to a question about who they told about the non-compliance. They could select one or more of the five categories provided. Half of the interviewees (51.6 per cent) had told a caseworker and/or the police, while just less than a third (32.2 per cent) had told family. A few (16.1 per cent) had told no-one.

In the official records of the justice system, there were few complaints or charges for breaches of IPOs or POs. For the research sites where few orders are issued this is not surprising. In Arawa, where few IPOs were issued by the District Court, the FSVU records showed several breaches had been reported. For 2017, the Arawa FSVU records show there was a total of 143 cases, from which 12 IPOs, seven POs and two IPO breaches were recorded. In 2018, 12 IPOs and two breaches were recorded out of 159 cases. For the first six months of 2019, no breaches were recorded. For the sites that had relatively high numbers of IPOs, the following numbers were collated:

### Popondetta

From 2017 to May 2019, the FSVU recorded 251 IPO matters, three PO matters and five breaches. Stakeholders in Popondetta spoke of three recent well-known cases of IPO breaches that resulted in the defendants being sentenced to jail, one after defaulting on a fine of K2000.

### Port Moresby

Statistics from the FSVU central coordination unit, which mainly relied on the FSVUs in Port Moresby,<sup>25</sup> indicated that in 2018–19 five breaches of IPO/POs<sup>26</sup> were recorded out of 553 criminal matters. For the first six months of 2019, the NCD Family Court issued 94 IPOs and 74 POs and recorded only two breaches of court orders, both of which were pending; neither were completed. Only three warrants of arrest were recorded.

### Lae

One IPO breach was recorded by the central FSVU in 2018. In 2018 and 2019, the District Court issued 723 IPOs and 305 POs and recorded 16 breaches of IPO/POs. Stakeholders were not aware of any cases where an FPO breach resulted in a prosecution.

The proportion of interviewees who said they told the police about a breach suggests that many may be reporting to non-FSVU police and/or that the police are not recording or responding to complaints. Speaking with stakeholders, there seemed to be a lack of clear understanding of what constitutes a breach and what can be done about them by survivors. Among police and court staff, the process for and responsibilities of the various justice actors was not well articulated. For instance, in several locations, police and other stakeholders believed it was not possible to charge the non-compliant respondent with both a breach and another offence such as assault or threatening behaviour, as this was viewed as double jeopardy. However, section 29(4) of the FPA regulations<sup>27</sup> indicates that police can charge someone with any criminal offence together with the offence of breaching an IPO or PO if the behaviour that caused the breach constituted another offence.

Breaches of IPOs and POs are a criminal offence, however Lae Femili PNG data illustrates how rarely their clients experience a criminal justice outcome. Table 19 shows that over two fiscal years, 443 clients had their cases reported to the police, but only 138 cases were investigated and 35 arrests occurred. There were no recorded convictions for any clients. Criminal cases often result in a withdrawal or dismissal across the system in PNG (Putt and Dinnen 2020), and even though considerable effort may be involved in FSV offence cases, especially those involving children, each successful outcome is viewed by Femili PNG as an achievement. Femili PNG's 2017–18 annual report mentions that in relation to Femili PNG client cases, 48 perpetrators were arrested, 40 maintenance orders were issued and there were four convictions.<sup>28</sup> Earlier annual reports reference several convictions in the National Court for serious violent and sexual offences, no mean feat considering how long these cases can take.

In the civil domain, there were 81 clients who had IPO summons served by the police during a period when 304 clients were issued with IPOs (see Table 20). From this it can be inferred that many IPO applicants are serving summonses and/or orders on respondents.

**Table 20. Main justice intervention outcomes for Femili PNG clients (Lae operations), 2018–19 and 2019–20**

Intervention outcomes	Number of clients	
	2018–19	2019–20
<b>Police intervention</b>		
Case reported to the police	220	213
Case investigated by the police	79	59
Arrest	20	15
IPO summons served to perpetrator	52	29
Other police outcome	36	23
<b>Court intervention/referral</b>		
Case referred to the courts	220	213
IPO granted	153	151
PO granted	92	85
Warrant of arrest issued	9	4
Conviction	0	0
Court fine	4	1
Other court outcome	115	105

Source: Femili PNG Data Platform.

In summary, we found few examples of breaches recorded by the District Courts, a specialist FSV service or FSVUs. Only a small number of charges appeared to have been laid, and it was even rarer to hear of a conviction. In Lae, we did hear of fines that had been imposed, and in Popondetta, a term of imprisonment was imposed for a breach of an order.

### 3.5 Impact on service delivery and the justice system

Since the FPA was introduced, it has taken several years for both services and the general public to become more aware of the availability of FPOs. As outlined in the previous chapter, there is evidence of increasing awareness among the general public, at least in the major urban areas. The introduction of the regulations and guidance notes helped both the justice system and key health and welfare services better understand the purpose of FPOs and the procedures to obtain one. There have also been various training and awareness raising activities in a range of locations. This has meant that health, welfare and specialist FSV services have been able to raise the possibility of an order for clients who present with injuries and/or difficulties that arise from DFV. Advising clients on where to obtain assistance to apply for and lodge an application has become an integral part of the referral networks.

The crucial and central role specialist FSV services perform regarding FPOs was evident in Jiwaka, Port Moresby and Lae. In these locations, other services such as the police and the courts refer people to specialist FSV services and acknowledge that doing so lessens their workload. The interviews with IPO applicants in Lae and

Minj highlighted how they had received advice and assistance with their applications. A further advantage in Lae and Port Moresby for Femili PNG clients is that the case management approach involves following up and providing support after the initial application, for example with lodging a complaint of a breach or converting an IPO to a PO. Where there is a safe house, the staff assist with information and IPO applications, and can at least suggest an order to residents as a potential protection mechanism for when they leave the safe house.

In other locations, there was no obvious lead agency to assist IPO applicants. In Mount Hagen and Popondetta, for example, the FSVU appeared to be the main point of contact, but they then referred the survivors to the court house. In contrast, in Buka, multiple services assist with IPO applications, which has its pros and cons. Knowledge is dispersed across government and non-government services, but the approach taken to guiding the application can vary in form and content.

From the point of view of justice agencies, FPOs are another avenue to address DFV incidents that give complainants more power to decide what they would like to do, and are not an unfamiliar intervention given the pre-existing generic preventative orders. It could be argued that recommending civil FPOs carries the risk of not treating DFV as a crime, and certainly there was not much evidence of police charging people with breaches, a domestic violence offence or other criminal offences related to the original or subsequent incidents. FSVU police were very aware of FPOs and clearly have a vital role in advising complainants of their existence and purpose, but it was not so obvious whether other police know much about them or would counsel complainants to apply for one. In terms of legal services, we only encountered one public solicitor's office that assisted clients with applications, and only in Port Moresby was free legal advice available through the Legal Training Institute (LTI).

In some District Courts, FPOs make up a sizable proportion of the civil list, generating an additional workload. The FPA and the regulations stipulate that applications are free. In addition, IPO clerks were appointed in District Courts, with the clerk directed to assist applicants with the paperwork. No additional resourcing was provided, and though IPO clerks were appointed in the District Courts we visited, it is only one position. The incumbent may have other responsibilities, and a backlog of cases can accumulate if she/he is not at work. Similarly, magistrates are often overstretched, and not all are sympathetic to the intent of the FPA.

It has taken a while, but in major centres, especially where there is a specialist FSV service, FPOs have become embedded as integral to what can be offered to DFV survivors. The majority of stakeholders supported FPOs, viewing them as a useful option, even if they do not necessarily guarantee safety. FPOs have certainly strengthened ties and coordination between specialist FSV services, the courts and the police. Most of the stakeholders' complaints related to delays, difficulties in navigating processes and enforcement. However, FPOs are not used or supported in rural areas, where health and welfare services are thinly spread and there might not be much, if any, awareness of the FPA. Despite provisions relating to Village Courts being included in the FPA in anticipation that IPOs should be available to survivors in rural areas, they have been rarely deployed, for reasons described earlier.

Though many DFV cases may not result in criminal charges, a study in the Boroko District Court indicated that just over half of all new matters related to DFV (Ganaii 2017). While violent crime is certainly a key area of work for District Courts, we do not have more national data on the proportion of those crimes that relate to DFV (Putt and Dinnen 2020). It was apparent during our consultations that there are not necessarily linkages between the civil and criminal domains within the formal justice system. The only occasion where we encountered FPOs being issued during criminal proceedings was by the SPM in Buka, who on several occasions has issued a PO at the time of sentencing. To date, there appears to be no appetite to seek FPOs within the context of criminal justice proceedings, for example when a case has been adjourned and the defendant is out on bail or at large. The onus is very much on the complainant to keep track of the separate



processes that may relate to Family Court and criminal proceedings, in addition to their application for an FPO. The advantage of having a Femili PNG caseworker is that she supports the client over the longer term, during whatever processes are in train.

In terms of access to justice through community-based processes, this may be occurring in conjunction with or instead of criminal justice processes. In some respects, FPOs are a third way, acting as a warning, and not dissimilar to other preventative orders. However, unlike in community-based processes, the family is not a party in FPO cases and has no active role. As a result, where family members are unsupportive or the complainant believes they will not get a fair hearing about the DFV through community-based processes, the FPO may be an attractive option. In Bougainville, JSS4D-funded training and awareness raising has concentrated on community and village leaders, which makes sense given the complexities of the compensation demands being made by relatives and clan, and that both men and women may protect perpetrators.

As mentioned previously, NCR advocates a parallel process that involves dialogues with families, as well as pursuing protection through the courts. The dialogue is necessary to ensure the woman is safe in the village, as she may not be in a position to go anywhere else. Networks of people who may have been trained by NCR HRDs, peacebuilders and safe house workers are often directly involved in the dialogue. A stakeholder called it 'the Melanesian way — side-by-side processes with IPOs'. Another stakeholder described how peacebuilders and community leaders seek to achieve an agreement between the parties in order to prevent further escalation; this is witnessed by the chief and/or church and community leaders. The stakeholder stressed that during this process, it is important to refer to the law, the FPA and the option of obtaining IPOs/POs.

### 3.6 Impact on the community/general public

In the interviews with IPO applicants, many felt it important to have state agencies such as the police and the courts on 'their side' emphasising that DFV was unacceptable and a crime. The FPA was a watershed, making it clear that DFV is a crime by creating the specific DV offence and introducing FPOs specifically tailored for DFV survivors. However, several key elements need to be in place before we can expect the legislation to have a discernible impact.

#### For DFV legislation to have maximum impact, the public needs to:

- » be **aware** of the FPA, or at least its provisions;
- » **understand** the import of the FPA;
- » have **access** to the orders and charges introduced by the FPA; and
- » be reassured that the FPA has been implemented in such a way that its provisions are viewed as **helpful** for the survivor and his/her children.

To expand on each of these elements:

#### Awareness

As outlined previously, there are signs that awareness of FPOs (typically referred to as IPOs) is spreading, especially in major urban areas and among younger people

#### Understanding

Our research indicates that among the general public, and even key stakeholders, there is often only a superficial

understanding of what the orders can do, how long they last and the process involved. For example, in the young adults' survey, where participants said they had heard of IPOs or POs and may know someone who has applied for one, some participants admitted to not really knowing the details of how the orders work or what the process may involve. In particular, in their open-ended responses, quite a few (30.8 per cent) indicated that they believe only women (and children) can apply for the orders. Several young men were clearly angry about what they saw as a discriminatory law that favours women and/or their wives. According to Dr Essacu, during the fieldwork in Lae he encountered men who argued that many educated and working women were taking advantage of the IPO and PO laws to bully their husbands and boyfriends, which was perceived as leading to marriage and relationship break-ups.

### Accessibility

The ease with which the general public can learn about, apply for and obtain orders varies considerably. Again, it is likely simpler and less costly in major urban centres, where District Courts are located. Villagers are not in a position to access IPOs unless they go to a provincial capital because, firstly, they are not as aware of their existence, and secondly, Village Courts in rural areas do not seem to issue them. In terms of accessibility, what makes a difference is having a specialist FSV service and/or a proactive, supportive SPM or magistrate.

### Utility

Based on our interviews with IPO applicants, it appears that mainly positive messages are being communicated to family and friends about applying for orders. A minority of applicants, and no doubt respondents, are not so supportive. Similarly, key service providers try to inform survivors as best they can about the pros, cons and possible risks. The system's key areas of weakness in the system were identified as: the service of the order or summons, enforcement if there is a breach and the timeliness of the process.

In summary, there is evidence that the general public is becoming more aware of FPOs, but this is concentrated in specific locations where it is more likely the District Court is issuing orders and a specialist FSV service exists to support applicants.

A more difficult impact to measure is whether the FPOs (and the FPA more broadly) are contributing to shifts in views of gender roles and DFV. For those who have applied for IPOs, our interviews indicate that many women feel more empowered and liberated by the process, which can threaten or undermine more conservative or patriarchal notions of gender roles and matrimony. At present, we do not have a way of gauging changes in community attitudes in PNG. However, some of the results from the young adults' survey suggest areas to follow up on:

- » Physical abuse was the top-ranking type of behaviour seen as domestic violence. The ranking of the other categories suggests the need to investigate further what is understood by controlling behaviours and emotional abuse. They may be generally identified as a form of domestic violence, but the actual behaviours that fall within these categories are less certain.
- » The most common factor identified as contributing to domestic violence was alcohol and other drugs, followed by infidelity and jealousy or possessiveness. The primacy of alcohol and other drugs as an exacerbating factor is not a surprise, as larger surveys suggest that alcohol-fuelled violence is the crime of most concern to PNG residents (Sustineo 2018).
- » Males and females were viewed as equal, but there were also high levels of agreement with traditional gender roles, namely that men are responsible for the household income and women raise children and do the housework. However, this agreement with traditional roles did not extend to a man's right to beat or discipline his wife, or have sex without her consent, which were the statements most disagreed with.

### 3.7 Conclusion

Our research indicates that the majority of those who have an IPO issued feel safer as a result. However, many complainants are cautious about expecting this feeling of safety to be sustained over the longer term. Among our sample of IPO applicants who were followed up with for two months after they applied, we found that their perceptions of safety became more polarised, feeling either increasingly safer or less safe. Such a finding underlines specific times of risk for applicants, such as the service of the order and the initial few weeks after the order is served, and highlights the need to provide support to survivors over the longer term, especially with obtaining a PO. What contributed to the IPO applicants feeling safer included having a local specialist FSV service, family support, somewhere to live and police intervention or action. In terms of process, what was seen as helpful included the respondent appearing before the District Court or Family Court magistrate and/or the police being involved.

It does not appear that having an IPO or PO results in the separation of couples. In many cases, separation had already occurred, and if separation was an IPO condition it was often only a short-term measure. In terms of living arrangements, there was again evidence of short-term changes, such as stays in safe houses, and only a minority of interviewees appeared to have moved in with family and relatives. The majority of interviewees were financially independent either through a wage or because of marketing and/or gardening, though the latter was viewed as precarious, which meant that some had experienced adverse economic effects because of the IPO. In fact, most of the evidence indicated positive outcomes such as greater feelings of empowerment and improved mental health for both successful IPO and PO applicants and their families as a whole. The corollary to these positive outcomes for complainants was the impact of the IPOs on the respondents. For a minority, there was no desistance in the abuse or violence, and this should not be ignored, especially if the survivor cannot access family support. However, our survey found that the majority of respondents complied with the IPO, which related to their respect or fear of the law and the courts, an understanding or acceptance that their behaviour had to change and a myriad of practical reasons. The most probable forms of order breaches were verbal abuse and threats by phone or text, but not many of these were reported by the interviewees to the police. The available FSVU and District Court data revealed few reports of charges being laid or convictions recorded for breaches of IPOs or POs.

The introduction of FPOs has certainly had an impact on the justice system. It has created an extra workload for District Courts, but at the same time given FSVUs and other frontline services that have contact with DFV survivors another avenue through which to seek justice and protection. The introduction of FPOs has strengthened ties and coordination between specialist FSV services, the courts and the police. However, no tracking exists to link criminal and civil matters, nor an articulated stance on how community-based processes should work with FPOs. NCR is the exception, with a well-reasoned position that gives primacy to the law, particularly the FPA, but encourages a parallel process — dialogues with families — to increase the probability of a woman's safety back in the village.

The FPA was a watershed piece of legislation, and FPOs are a central feature that are becoming more well known and show that the state supports DFV survivors and the cessation of abuse and violence. How much this may lead to or contribute to shifts in views of gender roles and matrimony is impossible to quantify, but already the survey of young adults suggests that certain kinds of behaviour are no longer viewed as the prerogative of husbands.



Lae police station  
Source: Judy Putt

# CHAPTER 4. KEY CONCLUSIONS AND RECOMMENDATIONS

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## 4.1 Introduction

In this chapter, we bring together our conclusions based on all of the project's research. While it is always easier to identify shortcomings, and though we have a section on challenges, we balance this with a section on opportunities and positive developments. The themes that emerged from the project are summarised under seven main conclusions. The implications of what we found and heard, and the conclusions then drawn, inform the final section on recommendations.

## 4.2 Challenges

Many prior reports have lamented the parlous state of government services in PNG, especially outside of the urban areas. Similarly, the formal justice system is typically portrayed in terms of deteriorating infrastructure, inadequate staffing and pay and slow and inadequate service delivery. Though this holds true in a general sense, our research revealed that in some places there is a reasonable degree of access to justice for DFV survivors who wish to have a PO. Notably, magisterial services were relatively well resourced compared with other government counterparts, with less variability in basic administrative supports such as buildings, housing and office supplies. However, even they struggle. In our site reports, we summarised each site's specific challenges related to the system and the process, as well as within the wider context. Here, we focus on common themes that were raised across all of the sites. Towards the end of the section, we refer to a number of specific issues at several sites.

Many challenges were raised by stakeholders in relation to the justice system that apply generically to all matters reported to the police or addressed through the District Court and Village Court systems. These related to physical resources such as intermittent and uneven access to vehicles, fuel, printers, paper and ink. The formal legal system depends on written records, which generates difficulties for those responsible for making the system work as well as clients of the system. Like in the broader service landscape, there were also challenges surrounding having skilled or gender-sensitive staff, high rates of absenteeism and insufficient numbers of crucial personnel. In Jiwaka, the turnover of staff who had undergone training was an issue. The example given was of two police officers who were funded to attend training in Fiji, but who were subsequently promoted and moved.

In relation to DFV and FPOs, there were distinct issues identified as weaknesses or challenges across the system. Our research is urban-centric, which reflects where resources are concentrated for the justice system. Rural areas are considered separately in the next section, with the exception of Village Courts, which are mentioned as follows. The weaknesses and challenges identified include:

### System

#### Victim support

The government service at the forefront of assisting DFV survivors and their children — the Department of Community Development — is grossly understaffed and has a small, precarious budget compared to many other government services. The uncertain nature of funding for NGO and faith-based services makes it a difficult environment to strengthen and create specialist FSV services. Several of our research sites had no such service or safe house. For example, the funding of VFC in Jiwaka Province beyond 2020 was in jeopardy, and the FSC in Minj appears to have been defunded and subsequently closed, at least in March 2020. Despite efforts to generate minimum standards, the various NGO services and safe houses operate independently from each other, with the inevitable result of different approaches and service focuses depending on the

organisation and its resources. For any support service, tracking and aiding survivors through their journey is very difficult, not least because survivors may not stay in touch and there is not always good communication between these services and the justice sector.

## Police

Both within the police and among the general public, DFV is largely seen as the responsibility of the FSVUs, which arguably have a marginalised and somewhat segregated status from the mainstream Royal Papua New Guinea Constabulary (RPNGC). However, the FSVUs are not always open and/or do not necessarily take a lead role assisting with FPO applications, serving of orders or following up on complaints of breaches. Available FSVU data suggests that 'IPO'<sup>29</sup> is recorded as an outcome in only approximately 10 per cent of cases. Police inaction was also seen as contributing to court cases getting stuck when, after the court gives a hearing date, the respondents do not turn up and the matter is adjourned, leaving the case stagnant. In several locations, we heard of cases where it was alleged the police were not doing as they should because of bribery, nepotism and loyalty to their *wantoks* (people with whom they have strong social bonds).

## District Courts

During the research project, we were told on numerous occasions that there is an insufficient number of magistrates in the District Courts. This results in a disproportionate workload carried by some magistrates. For example, in the first half of 2020, Lae only had three magistrates for the province, an insufficient number compared to the number of people seeking to access the justice system. This shortfall, coupled with other factors such as the closure of the courts during December and January, contributes to a slow system with frequent adjournments. Among court officials and magistrates, there are differing levels of commitment to issuing FPOs and variable practices that affect timeliness, the use of counselling and the proactive issuing of orders in criminal cases. A number of male magistrates, for example, reputedly did not want to hear IPO cases, believing DFV to be a 'family' matter. Even if they do hear them, some treat IPO cases like criminal cases and demand evidence.<sup>30</sup>

## Village Courts

Though Village Courts operate in both rural and urban areas, we found no evidence of them issuing IPOs in either context, even if the magistrates knew about the FPA and had attended training or awareness. Again, there were reasons given by the Village Court officials related to general system issues, such as a lack of funding and support, and more specific issues related to perceived advantages of current practices compared to a new and potentially unhelpful process. The IPO applicant interviews suggest that many in the general public, including DFV survivors, are not aware that Village Courts have the authority to issue IPOs.

## Process

Most criticisms from stakeholders and IPO applicants related to the process of acquiring an IPO, converting an IPO to a PO and reporting a breach of an order. These critiques primarily applied to urban centres, where at least IPOs are being issued, albeit to varying degrees. The main areas of complaint are summarised as follows.

### Minimum requirements

Our research indicates that there are localised and sector-specific practices that do not add up to a consistent approach to advising complainants and respondents on what to do and expect in the IPO process. Despite the DJAG guidelines, there is considerable variation in:

- » the standards expected of an application and an affidavit
- » who is responsible for key actions such as serving the order and
- » who needs to be present at court at different stages of the process.

As already noted, the paperwork involved can be onerous for survivors and key stakeholders, especially if their English literacy is poor.

### Withdrawals/non-appearance

Many women start the FPO process but then drop out. For example, when applicants are issued an IPO, they are given a return date for the PO hearing, but many do not return. Reasons for this are various and complex. Our interviews with IPO applicants, for instance, indicated that many were satisfied with the IPO, with a smaller number not being sure about the possible next steps or deciding to give up because the IPO or process had not resulted in what they hoped for. More sinister reasons such as intimidation and further violence may also cause applicants not to pursue a PO, but those who suffered in this way were less likely to have participated in the survey interviews.

### Timeliness of IPOs

We heard from a range of stakeholders that they believe the police and courts are not dealing with IPOs, or with DFV more generally, with the urgency and promptness that is required. Our research showed that IPO applicants experienced a wide range of time periods before securing an IPO. The earlier pilot study in Lae indicated that there can be considerable variation in time periods even within the same District Court (Putt et al. 2019). This project found differences across the research sites, with certain courts more likely to have longer average times before an IPO is issued. The aim of an IPO is to intervene promptly, especially when the complainant is at high risk of DFV. The survey of IPO applicants revealed an average issuing time of 14.8 days, which suggests that many complainants have to wait a considerable period of time. This is especially troubling when a complainant has been in a safe house and the maximum period of stay has elapsed before an order is secured.

### Service of order

In relation to the IPO process, the serving of the summons and having a receipt of the service appeared to be at times problematic and a time of potential risk for the complainant. Men, in some instances, did not understand what the order meant, and assumed it was divorce papers. The assumption that IPOs force couples to separate was common, even if it was known that they do not constitute a divorce. One stakeholder observed that the success of an order depends on how active the police are, and that 'IPOs are a good concept but it depends on the police and courts'. While serving the order on the respondent is ideally conducted by the police, often they are unable to complete the service due to the lack of a vehicle or fuel or an inability to locate the respondent. Service is then often left up to the survivor, and an IPO cannot be converted to a PO unless the court has proof of the service of the IPO. We were told by several stakeholders that the more educated the perpetrator, the longer the delay in having a PO hearing, as they were more likely to seek adjournments while an affidavit and proof of service were obtained.

### Conditions of the order

The majority of stakeholders and IPO applicants appear satisfied with the fairly standard provisions associated with orders, as well as magistrates' willingness to tailor the conditions, such as co-residency and whether children are to be included in the order, depending on individual circumstances. However, several said they would like to see more counselling offered and ordered by courts during adjournments and/or as one of the conditions of an order. What is understood by 'counselling' requires further investigation, but in many locations there might not be appropriate or qualified counsellors available. A District Court magistrate who does order counselling said the assumption is made that the parties have attended counselling if it was ordered, as a report is not usually provided to the court as to whether it occurred or not. A further concern is whether conditions are included that prohibit threatening behaviour via texts and phone calls, given the number of IPO applicants who said they had experienced such behaviour after the IPO was issued.

## Converting to POs

The limited understanding among survivors and some service providers of what is meant by a longer-term PO, and why a hearing was listed, was discussed in Chapter 2. The terminology does not help, with many stakeholders referring to POs as 'permanent orders'. The lack of clarity surrounding the longer-term orders is no doubt contributing to the attrition of complainants through the process, with many not returning to seek a PO. It is difficult to ascertain the reasons with any certainty, as the clients of key FSV services either say 'it is sorted' or, in many instances, do not come back for reasons unknown to the service.

## Breaches

The lack of enforcement of IPOs and POs by police once breaches are reported was seen as a problem. As one stakeholder in Bougainville put it, 'women just get tired when nothing is being done after they report. If [the police] can't find the person in a remote location then that is that.' Few breaches are reported or recorded, but this is believed to greatly underestimate how many breaches occur. One service provider said that clients only complain of breaches when there are physical injuries and/or lives are at stake, not when other conditions of orders are breached. Difficulties were reported securing arrests for breaches. FSVU police have been known to say that they 'do not do' criminal matters. There are also different practices across various locations, with, for example, Boroko FSVU laying multiple charges, while other FSVUs only charge the perpetrator with a breach offence.<sup>31</sup>

## Hidden costs

Even though the District Courts do not charge fees to lodge an application, there can be other costs, such as transport and paying for the summons to be printed (an example cost was given of 5K a page). Table fees were mentioned in relation to Village Courts, and may lead to costs if these courts start to issue IPOs.

## Alternative processes

While the FPA provides one mechanism for dealing with DFV, other approaches are often used by police such as mediation,<sup>32</sup> Village Courts or localised law and justice *komitis*. While some of these approaches are arguably more efficient and in line with local custom, questions have been raised regarding the ability of these justice fora, such as *komitis*, to deliver justice for victims of DFV (Craig and Porter 2018). At each of the research sites, there were different forms of articulation between the formal justice sector and these alternative processes. In one location, the specialist FSV service and, to a lesser extent, the courts and police, work with local leaders and village-based mediation processes. In another location, the local FSVU worked closely with a local Village Court. For the most part, it appeared that these processes are often invisible to the District Court, which may only be aware that the complainant and/or respondent have not appeared in court.

## Other

A range of other issues arose during the course of the project, which are outlined as follows:

### Identities of complainant and the perpetrator

Further challenges related to the identities of the complainant and the perpetrator. With the former, several stakeholders mentioned the difficulties faced by victims who were from outside their current province of residence, with the victims wanting to return to their home province but having no means to do so. With the latter, stakeholders said that if the perpetrators are influential, well known or feared the IPOs do not work. An example was given in Bougainville of a politician ringing the court house and telling them to cancel the order against his relative. As one stakeholder observed, there are differing reports on whether POs consistently offer protection. They can send a strong message and, at least for professionals, can be a significant consequence due to the shame associated with having an order imposed. The stakeholder also said that it is hard to know



whether orders have much significance at the village level. In terms of the effectiveness of IPOs, another perspective was that IPOs are most effective when the man had not had any previous contact with the law and order system. In those cases, it was reported that the man can be shocked to be served an order from the court and change their behaviour to avoid involvement with the justice system.

### Attitudes of men towards the justice system

Some men were thought to be resentful, believing that women get more support than men and the system is biased. Men may be reluctant to go to court as 'they don't accept it, very defensive — view it as a slap on the face'. For the most part, however, the majority of men were thought to respect the law and the courts, at least as general concepts. Attitudes towards gender roles and DFV, as well as the literacy of men, were raised in a number of contexts. The view was expressed that IPOs would be more effective in changing attitudes and behaviours if some men were more literate in the English language.

### Allegations of misuse

Several stakeholders referred to the occasional abuse of orders, for example to create an advantage in a customary land dispute or for an application for maintenance.

### Rural areas

A major challenge remains the rural areas, with people living in villages less likely to be aware of FPOs and more likely to face economic and transport hurdles if they want to apply for an order at a District Court or seek information at a police station. The risk of services not being open or able to assist also deters survivors from investing the time to travel to an urban centre. Several stakeholders said that in villages, domestic violence continues to be viewed as a family issue and women remain reluctant to report it to police. As mentioned previously, mediation practices are widespread. A stakeholder observed that 'the men don't like appearing before court and try to settle out of court', which indicates the continued pressure to deal with such matters through mediation rather than formal police channels and the District Court.

Although Village Court officials have the power to issue IPOs, and there has been a concerted effort to increase their awareness and understanding of the FPA,<sup>33</sup> this has not translated into the actual use of IPOs in rural areas, as far as anyone knew. At present, the FSVUs are focused on assisting those in town or who come to the station and do not have the capacity to provide a service further afield, especially if their vehicle is out of order or routinely being used for other policing matters.

### Churches

Church organisations continue to be integral to life in PNG, providing services and acting as community hubs. The survey of young adults showed that of the seven options provided, the most popular recommendation for whom a victim should talk to was church leaders, followed by another family member/family leader. To date, there appears to have been little overt community education about the FPA and FPOs by or with the main church organisations, though at the local level church groups or networks may be heavily involved in supporting survivors, the most obvious being NCR. At one research site, the research team observed tension between religious institutions whose priority is to keep marriages intact and survivor rights advocates (sometimes within the same institution) whose priority is the safety of women. Traditional gender roles and social norms also contributed to this tension.

### State of emergency

The state of emergency restrictions introduced to reduce the spread of the COVID-19 pandemic have at times resulted in the closure of services during 2020. At the height of the lockdown, all government services except designated frontline services such as police and medical services were closed. Many police, including FSVU staff, were redirected to other duties associated with raising public awareness of the pandemic and

the state of emergency restrictions. The Chief Magistrate issued circulars stressing that magistrates should only deal with simple and urgent matters lodged electronically. Many safe houses closed. Personal protective equipment was in short supply. At some locations, efforts were made to deal with urgent IPO applications lodged via email. The considered [response](#) by Femili PNG, including its services operating with reduced hours, was documented in a newsletter. As a consequence of the lockdown, few IPOs were issued for several months, but anecdotal evidence indicates that there was a rapid rise in demand once restrictions were lifted.

## Site specific

Each research site had its own distinct challenges, as documented in the site reports. A few of the most pressing challenges are outlined here:

### Bougainville

The island not only has limited government funding for police, justice and community development services, but also the legacy of the conflict to contend with. As Bougainville moves towards independence, some stakeholders are concerned that government-funded services such as the courts and the police will find it even more difficult to cope with further declines in budgets and resources.

### Mount Hagen and WHP

FSV survivors in Mount Hagen and WHP have very few options in terms of support and assistance. The local context was viewed as riven by instability and disadvantage, with current examples given of clan fighting in the province and a spate of jail escapes. Some deep-rooted causes flagged by stakeholders included the longstanding political rivalry between the open member of parliament and the governor, high levels and acceptance of all forms of violence and traditional views of gender roles and authority. The high rate of absenteeism among key government services appeared to be an ongoing, chronic state of affairs due to a constellation of factors, such as leave, sickness, funerals, training, funding shortfalls and a lack of facilities. There was a sense of many service providers being away or bunkered down. The commitment and capacity of NGOs to act in Mount Hagen was also questionable given funding uncertainties and an element of competition ('jealousy') among them. The impact of limited service delivery and a bunkered-down workforce appeared to be a dissipation of interest in FSV and a 'passing on' of the problem or client by referring them to another agency.

### Port Moresby

The most populous city in the country, Port Moresby has a more complicated and fragmented system for processing applications and conducting FPO hearings than other locations. The District Courts that service the NCD are Port Moresby (Downtown), Boroko and Waigani. The Family Court, which was established by the LPA, is located at the Port Moresby (Downtown) District Court.

While FPO applications can be lodged at any District Court, the NCD Family Court has become a central application and processing hub. At the time of the research team's visit in March 2020, the NCD Family Court was utilising magistrates at Waigani and Boroko District Courts due to the limited availability of magistrates at the Family Court. While court staff try their utmost with the resources they have, the fact that an application might be made at one court but heard at another results in inefficiency and confusion, creating an additional burden on the applicant.

## 4.3 Opportunities

The list of challenges to an effective implementation of the FPA are long and unsurprising. However, there were many instances when stakeholders and interviewees described signs of positive change, improved practices and affirming experiences. This means that there are opportunities that can be built upon, a few of which are discussed in the following list:

## Positive feedback on IPOs

IPOs are viewed as more accessible and cheaper than generic restraining orders issued by the District Courts and cheaper but not faster than preventative orders obtained from the Village Courts. More IPO applications are being lodged by men, by children exposed to DFV and for child victims of sexual abuse. Increasing evidence shows that IPOs have been helpful for many survivors. This evidence includes the proportion of survivors who would recommend an IPO to others as well as the survivors' increased feelings of safety once they had obtained one. Stakeholders indicated that a single court document and/or court appearance can have a significant impact on respondents.

## Community education

In many respects, stakeholders were cautiously optimistic about both the future and the progress to date, despite the challenges. Many commented that they believe attitudes towards DFV are changing, and that there is an increasing appreciation in the community that it is not a private matter. It is impossible to quantify, but the GBV awareness raising in schools and with government services, as well as the training on referral pathways and the FPA with Village Court officials and other justice stakeholders, was seen as having an effect.

## Training of key stakeholders

As stated above, there has been considerable emphasis on improving awareness and understanding of the FPA among key justice stakeholders, though it can be confusing trying to work out what has been delivered to and by whom. Until the COVID-19 pandemic, review and planning were underway to redesign the JSS4D program, which funds much of the training in the justice sector. In Bougainville, in recognition of the vital role police play in making FPOs accessible and effective, and thus the need to improve their skills and knowledge, there were several training opportunities planned for 2020. These included gender sensitisation for front desk police, ensuring that the domestic violence training module was delivered to the Community Auxiliary Police (CAPs)<sup>34</sup> and eight members of the Bougainville Police Service attending the police prosecution course run through the Bomana Police Training College. There was also the intention by JSS4D to develop a 'streamlined FSV victim-centred process' for the police that would reduce the number of times victims have to tell their stories and improve the lines of accountability within the police, which at present tend to end as soon as someone else is told the information. All of these plans and training activities were stalled in 2020, so it will be useful to monitor what emerges in 2021.

## Consolidation of key FSV services and improvements in service provision

Further areas of improvement include an increase in survivors' access to services over the past five years and the perception that more survivors now know about the FPA (at least in urban centres). Crucial to these improvements was the pivotal role of the specialist FSV services in providing services, community education and training. Of special import were the safe houses run by a range of organisations and the increased recognition (and funding) that the service they provide is essential for those most at risk.

In Port Moresby, there was evidence of referral networks aiding in the service of IPOs, though these relied on personal relationships, for example between a particular FSVU and the local Village Court, and between the LTI and the Waigani FSVU. There are more avenues for victims to seek advice and assistance with IPO applications, with frontline staff better equipped to advise clients of their options, the potential risk and that they do not have to separate from their husband or partner to obtain an order. Case conferences are being held involving multiple stakeholders when a case is high risk and/or has stalled.

## Working with men

We encountered both regional and local examples of efforts to build male advocate networks. NCR, for example, trains male advocates, and many stakeholders stressed the need to work more with men. In 2018–19,

a six-month trial domestic violence perpetrator program was run in Bougainville involving key people from NCR and the aid program JSS4D. We were told that about 20 men who had been sentenced in 2017 and 2018 were involved in the program, and spouses participated at the beginning and the end of the program. We were told the results from the program were promising but have not yet seen the report of the trial.

### Working with alternative justice processes

The approach by JSS4D in Bougainville to concentrate on community and village leaders makes sense given the complexities of the compensation demands being made by relatives and clan, and that both men and women protect perpetrators. NCR advocates a parallel process that involves 'dialogues' with families, as well as pursuing protection through the courts. The dialogue is necessary to ensure the woman is safe in the village, as she may not be in a position to go anywhere else. Networks of people who may have been trained by NCR HRDs, peacebuilders and safe house workers are often directly involved in the dialogue. A stakeholder called it 'the Melanesian way — side-by-side processes with IPOs'. Another stakeholder described how peacebuilders and community leaders seek to achieve an agreement between the parties in order to prevent further escalation; this is witnessed by the chief and/or church and community leaders. The stakeholder stressed that during this process, it is important to refer to the law, the FPA and the option of obtaining IPOs/POs.

### Leadership

Where there is a high number of IPOs being registered in proportion to the population, it is usually the result of a trifecta of critical actors: the FSVU,<sup>35</sup> a specialist FSV service and a responsive District Court. Having an SPM or magistrate who takes a proactive and supportive stance towards FPOs provides much-needed leadership and results in practical outcomes. Oro Province has seen a marked increase in the number of IPOs being issued in recent years, and a major contributing factor is the SPM, who was observed to be a champion of the FPA. In the NCD, the Family Court was viewed by service providers as specialised, more flexible and more appreciative of the urgency of some applications. It has adopted innovative approaches to the service of IPOs. However, changes in the magisterial staff mean the court has been slower in 2020.

At a regional level, Morobe Province has become a national leader in addressing DFV thanks to:

- » donor programs such as JSS4D, Femili PNG and the Australian Federal Police working together effectively
- » strong coordination mechanisms among service providers such as regular provincial FSVAC meetings with active participation
- » Morobe being an early adopter of the FPA due to the advocacy of local civil society groups such as Femili PNG and the support of the SPM and
- » leadership from local leaders in the police, court and Provincial Administration, as well as political leaders.

### Policy and program support

Promising developments are occurring in the political and funding domains, and opportunities are emerging in the justice sector. None of these explicitly relate to FPOs, but should assist in addressing DFV and fostering an environment more conducive to accessing justice. They include:

**Political:** The first national summit on ending GBV, held in Port Moresby in November 2020, was opened by the prime minister and driven by a coalition of 20 parliamentarians who have committed to improving the national response. The two governors of the NCD and East Sepik provinces chaired the summit, which was supported by the United Nations through the Spotlight Initiative and the government of Australia.

**Funding:** Other avenues for funding to support work in the area are opening, including the United Nations Spotlight Initiative. The significance of aid funding is demonstrated in Oro Province, one of JSS4D's priority provinces. Though JSS4D advisors were not physically based in the province, the impact of the program was noticeable. JSS4D has funded vehicles and buildings, supported workshops and awareness sessions, engaged law and justice interns and set up the Women's Advocate Network. JSS4D also actively supported the FPA awareness trainings for Village Courts.

**Justice sector:** There are several initiatives we are aware of that could promote a more conducive environment for effectively implementing the intent of the FPA, including the use of FPOs:

- » **Police:** A proposal has been submitted to the RPNGC executive to mainstream FSVUs and create a FSV directorate within the organisational structure. It may regain momentum once the threat of the COVID-19 pandemic subsides.
- » **Legal services:** A new division titled Special Projects has been created within the Office of the Public Solicitor that includes family law. As a result, the office may take a more active role in helping with IPO applications.
- » **District Courts:** Promising discussions were underway (in August 2020) to develop an extended Family and Children's Court involving the NCD government and the Deputy Chief Magistrate that would hear both civil and criminal DFV cases and operate based on safe court principles.

## 4.4 Seven key conclusions

Our findings clustered around seven themes, which represent our main conclusions. These are summarised as follows.

### 1. Family protection orders are becoming more well known, but the processes are not well understood.

Our research, based on the perceptions of key stakeholders and the survey of young adults, indicates a greater awareness of FPOs. However, even among university students and other young adults in the two major urban centres, where a relatively high degree of knowledge would be expected, just under a third were aware of the orders. In rural areas, it is becoming more likely that people would have heard of them through contact with friends and kin, visits to provincial centres, a range of awareness-raising activities by NGO services and various training programs for police and Village Courts. However, it was apparent from the interviews with IPO applicants, the survey of young adults and the stakeholder consultations that there is often a lack of detailed understanding about what the orders do and the procedures involved. Some people, both men and women, believe the orders are only available to women and their children. Some of the respondents believed the 'paper' (at service or summons) represented a demand for divorce. There was a widespread perception that the orders cause partners to separate, and that separation is an integral part of the conditions of an order. In general, the concept and term IPO was more well known, while longer-term POs (which were frequently called 'permanent orders') were less known, even among those who had received a PO. Uncertainty about the length of an order was common. Even some key stakeholders, including police and court officials, had only superficial or misguided knowledge about the FPO and breach processes.

### 2. Increasing awareness is important, but the system needs further funding and resources to respond to demand.

Available data shows increases in the number of IPOs being issued in most sites until the last year or so, suggesting that the courts have reached capacity. The current under-resourcing of the formal criminal justice

system and government services in PNG has been documented elsewhere (Putt and Dinnen 2020). In each of the research sites, we heard accounts of how difficult it is to deal with or assist with IPO applications due to shortfalls in personnel and basic office supplies. A legal process demands a certain degree of literacy and access to forms. Already, considerable burdens are placed on key individuals and positions because of the demand for FPOs. To focus on the police, FSVUs not always fully staffed and may not have access to a vehicle. Relying solely on FSVUs to handle DFV and advise on FPOs is in itself problematic. There were 24 FSVUs<sup>36</sup> across the country at the end of 2019, which means many places do not have one and other frontline police may be the ones called to attend or with whom complaints are laid. In the non-government sector, we heard from one safe house manager that she had not had a break for six months. The courts are extremely busy and there is an insufficient number of District Court magistrates across PNG. If the single SPM in Popondetta was away or sick, there was no one to fill in. In one location, the public solicitor's office had not been open for months. A single dedicated position, IPO clerk, was created for FPOs but, as flagged previously, no additional funding was provided. These clerks sometimes juggle more than one position and, again, if they are on leave, no-one may be available at the busy front counter to assist with applications and other paperwork.

### **3. Police have a critical role to play, but do not always fulfil their role effectively.**

The research has underlined how police act as a critical frontline service and can be the first service survivors seek advice and/or redress from. Almost half of the IPO applicants said they had been assisted by the police. In the survey of young adults, the police was the most favoured organisation or service they would recommend to a DFV survivor. The police are central to action being taken in both civil and criminal matters. In the civil domain, they can directly assist with IPO applications and/or refer DFV victims to a specialist FSV service or safe house, if either exist in their local area. Available data suggests that the latter may be occurring, but less so the former. Ideally, the police also serve summons or IPOs on respondents, however we heard on many occasions that the police are not doing so. In the criminal domain, how police exercise their discretion in relation to the enforcement of orders, arrests and the prosecution of criminal charges such as the domestic violence offence and the breach of an order offence has serious implications for DFV survivors. In addition, police prosecutors can argue for FPOs when criminal cases are being heard or sentences imposed in the District Court. How the police work with local *komitis* and Village Courts is another field fraught with risks for DFV survivors. A preference for mediation can result in an alternative system that reinforces women's subordination, rather than a complementary system (Craig and Porter 2018).

### **4. Specialist FSV services make a significant difference by supporting and helping survivors at times of crisis and over the longer term.**

The absence of a specialist FSV service was marked in two of the research sites. At one of these sites, the most obvious consequence was a small number of registered IPOs. The absence of any safe house for crisis situations is also a major problem, as was demonstrated in the two sites. The advantages of a specialist FSV service are that the clients can make informed choices about how they want to proceed and are supported and more informed during the FPO process. The case management approach adopted by Femili PNG ensures ongoing support, which leads to a high conversion rate of IPOs to POs and a greater likelihood that breaches are reported to the police.

### **5. Obtaining orders depends on access to District Courts and committed magistrates.**

Being able to attend a District Court is easier if you reside in or near a provincial capital. It is certainly easier to attend court if the applicant has the financial means to pay for transport and cover the costs associated with applications and subsequent appearances. Not all magistrates are committed to the use of FPOs, and there is considerable variety in how different magistrates deploy them, including adjournments, how quickly and under what circumstances IPOs are issued and the use of counselling. Village Courts are not issuing IPOs in either

urban or rural areas, even in locations where there has been a concerted effort to publicise the FPA and the courts' powers under the Act.

## **6. FPOs improve safety for most applicants; however, service of the order is a time of risk.**

Based on a series of indicators, including the interviews with IPO applicants and stakeholder consultations, we conclude that the majority of complainants do feel — and are — safer because of the orders. A minority of applicants, however, did not have this experience, and in some situations seeking an order made the situation worse. Even where applicants felt safer, there were instances of harassment and threats. However, on very few occasions was this reported as a breach of a condition. Risk assessments undertaken with complainants by experienced caseworkers would assist in identifying respondents who are more likely to respond adversely, and case conferences may need to be convened in highly volatile, dangerous and/or high-profile cases. Complainants' levels of safety can change rapidly and over time, and the deterrent impact of an order may lessen as time goes on. For this reason, more should be done to explain and promote POs. The research has shown that a particular time of risk is when an IPO or summons is served on a respondent. As such, this should be undertaken with caution and by the police, with an effort made to explain what the order or summons is.

## **7. Having family and/or church support can improve the effectiveness of FPOs and reduce the risks to DFV survivors.**

Of the IPO applicants we interviewed, almost three-quarters said they had the support of family to make an application. For a number of them, this translated into concrete support, with 19.3 per cent of Sample A staying with family after applying for an IPO and a number receiving financial assistance. It was also brought home to us how important family can be when DFV survivors live in another province or far away from their family and place of origin. A degree of care is warranted, as family and churches can also exert pressure on DFV survivors to stay with a partner and not seek redress or protection through the formal justice system. In seeking to assist individuals and their families, an explicit exploration of a survivor's options in terms of their family's practical and social support is crucial. At an institutional level, a more public and formal commitment to ending DFV from faith-based organisations and church leaders can make a significant difference to the level and kind of support provided to DFV survivors in their efforts to seek protection.

## **4.5 Recommendations**

The parlous state of government service delivery and the ongoing challenges of external funding for key NGO services are well recognised. The justice sector is noticeably frayed and requires a sustained and significant investment. The struggle to maintain a functioning formal justice sector is more pronounced in some provinces and in rural areas. In this report, we have referred to promising program support and policies that could enhance the sector's response to and support of DFV survivors in terms of access to both justice and protection. Here, we focus on the specific changes and priorities directly linked to FPOs both recommended by stakeholders and that emerged during the project. These were, in no particular order:

### **1. That justice sector stakeholders improve public awareness of FPOs.**

Efforts to better inform the general public need to span a range of audiences and focus on different sections of the population. The key messages related to FPOs should highlight what they can do, their potential impact, the risks and the basic steps involved in the process. It should be clear that the orders are preventative in nature and act as a warning, with criminal sanctions only brought to bear if the conditions of the order are breached. The difference between IPOs and POs should be clarified, as well as that FPOs are not related to divorce proceedings. It would be beneficial to have specific information for potential complainants as well as respondents, that outline how long the orders can be, the kinds of conditions that can be imposed, what a breach is and the consequences of a breach. Local networks can be invaluable in disseminating such

information, and we encountered examples of linkages and workshops with HRDs, community leaders and schools. Our research indicates that a tailored strategy is required for young adults in the main urban centres, and could use, for example, social media to better inform this age group. In addition, court users would benefit from the provision of accessible legal information, for example, a leaflet on IPOs and POs provided by court staff explaining the terminology, process and what to expect. However, noting that many applicants have low literacy levels, any in-person support (ideally trauma-informed) that could be provided by courts, NGOs or public solicitor's staff would be of great assistance.

## **2. That the government of PNG and the donor community provide ongoing, long-term funding to civil society organisations to improve and expand victim support services for FPO applicants across the country.**

In addition to increasing demand for FPOs through public awareness raising, the system needs to be bolstered to keep up with the demand. It is the non-government sector, particularly specialist FSV services and safe houses, that provides immediate and longer-term support for survivors. More of them are needed. The workforce require a suite of skills, including case work, trauma-informed practice, counselling and working with children and families. Various practice tools could be developed and shared across services, such as risk assessments and protocols to share information for case conferences. DFV 'champions' or mentors could be appointed within non-specialist services to promote awareness and sensitivity within these organisations and to improve coordination between the specialist FSV and other services. In several research sites, networks of personal relationships across services were found to be central to effective responses.

## **3. That donor community support targets capacity building, and key agencies involved in the FPO process prioritise skills development.**

Suggestions for how this could be achieved and notable areas of weakness for different agencies are as follows:

### **Frontline services**

Based on the feedback we heard from the courts, it would be worthwhile investing in practical sessions for frontline services (such as safe houses, FSVUs, FSCs, public solicitor's and community development offices) on how to assist survivors with IPO applications and, most importantly, the preparation of affidavits to ensure they cover the relevant information. Such workshops should involve IPO clerks.

### **Village Courts**

A similar recommendation arose during the consultations in relation to Village Court officials, who, it was argued, need guidance and applied practice completing forms in order to issue and register IPOs.

### **Police**

An emphasis on police responsibilities in relation to serving orders and summonses, as well as responding appropriately to reports of breaches of orders by laying charges, should be incorporated into training and professional development and monitored by managers.

### **District Court magistrates**

More training on DFV that covers the FPA, safety-first principles and the relevance of DFV in the family, criminal and civil domains is recommended for magistrates. In addition, a circular could be distributed to all magistrates emphasising that IPOs may be required urgently and encouraging them to capitalise on arrangements to deal with urgent IPO applications during the state of emergency, where some magistrates accepted applications by email and over the phone.<sup>37</sup> It could also draw attention to the way DFV survivors are often harassed and threatened by text and phone calls from respondents, and that the conditions of FPOs could explicitly forbid such behaviour. The circular could also remind magistrates that FPOs can be ordered at the time of sentencing



for criminal matters, or while criminal cases are still being determined.

#### **4. That the government of PNG considers options for improving the specialisation and efficiency of courts to process FPOs, as well as other matters relating to domestic violence and family law.**

Many DFV cases and situations are fraught, complex and escalate rapidly. A survivor may have matters simultaneously being heard in the Family Court and under both the civil and criminal tracks.<sup>38</sup> Individual magistrates may not be aware of this, nor of earlier court proceedings. Introducing a 'flag'<sup>39</sup> to track DFV cases involving the same parties that is accessible in a timely fashion would help magistrates be fully informed of concurrent actions. In addition, there are various ways DFV could be better addressed through priority and special listings, specialised courts or designated magistrates, as well as the adoption of safe court principles wherever possible. Given the socio-cultural diversity across PNG, different approaches may be required in different provinces. In Port Moresby, there is an opportunity to designate the Family Court as a central location for domestic violence matters. Civil matters under the FPA and LPA are already heard by the Family Court; this could be expanded so that it can also hear criminal matters under the FPA (domestic violence offences and breach offences). Efficiency could also be improved so that IPO hearings take place daily and urgent IPOs can be issued within 24 hours.

In other provinces, it may work to designate a specialised magistrate to hear matters under the FPA and LPA and/or create priority listings for family violence matters.

#### **5. That civil society and the donor community give consideration to expanding programs that work with FPO respondents.**

The majority of FPO respondents are men. We were told about the training of male advocates in number of locations — for example, Bougainville, Lae and Port Moresby — but only in Bougainville did we hear about a program that worked with DFV perpetrators. Depending on the success of this program, there may be opportunities to trial similar programs elsewhere. A few of the IPO applicants were positive about counselling that had involved both parties, and assessing its efficacy and investigating avenues for it to occur would be worthwhile.

#### **6. That the Magisterial Services of PNG work towards nationally consistent and timely reporting on FPOs.**

The research team is grateful to the District Courts that shared their data relating to FPOs. However, we found it difficult to interpret and compare data across provinces due to diverse reporting formats. Many provinces were not collecting data on POs or breaches, only IPOs. There was also a lack of consistency in the way data fields were used for the status of IPO registrations/applications, including 'granted', 'completed', 'pending', 'adjourned', etc. Data should also be collected on the time taken between an application and the granting of an order, as this is an important safety indicator. Nationally consistent and timely reporting could assist in providing a more accurate picture of FPO use across the country. The reporting format should also contain fields related to breaches and whether counselling, mediation or compensation has been ordered by the court.

#### **7. That national and provincial stakeholders such as FSVACs use available data to monitor how FPO processes are working.**

There were a series of indicators we endeavoured, with varying degrees of success, to obtain data on relating to the FPO process and how well the system was working. Only in Lae did we encounter a concerted effort to share and review such data by the provincial FSVAC. We recommend the continued collation and review of whatever data can be accessed related to the following:

- » assisting or advising survivors about FPOs, including the number of clients seen by FSVUs, safe

houses, the public solicitor's office and specialist FSV services

- » timeliness in issuing IPOs, including the time taken between lodgement and the issuing of an IPO and the time taken between an IPO being issued and its conversion to a PO
- » variability in registering IPOs and issuing POs, including annual numbers for every District Court across PNG
- » enforcement of charges, including recorded reports and charges for breaches of orders by police and courts.

#### **8. That justice sector agencies consider how FPOs or similar mechanisms can be more accessible in rural areas.**

Our research indicates that Village Courts are not likely to start issuing IPOs, even when they know they can. An alternative approach is to develop guidelines for preventative orders tailored to addressing and preventing DFV that can be issued by Village Court magistrates with the intent and conditions of IPOs. A further reform could involve amending the FPA to extend the provisions related to Village Courts and FPOs.

#### **9. That the good practices employed to issue FPOs during the COVID-19 state of emergency are continued by the justice sector.**

Lessons were learnt from the state of emergency and the restrictions imposed during the lockdown in 2020. For example, emergency IPOs were issued in several District Courts after applications had been received electronically. Guidelines should be developed that bring these lessons together to ensure DFV victims always have access to emergency help, support, accommodation and protection.

### **4.6 Further investigation**

As with any research project, we felt there were areas where we could not ascertain clearly what was going on and/or that require further investigation. A few such areas include:

- » the degree to which police or other nominated personnel were acting on behalf of the complainant under section 7 of the FPA
- » whether police were aware of and charged respondents who breached an order with a breach offence and/or other offences, if the behaviour warranted it
- » what is understood by non-physical DFV, including emotional abuse, among young adults and others and
- » the perspectives of men who had been subject to an IPO and/or PO.



Arawa police station  
Source: Lindy Kanan



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## Endnotes

- 1 In this report, we most commonly refer to domestic and family violence (DFV) to make it clear that the abuse and violence takes place between current and former intimate partners such as spouses, as well as between or against family members. There are both male and female victims of DFV, but evidence underlines that they are predominantly the latter. The term FSV is also used in this report, given the acronym's wide use in Papua New Guinea.
- 2 In Port Moresby, it is recommended that provision is made for urgent IPOs to be issued on any given day at a single court.
- 3 These could include family law matters such as child maintenance, child custody, adultery, etc. (see *Domestic Violence, the Law and Related Services in Papua New Guinea: A Survey of Young Adults in Port Moresby and Lae* by Judy Putt, Geejay Milli and Francis Essacu), as well as criminal matters such as domestic violence or other offences.
- 4 The practicalities of how such a flag would be made and accessed would need to be worked out.
- 5 Comparisons of the 2014 and 2018 surveys were limited to respondents aged 18–39 years, as the age range for the 2014 survey was 15–39 years and 18–45 years for the 2018 survey.
- 6 This report takes a very cautious approach to comparing the two surveys, as both were cross-sectional in design and the majority of questions used in 2014 were not replicated in 2018.
- 7 The *Family, Health and Safety Study* survey found that 85 per cent of men and 75 per cent of women felt that women should obey their husband; two-thirds of men and less than half of the women believed that a woman cannot refuse to have sex with her husband; and 60 per cent of men and 45 per cent of women agreed that if a woman does something wrong, her husband has the right to punish her (Jewkes et al. 2015).
- 8 Reports on each of the research sites were provided to Pacific Women and JSS4D. Access to these reports can be requested from the authors.
- 9 Available at <https://youtu.be/U6IH8pO5wzY>
- 10 Copies of this questionnaire as well as the other research instruments can be obtained from the authors.
- 11 The total number of participants was 180, but where a separate analysis was done for Lae the number is 57 participants for whom it was clear Lae was their current place of residence. Similarly, the Port Moresby results are based on the findings of 118 completed questionnaires, four less than the number actually interviewed.
- 12 Family Court hearings are in camera to protect participants, notably children.
- 13 Available from the Department of Pacific Affairs website.
- 14 18.8 per cent of females and 20.7 per cent of males.
- 15 The CIMC-FSVAC is also sometimes referred to as the national FSVAC in order to differentiate it from the provincial FSVACs.
- 16 During the research project, we were told that the Morobe provincial FSVAC was setting up FSVACs in Fincaffen, Kabum and Menyama districts.
- 17 We were provided this data by ChildFund with the caveat that there are some inaccuracies with the current data management system, which they are working to rectify, including by upgrading the system. They told us they believe the staff provide more information and referrals on IPOs than the data shows, but acknowledged phone counsellors need more training to support survivors in navigating the legal system.
- 18 FSVU central office data primarily covers data from the NCD and Central Province FSVUs. There were also a few monthly

- returns from Madang, ARB, Manus and Eastern Highlands provinces. Vanimo FSVU's monthly returns were for the period January 2018 to January 2019. Note: n=2805 outcomes/status recorded for a total of 3145 matters (2244 criminal matters and 901 civil matters).
- 19 2011 census data includes 53,986 people in Bougainville's Buka ward and 44,865 in its Arawa ward, as well as 362,850 in WHP, with 123,299 in Mount Hagen. The province of Jiwaka had 343,987 people and the urban ward of Minj 2670. A population of 364,145 was recorded for Port Moresby, while the Popondetta local-level government in Oro Province had 30,000 people and the Lae District in the Morobe Province had 150,000.
  - 20 In 2018, the Lae District Court had 372 IPO registrations, and granted 350 IPOs in 2019. Given that a significant proportion of those registered do not result in an IPO being issued (see Table 11), it is likely registrations increased significantly in 2019.
  - 21 In response to COVID-19, a national state of emergency was declared at the end of March 2020. Most government services were closed during the lockdown, including District Courts. It is likely this caused a dip in the number of orders issued between April and July 2020. However, the Chief Magistrate did encourage senior provincial magistrates to issue emergency orders if possible.
  - 22 The fact that there was a higher proportion of interviewees who said they obtained POs compared to those who went to a hearing is either because some interviewees obtained a PO without having to appear in court or because of a misunderstanding about what the question referred to.
  - 23 While only the NCD has a designated Family Court building (in Port Moresby), any District Court can sit in its Family Court jurisdiction when hearing family law matters.
  - 24 This could be a domestic violence offence under section 6 of the FPA or an offence under any other law that involves conduct that amounts to domestic violence.
  - 25 These statistics were obtained for a research project on FSV offences (see Putt and Dinnen 2020).
  - 26 The category used on the form was 'breach of PO', which we were told covers IPOs and POs.
  - 27 Section 29(4) states that 'for the avoidance of doubt, section 20 of the Act does not prevent a person being charged with another offence instead if the conduct which amounted to a breach of the family protection order also constituted another offence'.
  - 28 It is not known whether these justice outcomes apply to the Lae courts and police and/or other jurisdictions, though the work would have been undertaken by the Lae team.
  - 29 As noted previously, 'IPO' as an outcome category appears to include having provided information on the option of an IPO, a referral to seek assistance with an application, assisting with the service of the IPO or directly helping the client with an application.
  - 30 Because it falls within the civil jurisdiction of the courts, the standard of proof for granting an IPO or PO is on the balance of probabilities.
  - 31 Section 29(4) of the Family Protection Regulation 2017 confirms that multiple charges can be laid concurrently, for example for the breach of an order as well as for a domestic violence or other offence.
  - 32 Police have certainly been discouraged from mediating by FSVU managers, external advisers and at training courses, but this does not stop the practice.
  - 33 In Bougainville, for example, 150 Village Court officials participated in training on the FPA and referral pathways in 2019.
  - 34 In March 2020, it was estimated there were approximately 350 CAPS, with 122 located in the central province. The New Zealand police advisers arrange for the CAPS to have training one day a month for 10 months of the year.
  - 35 The role of FSVUs is recognised by Femili PNG, which assists local FSVUs from their partner resourcing funds, with computers and printers, which makes it more likely that FSVUs can assist with IPO applications.
  - 36 A new FSVU was opened in Minj, Jiwaka Province in March 2020.

- 37 In Port Moresby, it is recommended that urgent IPOs be issued on any given day at a single court.
- 38 These could include, for example, family law matters such as child maintenance, child custody, adultery and so on (see *Domestic Violence, the Law and Related Services in Papua New Guinea: A Survey of Young Adults in Port Moresby and Lae* by Judy Putt, Geejay Milli and Francis Essacu), as well as criminal matters such as domestic violence or other offences.
- 39 The practicalities of how a 'flag' could be made, and accessed, would need to be worked out.



Popondetta District and National Court  
Source: Lindy Kanan



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