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Your Ref:
Our Ref: 0002/IC/VR/10
Date: 26 February 2010

Rhoda Grant MSP
The Scottish Parliament
EDINBURGH EH99 1SP
By email: rhoda.grant@scottish.parliament.uk

Dear Ms Grant

**PROPOSED CIVIL PROTECTION ORDERS AND ACCESS TO JUSTICE (SCOTLAND)
BILL**

I refer to your correspondence dated 3 January 2010 in connection with the above subject, which has been considered by members of the Crime Business Area, and can now offer the following by way of comment to the specific questions raised.

1. What advantages or problems might arise as a result of removing the course of conduct requirement?

Members agree, without reservation, with the proposal to remove the course of conduct requirement. The current system is wholly unacceptable as it requires serial abuse to occur before a victim (or the prosecutor) can request a non-harassment order. Even then, establishing a required code of conduct is problematic as victims often do not tell anyone of the previous abuse they have suffered. Victims must be able to have the full support of the law when they feel able to disclose abuse, and the legal system must be able to respond efficiently. To effectively inform a victim they have to suffer serial abuse for the course of conduct to be established is wholly unacceptable. Further abusive acts may be of a minor nature however, in many cases, it may have severe or even fatal consequences for the victim. This is intolerable and leaves the victim in a preventable position if the course of conduct element is removed.

Further, removing the course of conduct requirement will enhance the ability of police forces to routinely include respectful application for consideration when there is evidence of a risk of future harm to the victim/s. Special bail conditions are now routinely granted by the court in Domestic Abuse cases where victims require protection while the criminal justice process is ongoing and the proposed amendment would provide greater protection once a conviction was secured.

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2. What do you see as the main benefits of making it easier to obtain a non-harassment order?

One of the main and most important benefits is the timeous provision of protection to victims, thus increasing their confidence that protection is available and accessible. It also empowers the Police to intervene at an earlier stage with positive and effective action, demonstrating to the victim that the authorities can and will protect them from crime. The process would also support safety planning and prevention of future harm to the victims and their families. There may also be an increase in the confidence in victims 'suffering in silence' to come forward and seek help as it is thought many may be put off by the current process.

3. What advantages or problems might arise with the removal of means testing?

The proposed Bill seeks to make legal aid free to all for applications to civil courts for an interdict with a power of arrest, or a Non Harassment Order where Domestic Abuse is a contributory factor. Clearly this would allow all victims of Domestic Abuse, regardless of economic background, to access the protection afforded by these orders. It is unreasonable to expect people to have to pay for protection, or to have to return to the civil courts, at their own expense, on numerous occasions, in order to be protected from their abuser. It would also provide parity of service and address the present imbalance that exists between those accused of and victims of abuse.

4. What do you see as the main benefits of removing means testing?

Means testing is extremely unfair especially to those on the borderline of thresholds where diminution of potentially scarce finances would result in further hardship for victims and their families. Removing means testing addresses the inequalities of the current system with access to protection and justice greatly increased for anyone who is subjected to Domestic Abuse.

5. What are the advantages and problems that might arise from making it a criminal offence to breach an interdict with a power of arrest?

Making it a criminal offence to breach an interdict would enable police officers to exercise an immediate and effective means of protecting the victim/s. It would also communicate a clear message to the perpetrator that their behaviour is criminal and will be rigorously policed. In addition it is thought that it will increase victims' confidence in the ability of the criminal justice system to protect them, without incurring further financial hardship in what is often a time of considerable difficulty, and also streamline the current legal process reinforcing the criminality of abusive behaviour. Conviction for a criminal offence would also allow the court to consider a wider range of disposal options which would include interventions/programmes to address the abusive behaviour of the perpetrator in addition to more commonly applied punitive measures. The ability to report offenders to the criminal court for all breaches of interdict would also enhance officers' ability to gather intelligence and create meaningful profiles of serious/serial offenders and therefore contribute to the management of future risk of harm.

6. What do you see as the main benefits of making it a criminal offence to breach an interdict with a power of arrest?

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Members agree that criminalising a Breach of Interdict would enable a more effective response by the police and prosecution, and act as more of a deterrent to the perpetrator. By criminalising the offence, it also reinforces to the perpetrator that their actions will be taken seriously by the courts while at the same time providing effective protection for victims.

7. What costs would be associated with all of the proposals contained in this bill?

Forces agree that increased access to Legal Aid would ultimately impact on the Scottish Government as additional funding would have to be provided to accommodate demand. There will also be additional court time required due to the increased business these criminal orders may bring, however this will potentially be offset by the reduction of time involved in hearing these cases in the civil courts.

Forces also considered the indirect costs which would be incurred by Police and COPFS; staff training, the creation of appropriate codes for crime recording systems and criminal records, and the modification of existing IT systems.

Ultimately, it was considered, that any and all additional costs can be factored and will be a fraction in comparison to the emotional and financial costs required to respond and investigate further abusive incidents.

I trust that the foregoing is of assistance to you.

Yours sincerely



Caroline Scott
Assistant Chief Constable
ACPOS General Secretary

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The following table shows the results of the survey conducted in 1975, 1976, 1977, 1978, and 1979. The data is presented in a tabular format, with columns representing the years and rows representing the different categories of the survey. The results are as follows:

Year	Category 1	Category 2	Category 3	Category 4
1975	12	15	18	20
1976	10	14	16	18
1977	11	13	15	17
1978	9	12	14	16
1979	8	11	13	15

[REDACTED]

