



Who goes to prison for breaching an Apprehended Domestic Violence Order? An analysis of police narratives

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Aim: To identify the situational and offender characteristics associated with prison sentences for Apprehended Domestic Violence Order (ADVO) breaches.

Method: Case narratives from police incident reports of ADVO breach incidents in NSW were analysed. Two samples were examined: (1) breach incidents where the offender involved was imprisoned (n=250) and (2) breach incidents where the offender involved received a non-custodial sentence (n=250). The nature of the breach and the characteristics of persons involved in these two breach samples were compared using descriptive data and logistic regression models.

Results: The majority of ADVO breaches in both samples involved male to female offending in spousal/ex-spousal relationships, occurred in the victim's house and involved face-to-face contact. Compared with offenders in the non-prison group, a higher proportion of offenders who received a custodial penalty for the breach ADVO matter were male, Indigenous, had 5 or more prior court appearances (including prior offences for domestic violence (DV), assault and breach ADVO), had 3 or more prior prison penalties and had breached two or more conditions of their order. Breaches resulting in prison also had a higher proportion of matters involving physical assault, property damage, psychological aggression and parties who had a history of violence. After controlling for other factors, the following factors were independently associated with imprisonment for ADVO; the offender's gender, prior imprisonment, prior proven DV offence, history of violence, involvement of physical assault in the breach, victim/offender relationship and residing with the victim.

Conclusion: The profile of offenders who receive imprisonment for a breach ADVO offence is significantly different from those who receive a non-custodial penalty for these offences. The nature of the breach and the circumstances surrounding the event also vary for matters where prison is imposed for an ADVO breach.

Keywords: Imprisonment, Domestic violence, ADVO, ADVO breaches

Introduction

Domestic violence is an issue of widespread concern across Australia and abroad. The Australian Bureau of Statistics (ABS) recently estimated that nearly 20 per cent of Australian adult women have experienced partner violence since the age of 15 (ABS, 2013). Apart from the vast social and emotional damage to victims and their families, domestic and family violence is a considerable financial burden on the Australian economy. The National Council to Reduce Violence Against Women and their Children (NCRVAWC) estimated that violence against women and children cost the Australian economy \$13.6 billion in 2008-09,

and will cost a further \$15.6 billion in 2021-22, without appropriate action to address the problem (NCRVAWC, 2009).

In contrast to most other offence categories, which have recorded significant downward trends, the number of incidents of domestic violence in NSW has remained relatively stable over the last decade, with police recording around 30,000 incidents each year (NSW Bureau of Crime Statistics and Research [BOCSAR], 2015).¹ This represents just a fraction of the total number of domestic violence offences occurring in NSW as many violent incidents go unreported to police (Grech & Burgess, 2011). One of the primary means by which the criminal justice system seeks to reduce the incidence of domestic and

family violence in Australian jurisdictions is Apprehended Violence Orders (AVOs). In NSW, AVOs are granted in the Local Court under the *Crimes (Domestic and Personal Violence) Act 2007*. An order granted by the court contains three mandatory conditions with which the defendant must comply; (1) not to assault, harass or threaten the protected person, (2) not to intimidate the protected person and (3) not to stalk the protected person (see Part 8 Section 36). The court may impose a number of additional prohibitions or restrictions on the behaviour of the defendant if they deem them necessary to protect the person or any children involved (see Part 8 section 35). The *Crimes (Domestic and Personal Violence) Act 2007* also differentiates between AVOs of a personal and domestic nature. AVOs of a domestic nature (ADVOs), which are the focus of this report, relate to orders where the person in need of protection has a domestic relationship with the defendant (e.g., spouse, ex-spouse, defacto, relative, or someone living in the same household).

In each year between 2009 and 2013, an average of 24,605 ADVOs were granted by Local Courts in NSW, and this number remained stable over that period (Trimboli, 2015). While issuing and enforcing ADVOs requires significant police, court and correctional resources, the cost is arguably justified given that ADVOs are one of the few strategies proven to be successful in reducing domestic violence. In an evaluation of the NSW Apprehended Violence Order Scheme, Trimboli and Bonney (1997) found that AVOs are effective in reducing stalking, physical assaults, threats of physical assault and other types of intimidation and harassment behaviours for up to 6 months after the order has been issued. Other more recent research confirms that ADVOs can reduce, or in some cases eliminate, violent and intimidating behaviours towards victims even in the absence of specialist legal advice explaining ADVO conditions (Trimboli, 2014).

Whilst for the most part effective, ADVOs are commonly breached. Breaches can have devastating consequences for the victims and their families (see 'Slain woman had tried to support abusive husband' SMH Jan 18 2015; 'Sydney mother Comrie Cullen found dead in car park after ongoing dispute with husband', SMH Jan 23 2014). In 2013, 11,688 ADVO breach incidents were recorded by the NSW Police Force and 8,900 persons of interest were proceeded against by police in relation to ADVO breach incidents. Despite their relatively large volume, however, we know very little about the nature of these offences. From routinely reported police and court data we are unable to tell whether ADVO breaches tend to involve actual violence or threatened violence, whether breaches are committed in person or by email or phone, or which particular conditions of the order have been breached. We also do not know much about the relationship between the victim and the offender in these types of incidents, whether there has been previous violence between the parties involved or the level of drug or alcohol involved.

Information is also sparse on the types of ADVO breaches that result in more severe penalties, such as prison. Recent BOCSAR work describes the characteristics of offenders found

guilty of breaching an ADVO and the types of penalties they receive (Trimboli, 2015). However, this study relied on readily available administrative data which lacks information about the circumstances surrounding the actual event. More detailed information about the nature of breaches is particularly important when considering the types of penalties imposed for these offences because the severity of the breach could range from a relatively minor threatening email to a physical assault resulting in substantial injury. Other aggravating factors may also be relevant in sentencing decisions for ADVO breach matters, such as whether children were present during the incident or whether the offender and/or victim had been drinking. This offence-specific information is not easily accessible from police or court databases and consequently has not routinely been reported.

The current study sought to fill this knowledge gap by analysing police narratives from a sample of proven breach ADVO matters that resulted in the offender being imprisoned for the offence. The main aim of this study was to identify any situational or offender characteristics which predict prison sentences for breaches of ADVOs.

Method

Data source

Much of the information for this study was gathered from a manual review of police narratives. A 'narrative' is a description of the criminal event written by police officers and recorded on the NSW Police Force's Computerised Operational Policing System (COPS). It usually contains information about the individuals involved, a description of relevant events leading up to, during and following the incident and any action taken by police. Police narratives are generally detailed and reasonably complete accounts of the crime from the police perspective. However, they can vary in detail, quality and length, as there is no standard reporting method. The narrative data reported in this analysis was supplemented with other data held by the NSW Bureau of Crime Statistics and Research (BOCSAR). These additional data, extracted from BOCSAR's Reoffending Database (ROD; Hua & Fitzgerald, 2006), included information on the offender involved in the incident, such as prior offending, prior imprisonment, Indigenous status, age and gender.

Sample selection

Records on proven court appearances finalised between October 2011 and September 2013 where the principal offence was breach ADVO were identified.² From these 6,600 offenders with a proven breach ADVO offence as a principal offence in a NSW Local Court, a sample of 250 cases where the offender was imprisoned (prison group) and 250 cases where the offender received a non-custodial penalty (non-prison group) were randomly selected. Data from police narratives contained in the NSW Police Force's COPS system, along with ROD data, were then analysed for the 500 breach ADVO matters identified.

Only around 12 per cent of offenders with breach of ADVO as their principal offence are sentenced to prison each year (Trimboli, 2015). Our sample is therefore not representative

of the entire cohort of offenders sentenced for breach ADVO matters in NSW courts but, instead, includes about half of all breach ADVO matters that resulted in imprisonment and a smaller proportion of cases receiving a non-custodial sentence. The prison group was oversampled in this study to ensure enough cases were available for a meaningful analysis. While useful in comparing risk factors associated with imprisonment for breaching an ADVO, where the ADVO breach was the principal offence, the data presented here should not be used for prevalence estimates for ADVO breach offences as a whole.

Coding of narratives

Relevant data contained in the police narratives were reviewed and coded by the researcher. In cases where the ADVO breach incident involved more than one offender and more than one victim, only details relevant to the first listed offender and/or victim were coded for this study. Validated scales were used to categorise variable items where possible. Types of physical assault and psychological aggression were categorised into 'minor' or 'severe' using the Revised Conflict Tactic Scale developed by Straus and colleagues (1996). Information on psychological aggression (see results in Table 3) was only included where the offender was a spouse/ex-spouse. The Revised Conflict Tactic Scale was not appropriate for measuring psychological aggression occurring in other types of domestic relationships (e.g., where the offender to victim relationship was: sibling/sibling; child/parent; parent/child), and the numbers were too small in the other groups to apply a different scale to each type. Due to the low number of sexual assault offences reported in the ADVO breach sample, it was not possible to use the Straus's sexual coercion scale for this sub analysis. Other variable items, such as location of breach, offender-victim relationship and whether children were present, were simpler to code and did not require validated scales.

In a substantial proportion of narratives examined, the victim was reported to have 'no visible injury', but complained of 'pain' or 'soreness'. Injuries were only counted if they were visible to police or required medical assistance. Alcohol involvement was coded as 'yes' if the information available in the narrative suggested that the offender was affected by alcohol. Whether or not the offender and victim were drinking together at the time of the breach, was coded as 'yes' only if the police report specified that the victim and offender were drinking with one another, not merely if the offender was drinking in the same house as the victim. It should be noted that information on alcohol consumption was missing for a large number of cases in both groups so is likely to be an underestimate of the actual number of offenders and/or victims who had been drinking at the time of the incident. A final cautionary note; in approximately half of all ADVO breach incidents examined in this study police did not explicitly state which condition of the ADVO had been breached by the offender. In such cases the condition coded as being breached was based on other information provided in the police narratives when it was available. For example, a narrative was coded as breach of Condition 10 where it was stated that "(the) offender appeared

unsteady on his feet, and when asked how much alcohol he had consumed and if he was aware of his AVO conditions stating he was not to approach the PINOP (Person In Need of Protection) within 12 hours of consuming liquor, said that he'd consumed seven beers and was aware of the AVO conditions".

Variables

The key dependent variable in this study was whether the ADVO breach incident resulted in the offender being imprisoned for the offence. The following independent variables were included to explore differences between the prison and non-prison groups in terms of situational and offender characteristics:

Offender characteristics

Age: age (in years) at time of breach ADVO

Gender: gender of first listed POI at time of breach ADVO (0=male, 1=female)

Indigenous status: whether identified as being of Aboriginal or Torres Strait Islander descent (ATSI) at time of breach ADVO (0=non-ATSI/Unknown, 1=ATSI)

Prior proven court appearances: number of court appearances with proven offences in the 5 years prior to the index breach ADVO offence date

Prior proven ADVO breaches: number of court appearances with proven breach ADVO offences in the 5 years prior to the index breach ADVO offence date (where the offence falls in the ANZSOC (Australian and New Zealand Offence Classification; Australian Bureau of Statistics, 2011) group 1531 and is flagged as DV, or has one of the following Law Part codes 1207, 62079, 65020, 69120³)

Prior proven DV offence: number of court appearances with proven DV related offences (i.e. any offence defined by the *Crimes (Domestic and Personal Violence) Act 2007* as domestic-violence related) in the 5 years prior to the index breach ADVO date

Prior proven assault offence: number of court appearances with any proven assault (DV and non-DV) offence (ANZSOC 211, 212, 213, 291, 299) in the 5 years prior to the index breach ADVO date

Prior prison: number of court appearances in the 5 years prior to the index breach ADVO offence date where a sentence of imprisonment was imposed (for any proven offence)

Relationship to victim: relationship of offender to the protected person (0=other relationship (including Offspring (adult), Sibling, Parent, Friend/acquaintance, other family member, Offspring (child)), 1=Ex-spouse, 2= Spouse)

Resided with victim: whether or not the offender and victim currently reside together (0=no/unknown, 1=yes)

Offence characteristics

Victim gender: Gender of victim (0=male, 1=female)

Victim injury: Level/type of injury sustained by victim. In most cases the reported injury is based on police accounts from

looking at the victim, or from hospital reports verified by police. Where injuries were not visible police relied on victim accounts (0=no (including Soreness/No visible injury, NA, unknown), 1=yes)

ADVO conditions imposed: Specific ADVO conditions, as specified in the police narrative

ADVO conditions breached: Specific ADVO conditions that were breached, as stated by police in the narrative

Location of breach: Location where the incident occurred (0=not in person, 1=Offender's house, 2=Other house, 3=Public place, 4=School/child care centre, 5=Victim's family's house, 6=Victim's house, 7=Victims workplace, 8=missing, unknown)

Children present: Whether children were present when the ADVO breach occurred (0=no, 1=yes, 2=N/A)

Alcohol involvement: Whether the offender was under the influence of alcohol when the ADVO was breached (as stated by the offender, the protected person or the police; 0=no, 1=yes)

Method of contact: Whether the breach was committed in person, via email/internet, phone or letter

Physical assault type: Whether the protected person was physically assaulted during the breach incident (0=no, 1=yes).

Psychological aggression type: Whether psychological aggression was involved in the ADVO breach (confined to violence between spousal/ex-spousal relationships) (0=no, 1=yes)

History of violence: Whether there is a history of violence between the offender and protected person or protected person's children as stated by police in the narrative (0=no/not stated, 1=yes)

Statistical analysis

Descriptive statistics are initially presented for the 500 cases in the prison and non-prison groups and the categorical independent variables listed above are compared across the two groups using Pearson's Chi-square test. To determine which demographic and offence characteristics are independently associated with imprisonment for an ADVO breach offence, a binary logistic regression model was constructed. The outcome variable for this logistic regression model was whether or not the matter resulted in the offender being imprisoned for the breach ADVO offence. All explanatory variables that showed a bivariate association ($p < .20$) with the outcome variable were considered for inclusion in the model. A manual backward elimination method was used to determine the final model and model adequacy was assessed using several diagnostics, including Hosmer-Lemeshow (2000) goodness-of-fit test, Pregibon's (1979) test for specification error (using Stata's 'linktest' command) and the area under the ROC curve (AUC).

Results

Offender characteristics

Table 1 presents the characteristics of offenders in the sample of breach ADVO matters by whether or not they received a custodial penalty. The majority of offenders in both groups were male, non-Indigenous and aged between 25 and 44 years

Table 1. Characteristics of offenders identified in ADVO breach incidents by penalty group

	Prison group		Non-prison group	
	n	%	n	%
Gender*				
Female	8	3.2	39	15.6
Male	242	96.8	211	84.4
Age				
18-25	39	15.6	42	16.8
25-34	83	33.0	70	28.0
35-44	82	32.8	100	40.0
45+	36	14.4	38	15.2
Missing	10	4.0	0	0.0
Indigenous status*				
Indigenous	68	27.2	37	14.8
Non-Indigenous	156	62.4	203	81.2
Unknown	26	10.4	10	4.0
Relationship to victim				
Spouse	87	34.8	69	27.6
Ex-spouse	98	39.2	121	48.4
Offspring	36	14.4	29	11.6
Parent	5	2.0	14	5.6
Sibling	4	1.6	5	2.0
Friend/Acquaintance	3	1.2	0	0.0
Other	4	1.6	5	2.0
Unknown	13	5.2	7	2.8
Resided with victim at time of offence				
No	176	70.4	169	67.6
Yes	60	24.0	76	30.4
Unknown	14	5.6	5	2.0
Prior court appearances with proven offences in last 5 yrs*^a				
0-1	34	13.6	118	47.2
2-4	105	42.0	99	39.6
5 or more	110	44.0	33	13.2
Prior penalty of imprisonment in last 5 yrs*^a				
0	100	40.0	210	84.0
1-2	88	35.2	34	13.6
3 or more	61	24.4	6	2.4
Prior proven DV offence in last 5 yrs*^a				
No	56	22.4	148	59.2
Yes	193	77.2	102	40.8
Prior proven ADVO breaches in last 5 yrs*^a				
No	90	36.0	172	68.8
Yes	159	63.6	78	31.2
Prior proven assault in last 5 yrs*^a				
No	40	16.0	135	54.0
Yes	209	83.6	115	46.0
Total	250	100.0	250	100.0

* Significant ($p < .05$)

^a Prior offending information is missing for one offender in the prison group

(average age 34.7 years for the prison group and 35.6 years for the non-prison group). Victims of the breach ADVO incidents were typically female (see Table 3) and were often the current spouse or ex-spouse of the offender. In roughly one quarter of breach ADVO cases in both groups, the offender and victim were living together at the time the ADVO was breached (24.0% in the prison group and 30.4% in the non-prison group). In these cases, the ADVO stipulated specific conditions that did not exclude the offender from living with, or approaching the victim, but prohibited them from engaging in other behaviour such as consuming alcohol or illicit drugs near the victim, or assaulting or intimidating the victim.

The two samples differed significantly in terms of their gender and Indigenous status profiles. A higher proportion of offenders in the non-prison group were female (15.6%) compared with the prison group (3.2%), and a higher proportion of offenders in the prison group were Indigenous (27.2%) compared with the non-prison group (14.8%). Perhaps, the most striking difference between the prison and non-prison groups is their prior criminal history. Nearly half of all offenders in the prison group had five or more proven court appearances in the previous 5 years compared with a little over 10 per cent of the non-prison group. Three-quarters of the ADVO breach offenders who went to prison had a prior proven DV offence, two-thirds had a prior proven breach ADVO offence and almost 84% had a prior proven assault offence. Offenders in the prison group were also significantly more likely to have previously spent time in custody. Nearly two-thirds of offenders in the prison group had had at least one prior imprisonment penalty compared with just 16 per cent of offenders in the non-prison group; one-quarter of the prison group had three or more prior prison penalties.

Offence characteristics

Table 2 presents the conditions imposed by the courts in the ADVO breaches examined in this study and the specific conditions which were breached by offenders. The percentages shown are the proportion of all the breach incidents where a particular condition was imposed and the proportion of all breach incidents where the specified breach occurred. For this analysis, the three mandatory conditions (Conditions 1a, b & c)⁴ were grouped together and all exclusion conditions (e.g., not residing with protected person; not approaching/contacting the protected person; not approaching within 100

metres of protected person's house/work) were also grouped together. Note here that ADVOs can have multiple conditions and offenders can breach multiple conditions in one incident. In our total sample, 226 offenders (45.2%) breached more than one condition of their ADVO. For this reason the percentages in Table 2 do not add up to 100.

As can be seen from Table 2, the mandatory conditions were the most common type of condition breached by offenders in the prison group (58.8%) but were less commonly breached by offenders in the non-prison group (36.8%). Offenders in the non-prison group most commonly breached an exclusion order (51.6%), with a similar proportion of offenders in the prison group also breaching an exclusion order (46.8%). The next most common condition breached by offenders in both the prison (21.6%) and non-prison (29.2%) group was Condition 10, which prohibits the offender from approaching the victim/attending their home within 12 hours of consuming intoxicating liquor or illicit drugs. This condition appeared particularly problematic in cases where the offender was still residing with the victim (e.g., where the offender was the offspring of the victim). Less commonly breached was Condition 11 (not to damage property of the victim), with less than 10 per cent of offenders in both the prison and non-prison groups breaching this condition. No offenders in the sample breached Condition 8, to surrender all firearms and related licences to Police. Comparing across the two samples, a significantly higher proportion of offenders in the prison group (128 offenders; 51.2%) breached two or more conditions of their order compared with the non-prison group (98 offenders; 39.2%) ($\chi^2 = 7.267$ $p = .007$).

Table 3 describes the offending behaviour in ADVO breaches for both the prison and non-prison groups. Physical assault, psychological aggression, history of violence and property damage were the only offence characteristics significantly associated with imprisonment for an ADVO breach. The direction of the relationship for physical assault was as one would expect; breaches that involved physical assault against the victim were more likely amongst the prison sample, with physical assault occurring in more than twice as many cases in the prison group (45.6%) than the non-prison group (20.0%). Similarly, there was a higher proportion of matters in the prison group where the police reported a history of violence between the offender and the protected person and/or the

Table 2. Conditions of the ADVO imposed by police/courts, and conditions breached

Condition of ADVO	Prison group		Non-prison group	
	Imposed (% of sample)	Breached (% of sample)	Imposed (% of sample)	Breached (% of sample)
Mandatory conditions (conditions 1 a, b & c)	100.0	58.8	100.0	36.8
Exclusion order (conditions 2,3,4,5,6,7 & 9)	56.8	46.8	56.4	51.6
Condition 8: Defendant must surrender all firearms and related licences to Police	0.8	0.0	0.8	0.0
Condition 10: Offender must not approach protected person(s) within 12 hours of consuming intoxicating liquor or illicit drugs	36.0	21.6	42.8	29.2
Condition 11: Defendant must not destroy or deliberately damage or interfere with property of the protected person(s)	46.0	9.6	40.8	5.2

Table 3. Offence characteristics of ADVO breach incidents

	Prison group		Non-prison group	
	n	%	n	%
Gender of victim				
Female	228	91.2	211	84.4
Male	21	8.4	37	14.8
Not stated	1	0.4	2	0.8
Location of breach				
Victim's house	175	70.0	178	71.2
Public place	29	11.6	17	6.8
Offender's house	5	2.0	10	4.0
Victim's family's house	5	2.0	1	0.4
Victim's workplace	1	0.4	4	1.6
Other house	5	2.0	2	0.8
School/child care centre	1	0.4	0	0.0
NA (not in person)	28	11.2	37	14.8
Missing	1	0.4	1	0.4
Children present				
No	139	55.6	136	54.4
Yes	79	31.6	68	27.2
Unknown/NA	32	12.8	46	18.4
Alcohol involvement (offender)				
No	122	48.8	109	43.6
Yes	106	42.4	100	40.0
Unknown	22	8.8	41	16.4
Method of contact				
In person	221	88.4	213	85.2
Phone	25	10.0	34	13.6
Email/internet/letter	3	1.2	2	0.8
Not stated	1	0.4	1	0.4
Violent/aggressive characteristics (Proportion of total sample experiencing each)				
Physical assault*	114	45.6	50	20.0
Psychological aggression (spouse/ex)*	160	64.0	112	44.8
History of violence*	162	64.8	77	30.8
Victim injury	42	16.8	28	11.2
Property damage*	50	20.0	29	11.6

* Significant ($p < .05$)

protected person's children. Nearly two-thirds of matters in the prison sample involved parties who had a history of violence, and in only one-third of the matters in the non-prison sample was there evidence of a violent history between the parties. Interestingly, in one-quarter of all breach ADVO matters in this sample, where police had reported a history of violence between the parties, the offender had no prior court appearances for DV offences.

The prison sample also contained a significantly higher proportion of breaches involving psychological aggression by a spouse/ex-spouse (64.0%) than the non-prison sample (44.8%).

This psychological aggression more often involved shouting, yelling and swearing/insulting victim (prison group 52.5%; non-prison group 59.8%) and less often involved threats of physical harm (prison group 36.9%; non-prison group 31.2%). Similarly, more breach matters in the prison sample (20.0%) involved the offender damaging property of the victim compared with the non-prison sample (11.6%). In these cases it was commonly the victim's mobile phone that was damaged or stolen by the offender, often in response to the victim calling the police or (when the offender was a spouse/ex-spouse) someone the offender suspected as being an intimate partner of the victim. In other cases the offender damaged the car or exterior of the victim's house in response to the victim not letting the offender into his/her house. A slightly higher proportion of ADVO breaches in the prison group resulted in victim injury compared with the non-prison group (16.8% vs. 11.2% respectively); however this difference was not significant. For both groups, the majority of injury types fell into the 'minor' category (e.g., red marks, swelling, bruising, minor lacerations) (prison group 41.3% and non-prison group 41.4%). In only 10 cases across both groups did victim injury fall into the 'mid to major injuries' categories (e.g., bleeding, unconscious, severe lacerations), and one case in the non-prison group fell into the 'major/life threatening injuries' category, which involved an internal injury.

The vast majority of victims in both the prison and non-prison groups were females; however there was a significantly higher proportion of male victims in the non-prison group when compared with the prison group (14.8% vs. 8.4%, respectively). In both groups, the majority of breaches occurred at the victim's house (prison group 70.0%; non-prison group 71.2%). The next most common location was in a public place (prison group 11.6%; non-prison group 6.8%). Breaches in this category (public place) most commonly occurred when the victim and offender were walking along a street, driving in a car together or were at a hotel/tavern. Most ADVO breaches occurred in person among both the prison and non-prison group (88.4% and 85.2% respectively). Among breaches that did not occur in person, 10.0 per cent in the prison group and 13.6 per cent in the non-prison group occurred over the phone, and the remainder occurred via email/internet or letter. The two breaches that occurred via a letter were from offenders who were already in custody.

Children were present in over one quarter of breaches in the prison group (31.6%) and the non-prison group (27.2%). Although not all these breaches involved physical conflict (e.g., an offender visited the victim's house from which he/she was excluded and the victim called the police), there were 14 cases in the prison group and five cases in the non-prison group, where children were either assaulted or endangered in some way (e.g., when an offender was assaulting the victim while the victim was carrying a child). In approximately two in five cases in both the prison and non-prison group the offender was intoxicated by alcohol (42.4% and 40.0%, respectively) at the time of the ADVO breach and in over a quarter of these cases, the offender and victim were drinking together when the ADVO breach occurred (prison group 26%; non-prison group 27%).

Table 4. Logistic regression model comparing the odds of prison vs non-prison (n=500)

	Adjusted Odds Ratios	95% Confidence Interval	p-value
Female vs male offender	0.13	[0.05, 0.34]	<.001
1-2 prior prison penalties vs none	3.51	[2.03, 6.08]	<.001
3+ prior prison penalties vs none	17.58	[6.84, 45.18]	<.001
Prior proven DV vs no prior	3.22	[1.96, 5.30]	<.001
History of violence vs none/unknown	4.25	[2.61, 6.92]	<.001
Physical assault vs no physical assault/unknown	3.14	[1.84, 5.35]	<.001
Ex-spouse vs other relationship	0.40	[0.21, 0.75]	.004
Spouse vs other relationship	0.68	[0.35, 1.35]	.272
Reside with victim vs not	0.40	[0.21, 0.76]	.005

Note: Only those variables that were independently associated with prison were included in the final model, Area under ROC curve=0.871; Hosmer-Lemeshow test 130.4 (p=.139, df=10)

Multivariate analyses

Table 4 presents the results of a logistic regression model examining factors associated with an offender receiving imprisonment for a breach of ADVO offence versus a non-custodial penalty. An Odds Ratio greater than one indicates that those in the prison sample are more likely to have that characteristic than those in the non-prison sample. An Odds Ratio of less than one indicates that those in the prison sample are less likely to have that characteristic than the non-prison sample. The area under the receiver operating characteristic curve (AUC) indicates that the model provided 'excellent' discrimination between those who received prison for breach ADVO and those who received some other penalty (AUC=.871; Hosmer & Lemeshow, 2000).⁵ Also, the Hosmer-Lemeshow statistic shown below Table 4 shows there is no significant difference between the number of prison offenders predicted and the number of prison offenders observed.

Results from Table 4 show that only seven of the independent variables examined were significantly associated with imprisonment for an ADVO breach. These factors were; gender, prior imprisonment, prior proven DV offence, history of violence, involvement of physical assault in the breach, victim/offender relationship and residing with the victim. The Adjusted Odds Ratios shown in Table 4 indicate that compared with matters where the offender received a non-custodial penalty for breach ADVO, matters where prison was imposed were:

- More likely to involve male offenders
- More likely to involve offenders who had previously been imprisoned
- More likely to involve offenders with a prior proven DV offence
- More likely to involve parties who have a history of violence
- More likely to involve physical assault
- Less likely to involve offenders who were the ex-spouse of the victim
- Less likely to involve offenders who were residing with the victim at the time of the incident

Age, gender and Indigenous status of the offender, type of breach, alcohol consumption and prior court appearances were not found to be independently associated with imprisonment for breaching an ADVO after controlling for other factors.

Discussion

This study analysed case narratives from police incident reports for two samples of ADVO breach incidents in NSW in order to identify offender characteristics and situational factors that are associated with imprisonment for this offence. Consistent with previous studies on domestic violence (ABS, 2013; Dobash & Dobash, 2004; Douglas 2008; Mouzos & Makkai, 2004; People, 2005), most breach ADVO incidents in both the prison and non-prison samples that we examined involved male offenders and female victims who were currently, or had previously been, married. Breach incidents typically occurred at the victim's house, involved face-to-face contact with the offender and usually the parties involved were not residing together at the time of the incident. Alcohol involvement in ADVO breaches in both samples was high. In 40 per cent of breaches in both the prison and non-prison groups, the offender was affected by alcohol and in many cases had been drinking with the victim at the time the ADVO breach occurred. Half of the offenders in the prison and non-prison samples were subject to exclusion orders and a large proportion of these exclusion orders were breached during the index event. Conditions preventing the offender from approaching the victim after consuming alcohol or drugs were also commonly specified in the ADVOS examined for this study and were breached by almost a quarter of offenders in each sample. A significantly higher proportion of offenders in the prison group breached multiple ADVO conditions, and in particular the mandatory conditions specified in the order, compared with offenders in the non-prison group.

The most striking difference between the two samples was the lengthy criminal history of offenders who were sentenced to imprisonment for breaching an ADVO. Nearly half of all offenders in the prison group had five or more court appearances in the 5 years prior to the index event, one-quarter had been in prison on three or more occasions

during the last five years, three-quarters had a prior proven DV offence and nearly half had a prior proven assault offence. A higher proportion of ADVO breaches in the prison sample also involved a physical assault, psychological aggression and property damage than breaches in the non-prison sample, and the vast majority involved parties who had a history of violence. The groups differed on only two demographic characteristics; gender and Indigenous status. More males and Indigenous offenders were in the prison sample compared with the non-prison sample.

Results from the multivariate analysis indicate that controlling for other factors, offenders who received imprisonment for the breach ADVO offence were more likely to be male, have one or more prior custodial episodes and have a prior proven DV offence. Breach ADVO matters which resulted in imprisonment were also more likely to have involved a physical assault and parties who had a history of violence, and less likely to involve ex-spouses and offenders who were residing with the victim at the time of the incident. No other offence or demographic factors were found to be independently associated with imprisonment for breach ADVO after controlling for these factors.

The identification of relationship status and residence as significant correlates of prison for ADVO breaches is an unexpected finding from this research. The results from the logistic regression model suggest that ex-spouses of a victim are less likely to go to prison for a breach ADVO than offenders in other relationships, as are offenders who were residing with the victim at the time of the incident. A possible explanation for this finding may be that the ADVO conditions breached by these offenders typically relate to exclusion orders and breaches of Condition 10 (not to approach the protected person within 12 hours of consuming intoxicating liquor or illicit drugs) rather than breaches of the mandatory ADVO conditions not to assault, intimidate or stalk, and consequently may be considered less serious in nature. While all efforts were made in the current study to code information on the nature of the breach committed by the offender, the actual condition breached was not explicitly stated by police in over half of the cases reviewed. While other information contained in the narrative was used to infer the nature of the breach if it was not stated, it is likely that this information was not always reliably recorded. The actual conditions of the order, on the other hand, were always clearly specified in the police narrative. These data showed that ex-spouses were much more likely to have an exclusion condition specified in their ADVO (73.5%) than offenders who were the current spouse of the victim (32.7%) or who were in another type of relationship (56.8%). Meanwhile, offenders who were residing with the victim at the time of the incident were much more likely to have a Condition 10 order in place than offenders who were not residing with the victim (64.0% v. 30.2%). If breaches of these additional conditions were the primary reason for police taking action against the offender (rather than because of a breach of the mandatory conditions) then this may account for some of the differences observed here in penalty outcomes. Further research using a much

larger sample of narratives and/or more detailed information from court records regarding the nature of the ADVO breach is needed to clarify this result.

Although our study provides a unique insight into some of the factors associated with imprisonment for breach ADVO offences it has two important limitations that should be noted. Firstly, this study relied on police narrative reports. Police narrative reports were used here as they are able to provide a wealth of information about criminal incidents that cannot otherwise be accessed from administrative databases. However, the length and level of detail contained in police narratives varies enormously from case to case. Of particular concern for our work was the recording of the nature of the ADVO breach. In more than half of the cases analysed in this study, the actual condition of the ADVO breached by the offender was not specified by police and had to be inferred from other contextual information contained in the narrative report. More standardised reporting of this information by police would improve our ability to identify factors that are independently associated with prison outcomes for breach offences. Secondly, the matters analysed in this study did not include all breach ADVO incidents but included only a subset of breaches; those where the ADVO breach was the offender's principal offence at his/her finalised court appearance. Had an offender appeared in the Local Court for a breach ADVO matter during the study period but received a more severe penalty for another offence (e.g., assault) at that court finalisation, then they would not have been included in our analysis. It is therefore highly probable that the involvement of violence in breach ADVOs is much higher than the current figures suggest.

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Notes

1. Note trends in police reports of domestic violence are influenced by both willingness to report as well as the incidence of the offence. The reporting rate for domestic violence is low at less than 50 per cent of incidents being reported (Grech & Burgess, 2011)
2. The principal offence is the offence in the index court appearance which received the most serious penalty (according to BOCSAR's penalty hierarchy, see <http://www.bocsar.nsw.gov.au/Documents/ccs2013.pdf>). If an offender was found guilty of a breach ADVO offence between October 2011 and September 2013, but at the same court appearance was found guilty of other offences which received more serious penalties, then they would not be included in this sample.
3. These Law Part codes define the following offences; contravene ADVO (*Crimes Act 1900*, s5621(1), Law Part 1207), contravene prohibition/restriction in AVO (domestic)

(Crimes Act 1900, s562ZG(1), Law Part 62079), contravene prohibition/restriction in AVO (domestic) (Crimes (Domestic and Personal Violence) Act 2007, s14(1), Law Part 65020) and attempt to breach prohibition/restriction in AVO (domestic) (Crimes (Domestic and Personal Violence) Act 2007, s14(9), Law Part 69120).

4. 1a. The defendant must not assault, molest, harass, threaten or otherwise interfere with the protected person(s) or a person with whom the protected person(s) has/have a domestic relationship. 1b. The defendant must not engage in any other conduct that intimidates the protected person(s) or a person with whom the protected person(s) has/have a domestic relationship. 1c. The defendant must not stalk the protected person(s) or a person with whom the protected person(s) has/have a domestic relationship.
5. The ROC curve is a plot of the proportion of true-positives (those predicted to be in the prison sample who were in the prison sample) against false-positives (those predicted to be in the prison sample who weren't in the prison sample). The statistic takes a value of between 0.5 and 1.0. Hosmer and Lemeshow (2000) suggest that scores $>.9$ provide 'outstanding' discrimination, scores between $.8$ and $.9$ provide 'excellent' discrimination and scores between $.7$ and $.8$ provide 'acceptable' discrimination. A score of $.5$ provides discrimination between the two groups that is no better than chance.

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