

Appendix: Interview Data

During 2007, I conducted preliminary research on partner violence cases in two New South Wales Indigenous sentencing courts (Nowra and Dubbo) and three in Queensland (Brisbane, Rockhampton and Mount Isa). That research was funded by a Griffith University New Researcher Grant. For this preliminary project, key stakeholders from the five court sites were interviewed. The interview data, court observation data and court documentation compiled and collected in Nowra, Rockhampton and Mount Isa has been used in the analysis for this book.¹ This preliminary project gradually grew into a larger project, which ended up being funded by an Australian Research Council Discovery Project (DP0985987). Over a 4-year period (2010–2014) interviews and court observations were carried out with Elders, Community Representatives, magistrates, lawyers, Indigenous court workers, family and domestic violence service providers, victims, and offenders in a number of Australian court sites. This book specifically draws on interviews, court observations and court documents from Indigenous sentencing courts in two court sites in New South Wales (Nowra and Kempsey) and two court sites in Queensland (Rockhampton and Mount Isa). Later, funding was

obtained through an Australian Research Council Future Fellowship grant (FT140100313) to carry out a desistance analysis of the partner violence offenders who had been interviewed for the Discovery Project. This analysis also informed the material presented in this book.

In total 42 interviews were conducted in New South Wales and 66 interviews were conducted in Queensland. The breakdown of the various groups of interviewees is depicted in Table A.1. Out of the 108 interview participants, 87 were Indigenous (including 30 offenders and 25 victims) and 21 were non-Indigenous (including 4 victims).

The research used a decolonizing and critical racemethodology (Tuhiwai Smith 1999; Marchetti 2006). This means having an awareness of the importance and uniqueness of Indigenous knowledges and perspectives, the importance of providing feedback to participants, and the need to rethink hegemonic assumptions, values and concepts. An Advisory Group comprising key Indigenous and non-Indigenous court-workers from each court site provided cultural guidance throughout the project and ensured that the research maintained a culturally sensitive approach and perspective. The Australian Research Council Discovery Project included Professor Kathleen Daly, School of Criminology and Criminal Justice, Griffith University and Jacqueline (Jackie) Huggins AM. FAHA., an Indigenous Australian author, historian and Aboriginal rights activist who is currently co-Chair of the National Congress of Australia's First Peoples, as Chief Investigators on the research team. As much as possible Indigenous research assistants were employed throughout the project.

A requirement of the approved ethics protocol, was that an Elder or Community Justice Group member be consulted to select 'appropriate'

Table A.1 Interview groups according to court site

	Magistrate	Elders or Community Rep	Service provider	Court worker	Offender	Victim	Total
Nowra	2	4	2	4	5	5	22
Kempsey	1	5	1	3	5	5	20
Rockhampton	1	3	3	1	10	9	27
Mount Isa	2	6	5	6	10	10	39
Total	6	18	11	14	30	29	108

participants. This was necessary to ensure that none of the offenders who might be interviewed would be too volatile and unpredictable if they discovered their partners (or former partners) had participated in an interview, and to ensure that none of the participants were at risk of self-harming or would be too 'ashamed' to participate in an interview. In the end, seven offenders who were approached to be interviewed declined; 15 were considered, for various reasons, to be unsuitable to participate in an interview; and nine were deceased. Many others were in jail, in a rehabilitation facility, out of town, or no longer residing in town at the time the interviews were being conducted. It was more difficult to locate the victims, mainly because the Elders or Community Representatives did not know them as well. Six victims who were approached for an interview said no; two had passed away and seven were considered not suitable as interview participants. With many of the victims, it was difficult to ascertain where they were now living. The offender and victim participants who were interviewed were largely those who could be found, either through mutual contacts or by chance. The issues this raises in relation to sample selection bias could not be avoided. It may be argued that the offender group sample was skewed because it contains those who were more accessible and living life in a more conventional manner. However, most participants (offenders and victims) led complex lives that corresponded to those in other studies of Indigenous offending.

Once selected for an interview, an Elder or Community Justice Group member initially approached a participant to seek agreement to participate. I followed the instructions of Elders or Community Justice Group members and conducted all of the interviews myself. To ensure cultural sensitivities were respected and to offset any feelings of distrust, an Elder or Community Justice Group member was also present during the interview. In the case of victims, the Elder or Community Justice Group member was a female. Interviewing marginalised members of an Indigenous community with an Elder or Community Justice Group members is an accepted practice, and indeed, it encourages participants to be open and honest when responding to questions (Daly and Proietti-Scifoni 2009; Marchetti 2015). During the interview, an Elder or Community Justice Group member would at times ask further questions to clarify a response, which made it more likely that the responses fully reflected the views of the participants.

Interviews with stakeholder groups (for example, magistrates, prosecutors, Indigenous court workers and service providers) used a purposive sampling approach. Using this approach, I first contacted the magistrate and Indigenous court worker at each of the court sites to identify potential interview participants based on their roles in an Indigenous sentencing court process or court-related domestic and family violence program. Often this resulted in participants suggesting other potential interviewees.

Prior to determining the number of offenders and victims to interview at each court site, an assessment of the total number of partner violence offenders who had been through the Indigenous sentencing court process at each site was conducted. Table A.1 provides a breakdown of the total number of offenders who had been through the Indigenous sentencing court process in each of the court sites pertaining to this study from when the Indigenous sentencing court was established to a selected cut-off date (suited to the study design). The proportion of the total number of offenders who were being sentenced for an intimate partner violence assault or a breach of a protection order pertaining to an intimate partner appears in column three,² with a breakdown of the sex of the partner violence offenders in columns four and five. As can be seen in the final column of the Table A.2, 19.7 per cent of the partner violence offenders who had appeared before the four Indigenous sentencing court sites during the relevant time periods were interviewed.

To allow sufficient time to assess the impact of an Indigenous sentencing court process, only those offenders who had participated in the

Table A.2 Proportion of partner violence (PV) offenders from each court site

Court site	Total number of offenders who had been through an Indigenous sentencing court process	Total number of PV offenders	No. of male PV offenders	No. of female PV offenders	No. and proportion of PV offenders interviewed ^a
Nowra	73 (February 2002–early May 2010)	15 (20%)	15 (100%)	0 (0%)	5 (33%)
Kempsey	71 (April 2006–end Dec 2010)	33 (46%)	31 (94%)	2 ^b (6%)	5 (15%)
Rockhampton	211 (June 2003–end May 2010)	63 (30%)	58 (92%)	5 (8%)	10 (16%)
Mount Isa	247 (1 January 2007–end July 2011)	41 (17%)	37 (90%)	4 (10%)	10 (24%)
Total	602	152 (25%)	141 (93%)	11 (7%)	30 (19.7%)

^aThe percentage is a proportion of the total number of partner violence offenders per court site

^bOne was in a same sex relationship

sentencing hearing at least 1.5 years before the interview were listed as possible participants. The average (mean) time between first Indigenous court appearance and interview date for the offenders was 4.9 years (range: 1.8–8.25 years). Despite the long timeframes, most offenders and victims had a good recollection of what happened, what was said, and how they felt during the hearing; they remembered how many Elders or Community Representatives were present (and in some cases, who was present), and the penalties imposed. The interviews with the offenders focused on their experiences in the court process and how it affected their offending behaviour and relationships. Interviews with the victims focused on the experiences they had of the Indigenous sentencing court process if they had been present during the process and whether they noticed a change in their partner's behaviour or attitude.

The ages of the offenders considered in this study at the time they were interviewed ranged from 19 to 52 years old (average 33). The ages of the partner victims were not available since it was not data the courts collect. The interviews were recorded, and on average, across the four sites, the offenders' interviews took approximately 23 minutes (range 10–55 minutes). The interviews with offenders in Kempsey were on average the shortest (average 20.2 minutes) and the ones in Nowra were on average the longest (26.6 minutes). This timing reflects the length of time that the interview was being recorded, not the time spent with an offender prior to beginning the formal part of the interview. The informal meeting time with an offender was often just as long as the actual interview, particularly since the Elder or Community Representative took that opportunity to reconnect with the offender. The interviews with the victims, across the four sites, took on average 20 minutes (range 8–38 minutes). The interviews with the victims in Rockhampton were, on average, the shortest (17.3 minutes) and the ones in Nowra, the longest (23 minutes). Similar to the meetings with the offenders, interviews with the victims began with an informal discussion prior to starting the recording. These discussions, however, were usually shorter in length than with the offenders. Overall, the length of time of many of the interviews is quite short, but this brevity may be explained by Eades' (Eades 2013: 42) work, which suggests that when being asked questions by a non-Indigenous person, 'much information is not freely available and information seeking is subject to strong

social constraints'. This is a lesson to be learnt in thinking about better ways to do interviews with Indigenous participants. The victims, in particular, were not as forthcoming with information about the court process, and in fact, 13 of the 29 victims (all from Queensland) did not attend the Indigenous sentencing court hearing. Reasons why so many victims from Queensland did not attend the Murri Court hearing have been outlined in Chapter 5. Interview participants from the Queensland court sites were given \$30 grocery vouchers but in New South Wales, the Elders who were consulted in relation to the project, did not think it was appropriate to give participants an incentive. This was because they themselves were not paid to be on the Circle Courts and they understood the research to be of benefit to the community. They therefore could not see the benefit of paying victim or offender participants. All transcriptions of the interview recordings were checked for accuracy by re-listening to the recording while reading through the completed transcript.

In reporting the results, the stakeholder groups were de-identified by assigning them a number and giving them the following codes:

- Magistrates, prosecutors, defence lawyers, Indigenous court/legal services workers were classified as 'court workers';
- Elders and Community Representatives were classified as 'community members'; and
- Domestic and family violence service providers were classified as 'service providers'.

The court site associated with the stakeholder has also been noted. Offenders and victims were given a new name (only first names were used) and whether they were from New South Wales or Queensland was noted. For the offender and victim interview participants, specific courts sites are not noted, to protect the anonymity and confidentiality of the participants. The following three tables provide a summary of the experiences of the Indigenous sentencing court process of the offender and victim interview participants. The information in the tables is presented according to whether the offender and victim participants were pairs (Table A.3) and non-pairs (Table A.4 for non-pair offenders and Table A.5 for non-pair victims).

Table A.3 Offender and victim interview participants who were pairs

Alias name of offender and desistance status	State	Year of Indigenous sentencing court hearing	Offender age at hearing	Date of interview	Indigenous sentencing court experience of offender	Alias name of victim partner and Indigenous status	Relationship status at the time of the interview?	Indigenous sentencing court experience of victim
Brad (Partial Desister)	New South Wales (NSW)	2008	49	10 March 2011	Positive; hearing what the Elders had to say made him change; felt ashamed	Judy; Indigenous	Separated	Attended Circle Court; positive experience because she could have her say; not happy with the outcome but did not blame the Elders; was concerned Brad would retaliate; had become financially independent; attended a healing program
Tony (Desister)	NSW	2009	47	11 March 2011	Positive; can't lie Circle Court; hearing what the Elders had to say 'dragged' him down; re-learned respect for elders	Amanda; Indigenous	Together	Attended Circle Court; every-one had a voice in Circle Court; felt supported in Circle Court
Peter (Desister)	NSW	2006	22	14 April 2011	Positive; he had to listen to what his partner said; opened his eyes; presence of cultural authority made him listen	Fiona; Indigenous	Together	Attended Circle Court; positive experience because of the presence of authority figures; Elders helped them with strategies to help Peter change
Gary (Persister)	NSW	2008	46	14 July 2011	Did not like the younger community representative but still thought the Circle Court was fairer than mainstream court; respects elders who are older than him	Sonja; Indigenous	Together	Attended Circle Court; preferred mainstream court because she felt more supported in 'normal' court; did not know the Elders or community representatives; did not feel comfortable
Dave (Desister)	NSW	2003	24	18 May 2010	Circle Court was confronting; liked having people from his community in court; respects his Elders; didn't want to upset his elders; remembers the hearing very well	Lisa; non-Indigenous	Together	Attended Circle Court; every-one had a say in Circle Court; thought it was a really good process; Elders were 'pretty harsh'; felt safe

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Table A.3 (continued)

Alias name of offender and desistance status	State	Year of Indigenous sentencing court hearing	Offender age at hearing	Date of interview	Indigenous sentencing court experience of offender	Alias name of victim partner and Indigenous status	Relationship status at the time of the interview?	Indigenous sentencing court experience of victim
Nick (Desister)	NSW	2005	30	19 May 2010	Felt supported during Circle Court; Elders are there to help you; helped him and Louise to talk rather than yell at each other; the words of the Elders had an impact	Louise; non-Indigenous	Separated	Attended Circle Court; felt a bit tense before going but once there she realised it would be fine; she felt safe to say what she wanted to say; felt she got the truth out of Nick; thought the presence of the Elders shamed Nick
Michael (Persister)	NSW	2003	30	4 June 2010	Thought mainstream court was fairer than Circle Court; did not like all the programs he had to attend; did not like having to plead guilty to all the charges; felt it was like a 'split light'; he did like having his own people judging him to some extent	Jenny; Indigenous	Together	Attended Circle Court; said she didn't remember much about it; she felt good during the hearing; she felt safe because there were a lot of people around; it was different to mainstream court because the Elders were there; she said she didn't listen. The interview with this victim was done with the offender present so she may have been restricted in what she could say
Liam (Persister)	Queensland (Qld)	2008	19	18 March 2013	Likes talking in Murri Court to get things off his chest; felt more supported in court with Elders present; although he felt 'shaky' with the Elders present	Megan; Indigenous	Together	Did not attend the Murri Court; thought it was his business and did not want to speak to the Elders; did not know much about Murri Court

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Table A.3 (continued)

Alias name of offender and desistance status	State	Year of Indigenous sentencing court hearing	Offender age at hearing	Date of interview	Indigenous sentencing court experience of offender	Alias name of victim partner and Indigenous status	Relationship status at the time of the interview?	Indigenous sentencing court experience of victim
Jamie (Persister)	Qld	2008	29	13 May 2013	Had a positive experience in Murri Court; Having the Elders speak to him made him think about what he was doing; felt comfortable with the Elders present	Jill; Indigenous	Separated	Did not attend Murri Court because she wasn't asked; but would have attended if she had known the Elders would be there
Phil (Persister)	Qld	2008	43	21 March 2013	One of the Elders was related to his partner and he thought she gave him a hard time, but still respected the Elder; didn't feel he was being listened to by that Elder; but liked that he was asked to talk in Murri Court; felt somebody was listening to him	Debbie; Indigenous	Together	Did not attend the Murri Court because thought she shouldn't; she liked the fact that Phil was sent to attend programs because of the Murri Court
Sophie (Desister)	Qld	2008	43	13 May 2013	Didn't say much in Murri Court; she was happy she didn't have to go to jail; she listened to what the Elders told her to do	Cameron; Indigenous	Together	Didn't attend Murri Court because he thought Sophie 'needed to lift her game'; he spoke to Elders around town; it had been the first domestic violence incident with his partner; thought the Murri Court helped his partner
Trent (Partial Desister)	Qld	2005	37	11 October 2012	Thought Murri Court would keep him out of jail; he didn't get a custodial sentence; he has cut back on drinking partly because of what Elders said and partly because he had a good think; he felt shamed in Murri Court because the Elders were there	Alli; Indigenous	Separated	Attended Murri Court; it was good to have community members present; did a bit of counselling on the side but had no support in court; was glad to get it over and done with

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Table A.3 (continued)

Alias name of offender and desistance status	State	Year of Indigenous sentencing court hearing	Offender age at hearing	Date of interview	Indigenous sentencing court experience of offender	Alias name of victim partner and Indigenous status	Relationship status at the time of the interview?	Indigenous sentencing court experience of victim
Jarrah (Persister)	Qld	2004	30	12 October 2012	Did not say much in Murri Court; doesn't like it when the charges are read out in front of everyone; thought Murri Court was fairer than mainstream court; doesn't like being judged	Tammy; Indigenous	Separated	Did not attend Murri Court because she was told she didn't have to; did not want to see Jarrah; thought that the sentence was not long enough
Richard (Persister)	Qld	2004	28	13 November 2012	Had a positive experience in Murri Court; he felt comfortable and the Elders listened to him; in Murri Court they explain the sentence in a way that he could understand	Penny; Indigenous	Together	Did not attend Murri Court because she did not know he was at the court; she arrived too late; thought Murri Court was good because 'black fellas understand black fellas'
Aaron (Persister)	Qld	2009	34	12 February 2013	Had a positive experience in Murri Court; learned news ways to deal with arguments from the Elders; felt comfortable before the Elders; Elders understood him	Tina; Indigenous	Together	Went to Murri Court but did not talk; she went to support Aaron; she felt safe and comfortable in court; she was not asked to talk
John (Desister)	Qld	2007	30	15 February 2013	Had a positive experience in Murri Court; was able to get help; if he had gone through mainstream court he would not have received the support he got; Murri Court had a real impact on him	Mary; Indigenous	Together	Attended Murri Court; had a lot of support from the Murri Court which helped John change; if John had gone through Murri Court he would have still been in jail; thought that a custodial sentence would not have made any difference; she was able to have her say in Murri Court

Table A.4 Non-pair offender interview participants

Alias name of offender and desistance status	State	Year of Indigenous sentencing court hearing	Offender age at hearing	Date of interview	Indigenous sentencing court experience of offender	Still in a relationship at the time of the interview?
Jarri (Desister)	NSW	2008	52	12 April 2011	Positive experience; liked the fact that you have relatives and people you know present; get more support in Circle Court; helped him take responsibility	Separated; no children together; occasionally see each other in the street
Patrick (Desister)	NSW	2003	34	19 May 2010	Positive experience; he trusted the Aunts and Uncles on his Circle Court; he had a say in picking them; magistrate hardly said anything; felt 'shaky' going into Circle Court; different to mainstream court	Separated; had two children together; in a new relationship
Andy (Partial Desister)	NSW	2006	24	4 June 2010	Did not like the criticism from the Elders; But respected his Elders; Liked having his own people in court; was young and stupid when he went to Circle Court and probably not mature enough to accept help; but now he has changed mainly because he wants to be there for his children	Together; they have children together
Coby (Desister)	Qld	2007	28	20 March 2013	Positive experience; got to have a say in court; he wasn't scared; seeing the Elders in court made him comfortable; helped him take responsibility for his actions	Together; four children together; long-term relationship
Adrian (Desister)	Qld	2009	21	20 March 2013	Positive experience; learnt to deal with things differently; at first he was nervous but it turned out okay; he has a lot of respect for his Elders even before his hearing	Together; have two children together
Sam (Partial Desister)	Qld	2009	31	21 March 2013	Murri Court wasn't a 'holiday'; gave him a lot to think about; was initially scared; had respect for his Elders and liked having his people in court	Together; long-term relationship; have children together
Darren (Desister)	Qld	2011	27	14 May 2013	Positive experience; got the support he needed; he had a mix of male and female Elders; has a lot of respect for the Elders	Separated; they have six children together; they kept breaking up and getting back together

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Table A.4 (continued)

Alias name of offender and desistance status	State	Year of Indigenous sentencing court hearing	Offender age at hearing	Date of interview	Indigenous sentencing court experience of offender	Still in a relationship at the time of the interview?
Luke (Persister)	Qld	2009	28	14 May 2013	He felt comfortable in Murri Court; but couldn't remember a lot of what was said; liked seeing his own people in court; he was worried about going to jail	Separated; they have three children together; in another relationship
Leroy (Desister)	Qld	2011	31	31 July 2013	Positive experience; was able to talk in court and explain what happened; went to programs to get help; liked having the Elders in court for support; has a lot of respect for his Elders	Separated; they have a child together; in a new relationship
Robbie (Persister)	Qld	2004	33	10 October 2012	Was young and stupid when he went to Murri Court; got support because of Murri Court; remembers the Elders telling him he had been 'naughty'; felt good to have his own people in court	Victim partner was deceased
Daryl (Persister)	Qld	2009	42	11 October 2012	Thought he was 'getting off' when he went to Murri Court; did not take it seriously; the Elders were upset with him	Together; they have four children together
Ian (Persister)	Qld	2005	28	13 November 2012	Had a positive experience in Murri Court; Elders 'told him off'; he was happy to listen to the Elders	Separated; they had five children together; in a new relationship
Connor (Persister)	Qld	2005	29	14 November 2012	Positive experience in Murri Court; Elders gave him a good talking to; dealt with him in a reasonable way	Together; they have two children together
Paul (Partial Desister)	Qld	2009	40	12 February 2013	Positive experience; felt a bit intimidated going to Murri court; was able to attend programs; he could talk in court; had a good interaction and connection with the Elders	Separated; they have four children together

Table A.5 Non-pair victim interview participants

Alias name of victim and Indigenous status	State	Year of Indigenous sentencing court hearing of abusive partner	Date of interview	Indigenous sentencing court experience of victim	Still in a relationship at the time of the interview?
Kylie; non-Indigenous	NSW	2003	17 May 2010	Attended Circle Court; felt empowered in Circle Court because she got to have a say	Separated; realised partner did not treat her well; had been in a long term relationship with him; he is still an alcoholic
Talia; Indigenous	NSW	2008	19 May 2010	Attended Circle Court; was a bit nervous to start with; wanted to have her say in court; she was happy with the outcome	Separated; ex-partner was drinking methylenated spirits; on and off again type of relationship
Vanessa; non-Indigenous	NSW	2007	13 April 2011	Remembers the Circle Court hearing well; thinks the Circle Court works well but need to be careful about who is selected from the community to sit on the panel; she got to have a say in Circle Court	Separated; had been a long term relationship; had five children together; did not go back to him after Circle Court hearing; ex-partner drank a lot
Jennifer; Indigenous	Qld	2006	12 November 2012	Did not attend Murri Court; was told she didn't have to go; she did not want to see his face	Separated; she learned her lesson and never wanted to go back to him again
Jackie; Indigenous	Qld	2008	12 November 2012	Attended Murri Court; but does not remember much about it; initially thought she wasn't allowed to attend but she was told she could go in; went in to support him	Separated; he has a new partner; doesn't think he has been back to court since they split up
Sally; Indigenous	Qld	2009	15 November 2012	Did not attend Murri Court because she did not want to go	Separated; there was no physical abuse in the relationship – more psychological and emotional abuse; things were fine until they got married
Kelli; Indigenous	Qld	2008	14 February 2013	Did not attend Murri Court because it was too far to travel	Together; long term relationship; Murri Court helped partner to change; one of the Elders was his Aunt; the relationship is going a little bit better

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Table A.5 (continued)

Alias name of victim and Indigenous status	State	Year of Indigenous sentencing court hearing of abusive partner	Date of interview	Indigenous sentencing court experience of victim	Still in a relationship at the time of the interview?
Rhianna; Indigenous	Qld	2008	19 March 2013	Did not attend Murri Court; no-one asked her to go; partner wanted her to go but she didn't want to	Together; partner hasn't changed because of Murri Court
Maggie; Indigenous	Qld	2007	19 March 2013	Did not attend Murri Court because they had separated at the time and no-one had asked her to go and she did not want to see him; she did sit outside the court	Together; partner has changed due to having to attend programs as a result of the Murri Court; Murri Court gave her partner more respect for the Elders and himself
Mia; Indigenous	Qld	2008	21 March 2013	Attended Murri Court but did not say anything to the Elders	Separated; ex-partner was verbally and physically abusive which did not subsides
Mark; Indigenous	Qld	2007	14 May 2013	Unclear whether he attended the Murri Court but recalls speaking to the Elders; did not remember much	Together; long term relationship; partner keeps drinking; they don't understand what a breach of a domestic violence order is
Kris; Indigenous	Qld	2009	16 May 2013	Did not attend Murri Court; she had to call to get information about the outcome; she would have liked to have had a say in court	Separated; ended the relationship when he cheated; Murri Court process did not make any difference to his alcohol consumption
Kirra; Indigenous	Qld	2007	31 July 2013	Did not attend Murri Court because she wasn't asked to attend; she would have gone in to court if she had known she could	Separated; long term relationship; ex-partner is a bit better now; he is better when he cuts back on drinking

Notes

1. Dubbo was dropped from the larger subsequent research project because the Circle Court in that location stopped working effectively. This was because around the time the subsequent research project was being conceptualised, the Elders and Community Representatives did not have a good working relationship with the magistrate. Although an attempt was made to include the Brisbane Murri Courts as one of the court sites to be studied for the larger subsequent research project, it could not be included because the Elders were not comfortable with selecting partner violence offenders and victims who could safely participate in an interview. The reason for this was because, being from a large urban city, they did not know all of the offenders and victims that well.
2. The numbers provided for Rockhampton and Mount Isa were for offenders who had (for at least one of the offences committed as part of the domestic and family violence incident) been convicted of a breach of a domestic and family violence protection order. This was the only way to identify partner violence offenders who had been through the Queensland courts.

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