

Safety and protection of victim and witnesses

A number of investigations by Australian courts, law reform bodies and researchers have recognised that there are circumstances in the context of domestic and family violence related judicial proceedings where it may be appropriate or necessary to take steps to ensure the **safety and protection** of individuals, including those who qualify as vulnerable witnesses [Vulnerable witness provisions (Australia)] [NT Dept of Justice 2011].

Victims of violence may be in physical danger [Douglas & Stark 2010], they may feel fear and anxiety at the prospect of facing the perpetrator or the perpetrator's family and supporters in the courtroom or court precinct, they may be concerned about how their own fear and anxiety may impact on their children [Roberts et al 2015], or they may be re-traumatised by having to recount their experiences of violence [Qld Special DFV Taskforce Report 2015]. For some, their court appearance may be the first time they have spoken publicly about the violence [Douglas & Stark 2010]. Some victims reported further intimidation and abuse by the perpetrator (ranging from staring [Coy et al 2012] to physical attack [George & Harris 2014]) while waiting for their case to be called or during the conduct of the proceedings [Douglas & Stark 2010] or on leaving the court after the hearing [George & Harris 2014]. Studies have observed that on some occasions judges and court staff failed to recognise these acts of aggression [Coy et al 2012].

In regional and rural communities where individuals and families are often well known to one another, victims may also have concerns about their high visibility [Wendt et al 2015] to others, the lack of confidentiality [WESNET 2000], the ramifications of airing private matters, and may fear the shame and public exposure of giving oral evidence [George & Harris 2014]. These issues may be heightened for Aboriginal and Torres Strait Islander people who may experience language barriers in understanding the proceedings and in giving oral evidence, and may not have access to appropriate interpreter services [Alford 2012]. Any of these fears or concerns may have an impact on a victim's capacity to report and **disclose** their experiences of violence and to seek the legal protections they need to feel and be safe [Loddon CLC 2015].

There is a considerable variation in the resources available to courts across Australia's state, territory and federal jurisdictions. Courts in capital cities and larger metropolitan areas are likely to be able to provide a range of facilities and services for the safety and protection of victims and witnesses that are unavailable to courts in smaller or more isolated centres. While the following measures are considered best practice, it is acknowledged that best practice may not be supported by legislation or be possible or practical in some circumstances and, as a result, judicial officers and court staff must prioritise their resources and adapt their practices to address the most critical safety and protection issues consistently with local legislation.

Physical and logistical measures

- Separate waiting areas

- > Separate entry and exit points [[Jordan & Phillips 2013](#)]
- > Separate interview rooms [[Lynch & Laing 2013](#)]
- > Staggered arrivals and departures
- > Dedicated area for children [[George & Harris 2014](#)]
- > Screen; or telephone, video link or closed-circuit television attendance
- > Security guard escort to and from court
- > Police attendance [[Chisholm 2009](#)]

Planning and informing [[Sarre et al 2013](#)]

- > Ensure court staff (including counter staff and security) are properly trained in domestic and family violence [[Douglas & Stark 2010](#)]
- > Familiarisation visits (providing access to court in advance of hearing)
- > Determine risk [[Sarre et al 2013](#)] and need, including preparation of safety plan [[FCA/FCCA 2015](#)]
- > Identify existing orders or notifications
- > Provide information about court process and support/referral options [[Chisholm 2009](#)]

Procedural measures [[NT Dept of Justice 2011](#)]

- > Give evidence in courtroom from behind screen, or from outside the courtroom via telephone, video link or closed-circuit television
- > Support person attendance while giving evidence
- > Court closure while giving evidence, including special sittings that are recorded
- > Admittance of recorded statement into evidence as all or part of the witness's evidence in chief
- > Imposition of time limits within which proceedings must be commenced
- > Prohibition on cross-examination [[Loughman 2016](#)] of complainant where defendant in a sexual offence or domestic violence matter is unrepresented
- > Additional protections for children
- > Careful determination of appropriateness or risks of parties engaging in family dispute resolution processes [[Field 2010](#)]