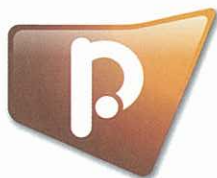


**INQUIRY INTO DOMESTIC VIOLENCE TRENDS AND
ISSUES IN NSW**

Organisation: Information and Privacy Commission

Date received: 19/09/2011



The Director
Standing Committee on Social Issues
Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

16 SEP 2011

Dear Director

Re: Inquiry into domestic violence trends and issues in NSW –
Acting Privacy Commissioner's submissions

I refer to the invitation by the Hon Niall Blair MLC, Committee Chair, dated 1 August 2011 to make submissions to the Inquiry.

I propose that my submission relates only to matters that may have a possible privacy implication for those who may be affected by the use of "GPS bracelets" as part of any conditions imposed in a Apprehended Domestic Violence Order (ADVO).

My Office has advised me that, when contacted, the Committee's Secretariat could not provide access to any Briefing Paper regarding the topic. My Office's searches regarding the use of GPS bracelets in Australian jurisdictions has accessed publications discussing the range of technologies that may be used in the criminal justice system, but not the scope of their use in civil proceedings such as ADVO proceedings.

For these reasons my submission relies on our own understanding of the potential scope of GPS bracelets in ADVOs. I note that this appears to be a novel use of monitoring devices in what are essentially civil applications rather than criminal proceedings where the usual norms of the criminal law will not apply, but rather, decisions may be made on the civil standard of proof for protective as opposed to punitive purposes.

The available literature indicates that, where an ADVO may condition the movement of a defendant so as to prevent contact with protected persons, GPS linked technologies are available to ensure that the defendant does not enter proscribed areas or approach protected persons. We understand that, in the event that the defendant enters into the proscribed area, a device attached to the body of the defendant would have the capacity to emit a signal to a control station to identify the location of the defendant. We further understand that such technologies may be useful in:

- Providing instantaneous information of a possible violation of movement restrictions, possibly allowing an immediate police response to prevent the prospect of an offence being committed against any protected persons,
- Being objective evidence of contravention of ADVO restrictions to ensure better rates of conviction, and
- Acting as a deterrent so as to promote better compliance with movement restrictions and reduce domestic and family violence offences.

If our understanding is correct that the potential use of these devices in the context of ADVOs is to enforce place-restrictions, it would appear that the following privacy related issues may need to be resolved before decisions may be made as to the systems engaged to implement the social policy of the scheme:

1. What information will the technology capture about the movement of individuals, so that the system employed does not record information about their choice of movement outside proscribed areas, which may be an unnecessary infringement of their freedom of movement.
2. Which government authority will be given corporate responsibility for the secure storage of the personal information that the system may capture.
3. How long the personal information collected by the system will be stored by the nominated authority. It may be necessary to enact specific provisions restricting the uses of the personal information collected by the system and retention periods that will require the destruction of the information once the period of its utility has expired.
4. It may be necessary to consider that, except for occasions where the captured information will be used for law enforcement purposes, the nominated authority should be made subject to the Information Protection Principles in the *Privacy and Personal Information protection Act 1998* regarding the information.

I would welcome the opportunity to make further comment at a time when more information about the proposed use of GPS bracelets becomes available.

Yours sincerely

John McAteer
Acting Privacy Commissioner
Information and Privacy Commission