



NSW Police Force

Code of Practice

NSW Police Force Response to Domestic and Family Violence

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COMMISSIONER'S MESSAGE

The NSW Police Force is committed to reducing the levels of domestic and family violence, and to improving our responses to victims of this complex crime. Police officers have to deal with the impact of domestic violence on a daily basis as responding to domestic and family violence incidents is a significant component of a police officers work.

The Code of Practice is a crucial element in our corporate response to improve the investigation and management of domestic and family violence. It also ensures that the NSW Police Force maintains quality customer service to victims.

The Code has been developed in consultation with specialist domestic violence officers and service providers and provides information to assist people who experience domestic violence to understand how police will respond when they receive a report of domestic and family violence.

I fully support the Code and consider it a step forward in further strengthening the relationship between the NSW Police Force and the community as we work together to achieve a safe and secure NSW.



A P Scipione APM
Commissioner of Police

CORPORATE SPOKESPERSON'S MESSAGE

All Police play a critical role in meeting the NSW Police Force commitment to reduce domestic and family violence and improve police practice in this area.

Police officers are faced with numerous challenges when confronted with often volatile and unpredictable domestic and family violence situations. The complex nature of domestic and family violence means that it is not uncommon for police to return to the same home several times. This means that they often investigate incidents involving repeat victims and repeat offenders.

The Code of Practice aims to improve consistency in policing practice. It has been developed as a comprehensive information package for the community so that they may better understand the procedures utilised by police during the course of a domestic and family violence investigation.

The Code of Practice will also provide, in conjunction with operational policies and procedures, a reference tool for operational police to perform their duties whilst investigating this significant crime.

I fully support the Code and recognise the value of it in assisting the NSW Police Force, partner agencies and the community in delivering a more integrated and coordinated response to domestic and family violence.



Assistant Commissioner Mark Murdoch APM
Corporate Spokesperson for Domestic and Family Violence

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EXECUTIVE SUMMARY

The *Code of Practice for the NSW Police Force response to Domestic and Family Violence* (Code of Practice) outlines how police officers will respond to reports of domestic and family violence and emphasises that all such reports will be treated seriously by police.

Many forms of domestic and family violence are criminal. These include:

physical violence, sexual assault, stalking, property damage, threats and homicide.

Other forms of domestic and family violence, while not categorised as criminal offences, can be just as harmful to victims and their families, including the use of coercive or controlling behaviours that may cause a person to live in fear, or to suffer emotional and psychological torment, financial deprivation or social isolation. Domestic and family violence affects all members of a family including children.

In 2006 the NSW Ombudsman delivered a special report to Parliament titled *Domestic violence - improving police practice*. In this report the Ombudsman made 44 recommendations to assist the NSW Police Force (NSWPF) to improve the policing of domestic violence incidents. One of the recommendations called for the development of a Code of Practice to provide the community with a comprehensive understanding of the NSWPF strategic response to domestic and family violence.

The main aims of the Code of Practice are to increase the level of safety for victims of domestic and family violence, including children; early intervention, investigation and prosecution of criminal offences; and with the assistance of specialist domestic violence service providers, the delivery of integrated responses to break the cycle of family violence.

Most reported victims of domestic and family violence are women and children. However, police respond to reports of domestic and family violence that involve a diversity of relationships between victim and offender. Victims may include those in same sex relationships, transgender persons, elderly people and people with a disability. Some victims can be further disadvantaged when seeking assistance due to factors such as isolation, cultural differences, language barriers and age. Children are particularly vulnerable and the Code of Practice acknowledges the correlation between child abuse and domestic and family violence.

The Code of Practice reinforces the proactive policing responses of the NSW Police

Force and the principles that govern these responses:

- Domestic and family violence is a serious crime that impacts on the community at all levels and warrants a strong and effective justice response.
- Police will respond to victims and other affected family members in a constructive, consistent and non-judgemental manner.
- Police will use all the powers available to them to improve the protection of children living in homes where violence can occur.
- Police will work with local communities and external agencies to reduce and prevent domestic and family violence through monitoring the behaviour of offenders.
- The police response will take into account needs and experiences of people from diverse backgrounds, and work with these communities to reduce domestic and family violence (NSW Police Force Ethnic Affairs Priorities Statement (EAPS) Forward Plan 2006-2009).
- Police will be mindful of the cultural differences among Aboriginal communities and will work with them to reduce family violence (Aboriginal Strategic Direction 2007-2011).
- Police will consider implementing the *Young Offenders Act* where the offender is a child (defined as person who is of or over the age of 10 years and under the age of 18 years – section 4, *Young Offenders Act*) and ensure the least restrictive sanction is used where appropriate.

- Ensure coordinated and integrated models of practice.
- Offenders of violence will be held accountable and challenged to take responsibility for their actions.

The NSWPF recognises that no one agency in isolation can provide an effective response to domestic and family violence. A multi service approach is needed to provide the most effective support to victims. Referral to the appropriate support service can assist the victim to break the cycle of violence and obtain advice and support to assist them in the future if violence reoccurs. A list of referral services can be found at the end of the Code of Practice.

The Code of Practice also highlights the commitment of the NSWPF to provide the community with responsive and meaningful customer service. The police response to, and investigation of domestic and family violence is governed by the operational procedures, legislative requirements, the NSW Police Handbook and the Code of Practice. Police action will be consistent with the NSWPF Code of Conduct and Ethics and the Customer Service Charter.

TERMS USED

ACLO	Aboriginal Community Liaison Officer
ADVO	Apprehended Domestic Violence Order
APRO	Ancillary Property Recovery Order
APVO	Apprehended Personal Violence Order
AVO	Apprehended Violence Order
CALD	Culturally And Linguistically Diverse
CMU	Crime Management Units
COPS	Computerised Operational Policing System
D&FV	Domestic and Family Violence
DV	Domestic Violence
DVLO	Domestic Violence Liaison Officer
GDs	General Duties
GLLO	Gay and Lesbian Liaison Officer
LAC	Local Area Command
LEPRA	<i>Law Enforcement (Powers & Responsibilities) Act 2002</i>
MCLLO	Multicultural Community Liaison Officers
NGO	Non-Government Organisation
NSWPF	NSW Police Force
RDVC	Region Domestic Violence Coordinators
SGT	Sergeant
TIS	Translating Interpreting Service
YLO	Youth Liaison Officer
YOA	<i>Young Offenders Act</i>

Domestic and family violence is a crime that takes many forms including emotional and psychological abuse, intimidation, harassment, stalking, physical and sexual assault, and can include animal abuse targeting pets, and damaging personal or joint property.

It is the most underreported of crimes because the perpetrator knows the victim intimately through a long-term, close or developing relationship. The perpetrator relies on developing, during the early stages, a strong bond through friendship, love, trust and loyalty to create a high degree of co-dependence. The underlying behavioural traits of power and control are then employed as tactics to commit the crime.

The more times a perpetrator commits the crime, the greater the likelihood the affected partner becomes vulnerable to further abuse and violence. This can frequently result in the affected person developing feelings of fear, guilt, anxiety, low self-esteem, isolation and feeling 'trapped' in the relationship. This often results in what is referred to as a 'Cycle of Violence'.

Children living in a relationship with abusive behaviour are considered to be at risk of harm, either directly by being abused or indirectly by witnessing the abuse of the parent or carer. Children who live in families where domestic and family violence occurs are at a greater risk of being sexually abused. The continuation of abuse and even exposure to such abuse could result in serious problems impacting on the child's personal, health, education and social development.

The NSWPF will respond to all reports of domestic and family violence and pursue offenders to hold them accountable for their 'criminal behaviour' under NSW law, by placing them before the courts.

The Nature of Domestic and Family Violence

Most people who experience a problem in their relationship do not end the relationship immediately. Domestic and family violence victims are no different. Most victims of domestic and family violence will have tried numerous strategies including:

- Trying to appease their violent partner
- Anticipating the mood and needs of their violent partner
- Minimising the effect of the violence on themselves and their children
- Denying that what they are experiencing in their relationship is domestic and family violence

There are many factors that determine whether or not a victim will report domestic and family violence to police and the subsequent action they will take, including:

- Fear
- Emotional bonds to their partner
- Shame or embarrassment
- Denial or minimisation
- Lack of resources, eg. financial, housing, employment, child care, legal
- Social isolation as a result of the offender controlling who a victim has contact with
- Difficulty in obtaining advice and assistance due to being a new migrant with limited language skills, or someone living in a remote community with limited support or services
- Being denied access to family or friends
- Lack of knowledge of options
- Religious or cultural beliefs around marriage and/or parenting

WHY HAVE A CODE OF PRACTICE?

NSW Ombudsman's Report

In 2006 the NSW Ombudsman delivered a special report to Parliament on Domestic violence - improving police practice. This report made a number of recommendations for improving the police response to domestic and family violence; particularly in relation to operating procedures, education and training, legal issues and human resources. The NSWPF supported the majority of recommendations made by the Ombudsman and have been implementing the recommendations since 2007. One of the recommendations was for the development of a Code of Practice.

The Code of Practice is a document that provides information to the general public about the commitment of the NSWPF to work in partnership with other agencies to reduce and prevent domestic and family violence; and explains the process that occurs when police receive a report of domestic and family violence.

FRAMEWORK FOR THE CODE OF PRACTICE

Violence in the community, particularly crimes of personal violence, is of significant concern to Australian governments, both Federal and State. While victims and offenders of personal violence can be male or female, a 2004 study by the NSW Bureau of Crime, Statistics and Research (BOCSAR), showed that in NSW, 80.4% of offenders of domestic assault incidents reported to the police were men. The statistics for partner relationships show that males assaulted 95% of female victims.

As a result the community generally considers domestic and family violence to be a gendered crime with the majority of reported victims being female and reported offenders being male. Because of this commitments have been made by the Federal and State governments to work towards eliminating violence against women and children, including domestic and family violence, and sexual assault.

While the overwhelming majority of AVO applications are made by women against their male partners or ex-partners, this does not preclude domestic and family violence occurring within same sex or other domestic relationships; including where domestic and family violence occurs between family members, as well as where children are the offenders. It is acknowledged that police encounter victims and offenders of both genders and in a variety of relationship types.

The NSW State Plan

The NSW Government aims to keep people safe and develop harmonious communities through reducing rates of crime, particularly violent crime. Domestic and family violence is a crime that the government recognises as having a significant impact on families and the community. The State Plan, through Priority R1 - Reduced rates of crime, places the focus on dealing with the causes and effects of domestic violence with the NSWPF.

Under the State Plan, police are the lead agency for the investigation and management of domestic and family violence. Police will lead more effective delivery of services to victims and their families in conjunction with other government and non-government agencies.

The National Plan

The Australian Government is leading the development of a National Plan to Reduce Violence against Women. The Plan will bring together the efforts of all levels of government, the non-government sector and the wider community to address domestic violence. It will identify how the combined work of police, courts, legal systems, health and community services and education can contribute to a reduction in the levels of domestic violence and sexual assault.

In May 2008 the Australian Government established an 11-member National Council to Reduce Violence against Women and their Children to provide the Government with advice on the development of an evidence-based National Plan to Reduce Violence against Women and their Children. The Council, with the support of the Government, conducted significant research to assess the existing evidence, the operation of legal systems and the economic cost of violence against women to inform Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children, 2009–2021.

Time for Action contains the Council's recommendations for a National Plan to Reduce Violence against Women to be developed and agreed by the Council of Australian Governments (COAG). It is an extensive report with findings that relate to the responsibilities of all governments and the community. Time for Action recommends that the Australian Government take leadership on a long-term plan to reduce violence against women. The report identifies six key outcome areas, proposes strategies and actions in each area and identifies 20 high-priority actions.

The Australian Government will work with the state and territory governments to develop the National Plan to Reduce Violence against Women for release in 2010.

The NSW Domestic and Family Violence Strategic Framework

The NSW Government is firmly committed to addressing violence against women and to making a difference. In particular, the Government considers tackling domestic and family violence and supporting victims a major priority. The NSW Domestic and Family Violence Strategic Framework aims to ensure that individuals that have experienced domestic violence receive the best possible responses – both for the short term and long term.

The Framework aims to provide a blueprint for Government, non-government agencies and the community on how we all can work together to combat domestic and family violence and ensure that NSW has the most progressive strategy in place to effectively respond to violence.

At present, the Framework is still under development and is due for release by the end of 2009.

Australasian Policing Strategy for the Prevention and Reduction of Family Violence

The NSWPF is a contributing partner to the above framework that supports the following principles:

- 1) Every adult and child has the right to a safe environment.
- 2) Zero tolerance to offenders of family violence.
- 3) Early intervention and prevention programs are critical to breaking the cycle of violence.
- 4) Strategic partnerships, collaboration and cooperation between policing jurisdictions, government and non-government agencies are central to achieving results.
- 5) Service delivery that is effective, responsive and best practice.
- 6) Flexible service delivery for diverse and emerging communities and people in rural and remote areas.
- 7) Use of technological development and other innovations to allow police to work faster and smarter.
- 8) Integrated and coordinated information gathered and intelligence shared locally, nationally and internationally.

The NSWPF Corporate Plan 2008 - 2012

The Code of Practice is one of many resources under the NSWPF Corporate Plan 2008 - 2012 that will help Police achieve its vision for a safe and secure NSW. The Corporate Plan provides a framework for the NSWPF to implement State Plan priorities and creates the opportunities for the NSWPF to work together with the community and our interagency partners to further reduce crime, fear of crime and anti-social behaviour.

The following organisational values underpin the Corporate Plan:

Values

- Excellence:* having the highest professional standards and integrity
- Trust:* promoting community faith and confidence in their police
- Honour:* acting with pride and admiration for the policing profession
- Impartiality:* fair and objective decision making without prejudice
- Commitment:* dedication and devotion in the performance of your duties
- Accountability:* acknowledging ownership and being answerable for your actions
- Leadership:* acting as a role model for the community and your colleagues

The Domestic and Family Violence program comes primarily under the Crime strategy, one of the Corporate Plan's key strategies. This strategy aims to reduce rates of crime, particularly violent crime. The NSWPF will achieve this by strengthening our response to domestic and family violence.

Domestic and Family Violence also comes under the strategy of Community and Partners. Through collaboration with the community and partner agencies the NSWPF will aim to increase community confidence in police and reduce customer service related complaints.

GOVERNING PRINCIPLES BEHIND THE CODE OF PRACTICE

Customer Service Program

The NSWPF is committed to providing the community and people of our own organisation with responsive and meaningful customer service. Ensuring that Police maintain quality customer service is one of the highest priorities of every police officer. It is what the community desires and is a key requirement of the State Plan.

Victims are our special customers. Each should be treated fairly and openly in accordance with the Charter of Victims Rights and the Police Handbook. Further information about our commitment to good customer service and respectful treatment of victims can be found further in this document under, Information for Persons in Need of Protection and the Customer Service Charter.

The diverse state of NSW

NSW is a state diverse in culture, ethnicity, religious belief and practice, gender, language, sexuality, physical and intellectual ability and age. When investigating domestic and family violence within the community, police must consider and recognise this diversity and the different needs that individuals may have as a result. However, recognition of the complex nature of domestic and family violence is paramount for police. While a good police investigation will try to address the individual needs of victims and offenders, such as the need to use interpreters, the primary focus will always be the criminality of domestic and family violence and the wellbeing of victims.

Proactive policing responses

The NSWPF will use a proactive approach in dealing with offenders. This approach requires police to not only respond to incidents of domestic and family violence and give strongest consideration to arrest; but to develop strategies to reduce repeat offender behaviour and manage repeat and high risk offenders.

The NSWPF is committed to using all lawful means to police domestic and family violence. This includes wherever possible, removing offenders from the victim, taking out an AVO on behalf of victims and any children living or spending time with the victim (whether they are by consent or not), investigating breaches of AVOs, and developing solutions to managing repeat offenders.

When applying for an AVO police will consider applying for exclusion conditions in situations where the violence is escalating and the threat of danger to the victim, and/or children, presents an increasing risk of harm, and the victim is able to remain safely in their home. Exclusion conditions are explained further in the Code of Practice in the section about Apprehended Violence Orders (AVOs).

This proactive approach will also apply to young offenders. This includes taking out an AVO against the young offender, however where exclusion conditions are necessary all efforts must be taken to ensure that the young offender is accommodated appropriately.

THE DOMESTIC AND FAMILY VIOLENCE POLICY STATEMENT

The NSW Police Force regards all personal violence crimes, in particular crimes against women and children, and the elderly, as serious and damaging to individuals, families and to our community.

Domestic and family violence offences may result in criminal charges and will not be tolerated. These offences and crimes cause significant trauma to the victims, their families and communities.

The NSW Police Force encourages police to give the strongest consideration to arrest offenders of domestic and family violence. The safety, protection and wellbeing of victims are of paramount concern to police.

The NSW Police Force enforces a pro prosecution response to the investigation and management of domestic and family violence. Charges will be laid against offenders where evidence exists to support criminal charges.

The NSW Police Force enforces a pro victim support response to domestic and family violence and will ensure appropriate protective measures are taken to keep victims safe and prevent further violence against them.

Domestic and family violence is recognised as a child protection issue and all police will be proactive in fulfilling their roles and responsibilities as mandatory reporters of children and young people at risk of significant harm; and complying with the NSW Police Force policy to report children present in the home at the time of any domestic and family violence incident to the Child Wellbeing Unit.

If a child has been abused, or is in need of protection from the offender, police must make an application for an Apprehended Violence Order.

The community in which police serve represents a community diverse in indigenous, cultural, religious, gender, language, social, sexuality, ability and age differences. Police must consider understanding, and recognition of these differences when responding to victims of domestic and family violence, perpetrators of this crime and the families affected.

The NSW Police Force recognises the prevention of crime as a family, community and whole of government responsibility. The NSW Police Force supports, encourages and will continue to work in partnership with other agencies to deliver coordinated effective services to victims, offenders and their families.

The role of police in responding to domestic and family violence

Police have five key roles in relation to domestic and family violence.

They are to:

1. Investigate incidents of Domestic and Family Violence.
2. Provide safety and support to victims.
3. Bring offenders before the court or apply the *Young Offenders Act* to young offenders where appropriate.
4. Be proactive in preventing Domestic and Family Violence.
5. Work with local service providers to reduce incidents of domestic and family violence.

Principles of police responses to domestic and family violence

To achieve its key roles the NSWPF is guided by the following principles:

- Domestic and family violence is a serious crime that impacts on the community at all levels and warrants a strong and effective justice response.
- Police will respond to victims and other affected family members in a constructive, consistent and non-judgemental manner.
- Police will use all the powers available to them to improve the protection of children living in homes where violence can occur.
- Police will work with local communities and external agencies to reduce and prevent domestic and family violence through monitoring the behaviour of offenders.
- The police response will take into account needs and experiences of people from diverse backgrounds, and work with these communities to reduce domestic and family violence (NSW Police Force Ethnic Affairs Priorities Statement (EAPS) Forward Plan 2006-2009).
- Police will be mindful of the cultural differences among Aboriginal communities and will work with them to reduce family violence (Aboriginal Strategic Direction 2007-2011).
- Police will consider implementing the *Young Offenders Act* where the offender is a child (defined as person who is of or over the age of 10 years and under the age of 18 years – section 4, *Young Offenders Act*) and ensure the least restrictive sanction is used where appropriate.
- Ensure coordinated and integrated models of practice.
- Offenders of violence will be held accountable and challenged to take responsibility for their actions

AIMS OF THE CODE OF PRACTICE

The aims of this Code of Practice are to:

- Increase the level of safety for victims of domestic and family violence, including children
- Provide early intervention and disruption to break the cycle of domestic and family violence
- Provide an appropriate, consistent, transparent and accountable response to domestic and family violence to achieve best practice
- In partnership with other agencies, government and non-government, support an integrated response to domestic and family violence
- Increase the identification and arrest (where appropriate) of offenders and maximise successful prosecutions
- Minimise trauma experienced by families during the process of Police intervention
- Maximise victims understanding of criminal justice processes
- Increase the comfort and sensitivity afforded to those experiencing domestic and family violence
- Support aggrieved family members to stay safely in their own homes
- Encourage persons to report incidents of domestic and family violence.

Implementing the Code of Practice

To meet the police role and functions as outlined in this Code of Practice, responding police and their supervisors must consider if the action they have taken has resulted in:

- Safety of the victim and others affected by the family violence
- Identification of future risk of harm to the victim
- Appropriate referral being made
- Investigation and prosecution where appropriate
- Disruption to the cycle of domestic and family violence

Complaints if you consider the Code of Practice to have been breached

If you think that the Code of Practice has been breached through inappropriate police action then you can take your complaint to one of the following:

- The Shift Supervisor of the police station where the officer(s) is based. Often the most effective and timely approach for resolving customer service matters is to talk to an appropriate officer of the NSWPF.
- The NSWPF Professional Standards Command. To complain about NSW police officers, you can contact the Customer Assistance Unit on 1800 622 571.

To lodge a formal complaint you must do so in writing. You can do this by completing the form available from the NSWPF website where you can lodge your complaint online. Written complaints can be left at, or mailed to, your local police station or mailed to the Customer Assistance Unit at PO Box 3427, Tuggerah, NSW, 2259.

- The NSW Ombudsman

For further information regarding the NSW Ombudsman visit www.ombo.nsw.gov.au or phone the number below:

Ph: (02) 9286 1000

Toll free: 1800 45 15 24 Monday to Friday, 9am - 5pm (Inquiries section closes at 4pm)

Frontline Policing

The Local Area Command (LAC) is the business unit and key service delivery point for responding to incidents of domestic and family violence within the community. In the LAC, first response officers are known as General Duties police (GDs).

First Response Officers (General Duties Police)

General Duties (GDs) officers are, in most cases, the first response officers to domestic and family violence incidents and play an important role in the investigation and management of these offences. Police will then commence a criminal investigation into any offence that may have occurred. GDs officers may also initiate an AVO application on behalf of the victim and family members who are in need of protection.

Any initial contact should never be undervalued in being able to set the scene for future police interaction with persons involved in domestic and family violence. Police must provide a service that will meet the needs of the people involved whilst also ensuring compliance with legislative powers including:

- Rendering aid to any person who appears to be injured
- Preventing the commission of further offences occurring
- Inquiring as to the presence of any firearms in the dwelling and where informed, search for, seize and detain such firearm/s
- Investigating whether a domestic violence offence has been committed
- Exercising any lawful power to arrest

Shift Supervisor (Sergeant)

The Shift Supervisor (Sergeant) is responsible for the prompt response by police officers under their command to all domestic and family violence incidents during their shift. Police Supervisors monitor GDs police who are responding and ensure that prompt and appropriate action is being taken in the circumstances.

The Supervisor role is critical to ensuring the appropriateness of the police investigation and response to all domestic and family violence events. Although they may not attend every incident of domestic and family violence, the Supervisor's role is to provide immediate supervision, support and mentoring to police when responding to domestic and family violence incidents that have occurred during their shift.

Duty Officer (Inspector)

Duty Officers are part of the senior management at the LAC and are the next immediate supervisory level above the Sergeants. Duty Officers will ensure that the Sergeant will attend to all their roles and responsibilities in responding to DV incidents.

Duty Officers can provide access to specialist resources including Forensic Services Group, Detectives, and other specialist police resources that can contribute to investigations and increase the likelihood of successful prosecutions.

Local Area Commander (Superintendent)

Each LAC is under the command of a Police Superintendent (Local Area Commander). This officer is the most senior police officer at the LAC and has executive responsibility for the delivery of all policing services at the local level. Commanders will ensure the effective and efficient response and management of domestic and family violence by all LAC based police officers and units.

Crime Management Units (CMU)

The CMU will lead the response to domestic and family violence through the Domestic Violence Liaison Officers (DVLOs) and identify repeat offenders and repeat victims. CMUs will also develop proactive and reactive strategies and tactics to deal with DV Crime.

Crime Manager (Inspector)

The Crime Manager (Inspector) commands the CMU within the LAC. The Crime Manager is responsible for the strategic management of criminal investigations, crime reduction strategies and pro-active operations. The Crime Manager is an integral part of the LAC command team and a key advisor in formulating the LAC crime strategy.

The Crime Manager also leads and directs subordinate units within the CMU including the Crime Coordinator (Sgt), DVLO, Youth Liaison Officer, Intelligence Officers, Education & Training Officers, School Liaison Police, Crime Prevention Officer, Brief Handling Manger & Licensing Police.

Domestic Violence Liaison Officers (DVLOs)

DVLOs are members of Crime Management Units in a Local Area Command. This specialist role provides support to other police by providing vital linkages with community issues and concerns, information and intelligence, while forming partnerships for victim support and follow-up.

Responsibilities include but are not limited to the following:

- Where local programs/supports are in place ensure agreed protocols are followed
- Conduct a quality assurance of domestic and family violence related events and identify any deficiencies by the investigating officer and or any issues in the subsequent verification by the Supervisor. DVLOs bring these deficiencies to the notice of the Supervisor and the investigating officer
- Maintain liaison with support agencies or services to ensure consistency and continuity of the victim follow-up process
- Ensure a detailed list of appropriate services and their role within the Command is supplied to all police with the Command
- Assist victims through the court process for AVOs
- Liaise with court staff and prosecutors to ensure local procedures are complied with and that police within the Command are aware of these procedures
- Maintain an information and liaison role to police within the Command on issues regarding the investigation of domestic and family violence incidents
- Monitor outstanding offenders, repeat victims and repeat offenders
- Keep police abreast of the latest legislative changes and research in domestic and family violence, and bring such changes to the attention of police within the Command

Custody Managers

Custody Managers are responsible for the management and safety of persons in custody. Custody Managers will ensure that offenders are charged with the most appropriate offence in respect to their crime.

Bail considerations for domestic violence offenders should be compliant with legislation and the concerns of the victim, and investigating police should be canvassed prior to any bail decision. In cases of extreme and ongoing violence where there are concerns about the current and future safety of the victim, children, other family members and witnesses, the offender should not be granted bail and remain in police custody to be remanded to court.

Police Prosecutor

The role of the Police Prosecutor is to appear in cases where police as a result of their duties become the informant or the applicant. They may also appear on behalf of other government statutory and non-statutory bodies.

The prosecutor is the voice of the prosecution providing general court advocacy including calling witnesses, cross-examining defendants and making submissions to the court. The prosecutor also provides legal and procedural advice to police officers and reviews documentation and evidence prepared for court.

In domestic and family violence matters the prosecutor works closely with the DVLO to advocate for the best outcomes in charge and AVO matters.

WHEN POLICE RECEIVE REPORTS OF DOMESTIC AND FAMILY VIOLENCE

Police act on any reports

The NSWPF acknowledges that a strong and effective criminal justice response can have a deterrent effect. Police will respond to domestic and family violence incidents reported to them, regardless of who made the report, or where, when, why or how it was made. The action taken will be based on an assessment of the incident and whether a domestic violence offence has been committed, regardless of whether the person in need of protection makes a verbal complaint, recorded or written statement.

In meeting this policy of mandated action, police will:

- Take immediate action to protect and support the person/s in need of protection
- Be sensitive to the individual circumstances of each incident
- Investigate all domestic and family violence incidents coming to their notice by gathering background information and physical evidence, including pictures, video recording, clothing and statements from all victims/witnesses
- Arrest any offenders where it is appropriate
- Pursue criminal and/or civil options (Apprehended Violence Orders) where there is sufficient evidence to do so, and regardless of whether an arrest has been made
- Refer all parties involved who give written consent, to appropriate services
- Record all domestic and family violence incidents reported to them with a view to identifying repeat offenders, monitoring trends, and identifying persons who are either at risk or high risk.

THE STEPS POLICE TAKE IN THE PROCESS

How family violence is reported to police

Police may receive reports of domestic and family violence direct from the person in need of protection or a member of their family, including children, from a friend, neighbour, or an anonymous person or from another agency. The report may be made by contacting Triple Zero (000) or a Local Area Command or local police station directly.

Any report via this way will result in a local police response vehicle to attend the location and investigate the matter. Reports can also be made in person at any police station. If Police or Triple Zero (000) are contacted police must attend even if the caller later phones back to cancel the police requirement to attend.

Initial action by police

Police will treat all reports of domestic and family violence as genuine. When first notified of a domestic and family violence incident, police will:

- Obtain as much information as possible including:
 - the whereabouts of all involved parties, be they victim, witness or offender
 - the nature of the domestic & family violence
 - whether firearms were either used or are present at the scene.
Police must do this under Section 85(2) of the *Law Enforcement (Powers & Responsibilities) Act 2002*
 - whether alcohol or drugs are involved
 - any injuries
 - previous history of domestic and family violence, etc
- Assess the risks and threats
- Render and/or seek any immediate medical assistance as required, eg. Ambulance
- Advise the person reporting of the need to preserve any physical evidence
- If the report has come from a third person, i.e. a person not involved in the domestic and family violence incident, police must follow the above steps as far as practicable and:
 - investigate the report to establish all known facts to enable an appropriate response as required by current *legislation – Crimes (Domestic & Personal Violence) Act 2007*, and/or
 - provide appropriate advice and referral if necessary
- In all cases, the domestic and family violence incident must be recorded by the investigating police officer on the Computerised Operational Policing System (COPS).

Timeliness of the police response

Police will prioritise all reports of domestic and family violence no matter how, or whom they are received from. In rural and remote areas where only one officer operates some stations, the response time may take longer.

Safety first

The primary responsibility for police when responding to any incident is safety first. This includes the safety of attending police and any/all persons who are present at the incident, especially children.

Before attending the scene of a reported domestic and family violence incident, police, where possible, will gather all available information about the location, incident and the persons involved. This includes the existence of any current or expired AVOs, and whether any party is in possession of, or has access to, firearms or other weapons. This information enables police to conduct an operational risk assessment prior to attending the scene.

WHAT POLICE DO WHEN THEY ATTEND THE SCENE

Role of the supervisor

Supervisors should monitor and/or attend all domestic and family violence incidents attended by police and as required provide assistance to those responding. This is to ensure the safety and welfare of all parties; and also that an appropriate level of investigation is conducted and police have provided a timely response to the incident.

Plan of action

On arriving at the scene police should:

- Assess the risks and threats
- Gain safe entry to the premises if necessary
- Ensure the safety and welfare of persons present
- Locate any children and witnesses
- Detect any offences committed, including the breach of any court order
- Identify and apprehend offenders
- Preserve the scene and collect physical evidence

Entry to premises

Section 9 of the *Law Enforcement (Powers & Responsibilities) Act 2002* (LEPRA) gives NSWPF the power to enter premises in emergencies. A police officer may enter a dwelling if a breach of the peace is being or is likely to be committed and it is necessary to end or prevent the breach of the peace. Or, a person has suffered a significant physical injury and it is necessary to prevent further significant physical injury.

Police will gain entry under these circumstances using all reasonable and necessary force. A police officer who enters under these circumstances can only remain on the premises as long as is necessary in the circumstances. That is, unless police have been invited to remain on the premises/dwelling.

Section 82 of LEPRA allows police to enter and/or remain on the premises if invited, by a person who apparently resides in the dwelling (whether adult or child) to investigate whether a domestic violence offence has been committed or to take action to prevent further domestic violence offences. www.legislation.nsw.gov.au

If all occupiers of the dwelling refuse to allow police entry to the premises then Police must apply for a Warrant under Section 83 of LEPR to investigate whether a domestic violence offence is being, may recently have been, is imminent or is likely to be committed and it is necessary for police to enter to investigate and/or prevent further domestic violence offences.

Sections 85, 86 and 87 of LEPR require police to inquire with all occupants as to the presence of firearms and/or dangerous articles on the premises, searching and seizing any said firearms or dangerous articles.

If police suspect that there are firearms present on the premises then permission will initially be sought from the occupant/s to search the premises. If permission is denied then a warrant will be applied for and will be issued. If police believe a dangerous article was used, is being used, or may have been used in the commission of a domestic violence offence then police may also search the premises for, and seize, that dangerous article.

Assessment of the risks and threats

Police receive operational safety training and are aware of the risk factors when attending any incident.

Management of the incident

When responding to any incident, police will take charge and manage the incident in order to investigate and prevent offences and to preserve life and property. The police response is subject to the operational safety principles and *legislative* powers under either LEPR, 2002 or the Crimes (Domestic & Personal Violence) Act 2007.

Police must consider the following during management of the incident:

- Operational safety principles
- Incident management principles, i.e. isolate, contain, evacuate, negotiate, conclude, investigate, prosecute, referral and rehabilitate
- Level of the immediate threat
- Resources available
- Medical needs
- Crime scene management and evidence gathering

Level of future protection required

To determine the level of future protection required, police must consider the needs, vulnerability and level of fear felt by the person in need of protection and/or their children. Due to the individual effects domestic and family violence can have, each person's needs, including the needs of children, must be considered separately.

The information gathered prior to attending the incident, will assist in determining the level of future protection required:

Domestic Violence Incidents

Police will record all domestic and family violence incidents reported to them with a view to identifying repeat offenders, monitoring trends and identifying persons both at risk and high risk of imminent or future serious harm. This enables police to assess the operational and domestic and family violence risks and identify an appropriate response to assist in early intervention.

All reported domestic and family violence matters will be recorded on COPS under the relevant incident category with an associated factor of domestic violence.

Information police might record

It is standard practice for police to take notes of all observations and conversations to be used as part of the investigation and in deciding a course of action. Police also record information that helps them to complete the necessary COPS Event. Additionally, police may photograph or video the scene or people involved in the domestic and family violence incident when offences have been identified. Other documents, such as voice messages, text messages, emails, letters, etc. may also be taken to assist in the investigation or to protect a person's safety and wellbeing.

Information police may give to others

The information police record during their investigation is subject to legislation and NSWPF policy. With respect to domestic and family violence, police may disclose information in the following circumstances:

- Referral – only if written consent is given by the victim.
- AVO court listing – as requested by the court. However any information that may disclose the location of the person in need of protection, if unknown to the defendant, is not to be disclosed at all.
- Statements and recorded interviews – copies of statements are to be provided to the victim and witnesses. A copy of the statement and photographs must be provided to the defendant as required by NSW Local Court Practice Note 3. The defendant is given an audio copy of their own recorded interview. The defendant is not entitled to receive a copy of the victim's recorded interview; however it may be viewed at the police station in police presence.
- Copy of police reports – the victim is only provided a copy of the relevant COPS entry if application is lodged to the Commissioner of Police through a Freedom of Information request.

Stages of the police investigation

There are three stages to the investigation, each requiring police to evaluate and re-evaluate the risks and the level of action required. Police will be diligent in ensuring they do not pre-empt the outcome of any of the stages before conducting their investigation. The investigation occurs regardless of whether the person in need of protection makes a verbal complaint or a written statement.

The stages of the police investigation are:

- **First Response at the scene or on receiving the report at station** –All responses will ensure the immediate safety, care protection of victims and other persons at risk, including police officers and emergency services. First response officers are responsible for the collection of evidence and obtaining statements from victims and witnesses.
- **Investigation** – The victim, offender and witnesses (if applicable) are to be interviewed and physical evidence is to be gathered when determining if sufficient evidence exists to commence criminal proceedings. If sufficient evidence is present then charge with appropriate criminal offence and/or apply for a Provisional/urgent AVO. Ensure that appropriate AVO and/or bail conditions are placed on the offender to ensure victim's safety.
- **Authorisation of the police brief of evidence** – provide all available evidence to the Court to obtain a criminal conviction beyond a reasonable doubt; or in the case of an AVO only, to ensure that a final AVO is issued on a balance of probabilities.

People who police might talk to

During the investigation, police will identify and speak with as many people as possible to determine the details of the complaint. However, police recognise that not everyone will be willing to cooperate. It may be that victims or witnesses are reluctant to speak to police for a variety of reasons including:

- fear of the consequences from offenders
- the impact on their children and family members
- general stigma associated with being in a domestic violence relationship
- being convinced, particularly by the offender, that the violence is their fault
- being told by the offender that police will not take them seriously or that their children will be removed from their care
- embarrassment
- coercive control tactics used by the offender
- fear of police (particularly for Aboriginal people, refugees and torture and trauma survivors)
- fear of further victimisation (particular for gay, lesbian and transgender victims who may or may not be known to be in a same sex relationship)
- concerns for privacy or confidentiality around personal or 'family matters'
- denial of their situation or ignorance that it is domestic violence, or for a myriad of other reasons

Police will treat persons in need of protection with compassion and reassurance, explaining police and court procedures and obtaining assistance from other police staff, such as DVLOs, ACLOs or MCLOs, or another agency where appropriate and/or necessary.

No person can be compelled to provide details or a statement to police. However, in the confines of a domestic and family violence criminal matter a spouse or de-facto partner is a compellable witness. This means that they will be called upon by the prosecution as a witness to provide evidence in the matter before the court. Where the victim is reluctant to provide information or details, police will still encourage and support them during the process.

Reluctance to provide information at the present incident or past incidents should not prevent police from continuing their investigation. Police, if satisfied that a domestic violence offence has occurred, is imminent or likely to be committed, will initiate a Provisional AVO application – mandated by Section 27 of the Crimes (Domestic & Personal Violence) Act 2007.

It is important to remember that in police initiated AVOs, it is not the victim that applies for an AVO against the defendant; it is in fact police that do, and they will do so with or without the victim's consent under these circumstances.

Information police might record

It is standard practice for police to take notes of all observations and conversations to be used as part of the investigation and in deciding a course of action. Police also record information that helps them to complete the necessary COPS Event. Additionally, police may photograph or video the scene or people involved in the domestic and family violence incident when offences have been identified. Other documents, such as voice messages, text messages, emails, letters, etc. may also be taken to assist in the investigation or to protect a person's safety and wellbeing.

Arresting the offender

Police will pursue all avenues of inquiry and investigation to identify the offender.

Where a power of arrest exists and there is sufficient reason to use that power, police may arrest any identified offenders. The primary objective is to ensure the safety of victim/s and the placing of the offender before the court. The power of arrest is found in Section 99 of the *Law Enforcement and Police Responsibilities Act 2002 (LEPRA)*, whereby Police are empowered to arrest any person for committing an offence under any Act.

NSWPF will support any employee who makes an arrest in line with this Code of Practice, provided the arrest was lawful and the police involved acted in good faith, and in accordance with operating procedures, the NSW Police Code of Conduct & Ethics and the NSW Police Handbook.

NSWPF discourages police from arresting and charging both parties arising out of a domestic or personal violence incident with limited exception (eg. outstanding warrants (or if a victim maliciously damages an offenders property after being assaulted)). To determine who the primary victim is when attending the scene, police will consider whether there is any prior history of domestic violence or AVOs, witness statements, the behaviour of the people involved, etc. If an officer is having difficulty determining the primary victim at the scene they are to consult their Supervisor or the DVLO for advice.

Preserving the crime scene

It is sometimes necessary for police to seal off and preserve the scene of a domestic and family violence incident. Sections 88 – 95 of LEPRA empower police to establish a crime scene and remain on the premises for up to 3 hours whilst awaiting a Crime Scene warrant; direct or prevent movement of persons, and search and collect any relevant evidence from the scene if a serious indictable offence has been committed.

In such instances, whether by consent or by warrant, they will follow standard investigative techniques to preserve any physical evidence that the scene may contain, e.g. fingerprints, blood marks, weapons and items of clothing.

Police may photograph the scene and obtain fingerprints, make sketches and video recordings and collect other evidence to be used as court exhibits or for forensic analysis. After a crime scene has been identified, Forensic Services Group, and/or a designated Crime Scene Officer may be called to attend and provide specialist forensic assistance. State Crime Command would only be required to attend in the case of domestic violence homicide.

Criminal Investigators (Detectives)

Depending on the circumstances, attending police may request their local Detectives to attend the scene. Circumstances that may require Detectives assistance include, but are not limited to, incidents involving serious indictable offences.

Serious Indictable offences include the following:

- Sexual assault
- Reckless wounding
- Attempted murder
- Take/detain person
- Kidnapping
- Assault occasioning grievous bodily harm
- Homicides

Searching for and seizing firearms and other weapons

Section 85, 86 and 87 of LEPRA requires police to enquire with all occupants as to the presence of firearms and/or dangerous articles on the premises, and the searching and seizing of any said firearms or dangerous articles.

If police suspect that there are firearms present on the premises then permission will initially be sought from the occupant/s to search the premises. If permission is denied then a warrant will be applied for and will be issued.

If police believe a dangerous article was used, is being used, or may have been used in the commission of a domestic violence offence then police may also search the premises for, and seize, that dangerous article.

Regardless of whether it was used or not in the commission of a domestic violence offence, police must seize any firearms that either party involved in the incident has access to. Upon the issuing of a Provisional AVO and/or if criminal charges are initiated, all relevant firearm licenses must be confiscated and suspended by Police.

Any firearm, weapon, or article used as a weapon, must be seized as evidence if it has been used or threatened to be used in the domestic and family violence incident under investigation.

THE DECISION TO PROSECUTE

Evidence based

Decisions to prosecute are a matter for the NSWPF based on the evidence gathered and not a subjective assessment by the responding police as to the seriousness of the breach or other offence.

If there is sufficient evidence to justify prosecution

Police are required to prove a criminal offence beyond a reasonable doubt. They are encouraged to exercise discretion in favour of prosecution where an offence can be established.

If there is insufficient evidence to justify prosecution

Police are required to prove to the criminal standard (beyond reasonable doubt) that an offence occurred. If there is insufficient evidence to support criminal charges and police have fears for the safety of victims or persons with whom they have a domestic relationship, police may pursue an AVO. The standard of proof for an AVO is the civil standard (balance of probabilities).

BRIEFS OF EVIDENCE

When police prepare a brief of evidence

Where an accused person has been charged with a domestic violence offence police will prepare a mini brief for service on the defence at the first available opportunity or no later than the first court appearance. The mini brief consists of the alleged facts, a copy of the victim's statement and any photographs on which the prosecution will rely.

Where a plea of not guilty is entered by the accused person the matter will be adjourned to a hearing date with a direction that the balance of the brief of evidence is served at least fourteen days before the hearing. The balance of the brief may include police and witness statements.

If police use a video camera to record the taking of a victim statement they will not serve a copy of the video with either the mini brief or the remainder of the brief of evidence. Where such material exists a notice will be served on the defence advising that the material exists and explaining how a viewing may be organised.

What if there is insufficient evidence?

Police are required to prove to the criminal standard (beyond reasonable doubt) that an offence occurred. If there is insufficient evidence to support criminal charges and police have fears for the safety of victims or persons with whom they have a domestic relationship, police may pursue an AVO. The standard of proof for an AVO is the civil standard (balance of probabilities).

OBTAINING EVIDENCE

Forensic and clinical evidence

A victim may require medical treatment for injuries sustained. Police may also request a victim attend a medical practitioner, in order to obtain forensic evidence, with the victim's consent. If medical treatment is not urgent and forensic or criminal evidence is or may be required, police will obtain the services of a Police Forensic Medical Officer. If the victim attends an Accident and Emergency Department or their local doctor, police will invite them to sign a medical release in order to obtain relevant information for the police brief of evidence.

If a sexual offence is alleged, all action is made with the victim's consent and any action must comply with the NSWPF Investigation and Management of Adult Sexual Assault Policy, Standard Operating Procedures, and NSW Police, Health, and Office of the Director of Public Prosecutions Guidelines for Responding to Adult Victims of Sexual Assault. If necessary, police should take possession of any clothing and obtain other physical evidence or forensic samples. They may also take photographs, with the victim's consent, and notes of injuries.

Statements

Police will obtain statements from victims as soon as possible. If the victim consents, police may record the taking of the statement on video. When taking a statement from a child, a parent/guardian or independent person should be present.

This person must not be the defendant.

Police will use a professional and qualified interpreter if necessary. Family members, friends, NSWPF staff and the defendant should not be used to interpret for the victim.

What happens if the victim does not want police to charge the offender?

Charges will be laid against offenders where evidence exists to support criminal charges - even if the victim is reluctant for charges to be pursued. The decision to prosecute belongs with the NSWPF in accordance with internal policies. Police are not permitted to encourage victims to request no further action or to sign a statement of no complaint. The taking of a statement of no complaint in these circumstances does not preclude police from pursuing criminal charges.

Who is a witness?

In a criminal investigation, a witness is any person who can provide evidence to assist in the prosecution of an offender. This may be through what they have seen or heard. When pursuing criminal options, police will locate and identify witnesses. This usually requires speaking with neighbours, friends and relatives.

Taking a witness statement

Police must obtain statements as soon as possible where necessary, even if the witness is unable to provide corroborating information for the offences identified. Police will use a professional and qualified interpreter if necessary.

Police can not use witnesses as interpreters to communicate with the victim or defendant.

What are Apprehended Violence Orders (AVOs)?

AVOs are applied for and made under the *Crimes (Domestic and Personal Violence) Act 2007*. An AVO is defined by the Act and includes an apprehended domestic violence order (ADVO) or an apprehended personal violence order (APVO). The term AVO includes these orders made as provisional, interim or final orders or a variation of any such order. A provisional order is an urgent order that may only be applied for by a police officer to an on call authorised officer. An interim order is a temporary order made by a court.

Police will apply for AVOs as set out below. The advantages of police making application for an AVO include police preparing the application for court, support from NSWPF DVLOs, police prosecutors and enhanced costs protections. Private applications do not enjoy these benefits and similar resources are not widely available to private applicants except at cost.

When may the court grant an AVO?

A court may, on application, make an AVO if it is satisfied on the balance of probabilities that a person who has or has had a domestic relationship with another person has reasonable grounds to fear and in fact fears:

- (a) the commission by the other person of a personal violence offence against the person, or
- (b) the engagement of the other person in conduct in which the other person:
 - (i) intimidates the person or a person with whom the person has a domestic relationship, or
 - (ii) stalks the person,

being conduct that, in the opinion of the court, is sufficient to warrant the making of the order.

It is not necessary for the court to be satisfied that the persons in need of protection in fact fears that such an offence will be committed, or that such conduct will be engaged in, if:

- (a) the person is a child (ADVO or APVO), or
- (b) the person is, in the opinion of the court, suffering from an appreciably below average general intelligence function (ADVO or APVO), or
- (c) in the opinion of the court (ADVO application only):
 - (i) the person has been subjected at any time to conduct by the defendant amounting to a personal violence offence, and
 - (ii) there is a reasonable likelihood that the defendant may commit a personal violence offence against the person, and
 - (iii) the making of the order is necessary in the circumstances to protect the person from further violence.

AVO Conditions

A court may impose prohibitions and restrictions that appear necessary or desirable to ensure the safety and protection of the person in need of protection and any children from domestic or personal violence including:

Mandatory Orders:

1. a. 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.
b. 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.
c. The Defendant must not stalk the protected person(s) or a person with whom the protected person(s) has/have a domestic relationship.
2. The defendant must not reside at the premises at which the protected person(s) may from time to time reside or other specified premises.
3. The defendant must not enter the premises at which the protected person(s) may from time to time reside or work or other specified premises.
4. The defendant must not go within _____ metres of the premises, at which the protected person may from time to time reside, or work or other specified premises.
5. The defendant must not approach, contact or telephone the protected person(s), by any means whatsoever, except through the defendant's legal representative or as agreed in writing or as permitted by an order or directions under the Family Law Act, 1975, for the purpose of counselling, conciliation, or mediation.
6. The defendant must not approach or contact the protected person(s) by any means whatsoever, except through the defendant's legal representative or as authorised by a Parenting order under the *Family Law Act 1975* unless the parenting order has been varied, suspended or discharged under section 68R of the *Family Law Act 1975*.
7. The defendant must not approach or contact the protected person(s) by any means whatsoever, except through the Defendant's legal representative.
8. The defendant must surrender all firearms and related licences to police.
9. The defendant must not approach the school or other premises at which the protected person(s) may from time to time attend for the purposes of education or childcare, or other specified premises.
10. The defendant must not approach the protected person(s) or any such premises or place at which the protected person(s) from time to time reside or work whilst affected by intoxicating liquor or illicit drugs.
11. The defendant must not destroy or deliberately damage or interfere with the property of the protected person(s).
12. Other orders.

Condition 12 allows the court further flexibility to tailor specific prohibitions and restrictions to the specific needs of persons in need of protection.

Exclusion Condition

An exclusion condition as part of an AVO allows a person in need of protection to remain in their home, and excludes, or removes, the violent offender from living in the home.

When a person in need of protection is applying for an AVO and is considering the exclusion condition, they should first consider a number of questions:

1. Will they be, and feel safe if they stay at home?
2. Will they be fearful because the offender knows where they are living?
3. Would they prefer to stay at home and have the violent offender leave?
4. Do they have children, and would the children be better off remaining at home with the person in need of protection?
5. Can they afford to pay the housing costs?

Who may apply for an AVO?

Legislation

Any person may apply for an AVO for their own protection or for those with whom they are in a domestic relationship but only police may apply for orders for children or provisional orders. It is not necessary for police to act as the complainant in all cases. However, there are occasions when police should take appropriate action on behalf of the persons in need of protection.

When police must make application for AVO

An application for an order must be made if a police officer investigating the matter concerned suspects or believes that a domestic violence offence or a child and young person abuse offence (but only in relation to a child) has recently been or is being committed, or is imminent, or is likely to be committed, against the person for whose protection an order would be made, or proceedings have been commenced against a person for such an offence against the person in need of protection.

A police officer must (unless there is good reason not to) make an application for an ADVO if the officer suspects or believes a domestic violence offence or an offence under s227 of the *Children and Young Persons (Care & Protection) Act 1998* against a child under 16 years, has recently been or is being committed, or is imminent, or is likely to be committed, against the person for whose protection an order is being made.

Where there is good reason to believe an order needs to be made immediately to ensure the safety and protection of the person or to prevent substantial damage to the property of that person, a police officer must make application for a provisional order.

A police officer who makes or is about to make an application for a provisional order, may direct the person whom with the order is sought to remain at the scene of the incident concerned or in the case where the person has left the scene of the incident, at another place where a police officer locates the person, until the provisional order is made and served. If the person refuses to remain, the police officer may arrest and detain the person at the scene or arrest and take the person to a police station until the provisional order is made and served.

NSWPF does not encourage police to make cross applications for AVOs except in exceptional circumstances. Cross applications create conflicting interests and are difficult for NSWPF to manage. Where such a situation occurs, NSWPF at its discretion may outsource or withdraw one of the applications.

Considerations when a child is involved

Children's needs may be quite different from those of the parent. Police may assess the interests of children independently to those of a parent seeking an AVO. Where there is no Community Services involvement and police are proceeding as complainant in an application for an AVO, they should consider including the child on the application for the person in need of protection, where appropriate.

Alternatively, where unique conditions apply and they cannot be covered in the parent's application, a separate application on behalf of the child can be made to the court.

If there are family law orders in place to the extent that they conflict with an AVO or bail the family law takes precedence. For example, if a family law order provides for a father to spend time with his children every second weekend and bail and an AVO prohibits this access then the family law overrides. In this situation the father does not breach the AVO or bail unless he does so in some other manner (eg. assaults, molests or harasses the child).

A Magistrate has power under section 68R Family Law Act to suspend family law orders so that an AVO or bail conditions that would otherwise have no effect can be valid. The suspension applies only to the orders that provide for the children spending time with a parent.

Using the above example, if the family court order was suspended the order would not apply so a court could validly make bail or an AVO that prohibits the father from his usual time with the children in accordance with the Family Law Orders. It is the obligation of the applicant for an AVO to advise the court of the existence of family law orders. Therefore persons in need of protection should advise police acting on their behalf that an order exists and allow them to make a copy of the order for court purposes.

What happens if police do not make application for an AVO?

Where police do not make application for an AVO (e.g. there is no apparent threat to the safety, welfare or property of a person) they must explain that the person may make his/her own private application through the court.

WHAT POLICE DO WHEN PURSUING AN AVO

Provisional AVO

A provisional order may be sought in accordance with the *Crimes (Domestic and Personal Violence) Act 2007* where police are required to take immediate action. The application is made by telephone, fax or other communication device. Only a police officer can apply for a provisional order. If the defendant is present he/she may be directed to remain at the scene or other place while police make application for and if applicable, serve the order upon the defendant. If he or she refuses to remain he/she may be detained and conveyed to the police station.

The process of applying for an AVO takes time so police may by consent seek to have the defendant accompany them back to the police station for the application and service of an AVO. A provisional order remains in force for up to 28 days unless a Local or Children's Court converts it into an interim order, makes a final order (defendant present in court when made or later served with a copy) or the provisional order lapses or is withdrawn, dismissed or revoked.

Interim AVO

An interim order may be made in court by a Magistrate, on application if it appears to the Magistrate necessary or appropriate to do so in the circumstances. An interim order may be made by an authorised officer, on application if the authorised officer is satisfied that the person in need of protection and the defendant consent to the making of the interim order. An interim order automatically continues until it is withdrawn, dismissed or revoked or a final order is made (defendant present in court when made or later served with a copy). It is not enforceable until served on the defendant by police. An Ancillary Property Recovery Order (APRO) can only be made upon the making of an Interim, Provisional or Final order.

Application for an AVO (non-urgent)

When police would seek a non-urgent AVO

A police officer investigating the matter must apply for an AVO if he/she suspects or believes that a domestic violence offence or a child or young person abuse offence has recently been or is being committed, or is imminent, or is likely to be committed, against the person for whose protection an order would be made, or proceedings have been commenced against a person for such an offence.

A non-urgent application will not be enforceable until an interim or final order is made (defendant present at court or since served with a copy of the final order). The level of urgency determines whether a provisional or interim order is applied for.

How an application for an AVO is served

A court may refuse to issue process regarding an application for an AVO made by a person in need of protection but must issue process regarding an application for an AVO made by police. Upon receipt of a copy of an application for an AVO Police will take immediate steps to have it served as soon as possible.

An AVO must be served personally by police on the defendant or upon a person apparently over the age of sixteen at the defendant's usual place of abode or workplace.

What happens if the application for an AVO cannot be served?

Police will make every effort to serve an AVO. If the AVO cannot be served, police will seek an extension and fresh process to issue. If there is evidence that the defendant is avoiding service police may apply for a warrant.

BREACH OF AN APPREHENDED VIOLENCE ORDER

Criminal offence

An AVO is an order of a Magistrate prohibiting certain behaviour as set out in the order. A contravention of an AVO involves conduct that breaches (breaks) the order. The contravention of an AVO or a registered external protection order (order made in another Australian or New Zealand jurisdiction and registered in NSW) is a criminal offence. AVOs are strictly interpreted and enforced.

There is no such lawful term as a 'technical' or 'minor' breach and any breach will be treated the same. Ignoring the breach conveys to the defendant and the victim that the order is not taken seriously. An outcome of this could be continued abuse, further police involvement in subsequent breaches and possible harm to victims and/or their children.

What police do if they detect a breach?

If the alleged offender is at the scene

Police have a responsibility to ensure the safety and wellbeing of all persons. They have the power to arrest for a breach of an AVO and will use it where it is appropriate to impose bail conditions.

If the alleged offender is not at the scene

Regardless of the seriousness of the alleged breach, police must conduct a thorough investigation to identify and locate the offender. When the offender is located they must be interviewed regarding the alleged breach.

Interview with the offender

Where there are indictable offences involved, police are required in most circumstances to tape record any interview with the offender. In other cases, interviews may be recorded digitally (the preferred option) or in writing.

Consent is not a defence

Consent is never a defence to a breach of an AVO. It is the responsibility of the defendant to comply with the order. A victim cannot lawfully consent to an AVO being breached. Where a breach of an AVO appears to be with agreement of the protected person, police must advise the protected person of the procedures to vary or revoke the order.

The protected person cannot be charged with aiding and abetting the breach of an AVO. Police are encouraged to take criminal action against any breach of an AVO. Mitigating circumstances, including victim consent are a matter for the Magistrate to take into account in sentencing.

Need for clear and appropriate conditions

Before seeking any conditions of an AVO, police must consider their relevance to the parties. Conditions should be clear and provide the appropriate level of protection necessary. Before the final hearing of an AVO, police should review any original conditions to ensure appropriate orders are made. If the person in need of protection consents to their details being provided to an appropriate court advocacy or victim support agency, then a referral can be made to such agencies that can assist in negotiating with police for appropriate orders to be made appropriate to individual circumstances. Any order should be clear to all parties and in particular to the defendant who has to abide by the conditions.

Appealing an AVO

An appeal regarding the making or the dismissal of an application for an order may be lodged by the defendant or complainant in the District Court. If police or the defendant lodges the appeal the carriage thereof will be by the police.

Extending, varying or revoking an AVO

Any party to an AVO may apply to have an AVO or its conditions extended, varied or revoked (except where a protected person is under the age of 16 and then only police can make the application). Notice must be served on the other party and any police complainant before the hearing.

Protected persons in police initiated AVOs should advise police of the desired change and reasons therefore. If the request is merited police will make an application on behalf of the protected person/s and a police prosecutor will take carriage of the matter. Police will not apply for an extension, variance or revocation that appears to have no reasonable prospect of success and whilst the protected person is able to make application themselves, (except in relation to a child under 16) police reluctance is a good indicator of the likely outcome of such process. If police are reluctant to apply for an extension, variance or revocation, then the person in need of protection should obtain legal advice about the prospects of success.

Police will usually not appear on behalf of a protected person in an application that has not been initiated by a police officer. Police are still an interested party in the proceeding and must be advised by the court. For this reason, whether or not police are representing the protected person the police prosecutor will be asked for the police view of the application. If police do not agree with an application made by either a defendant or protected person the prosecutor will oppose it.

Where police have acted as complainant and a variation is required in relation to an adult protected person, police must ensure children are still protected under the AVO and make appropriate application to the court to ensure this.

Interstate order

Interstate or New Zealand protection orders are enforceable in New South Wales once they have been registered in NSW. A registered external protection order may be varied from the original interstate or New Zealand order (including its duration) and carries the same force as a NSW AVO. The variation or revocation of an external protection order by a court of the State, Territory or country in which it was made after it has been registered in NSW has no effect in NSW. This is the same for NSW victims with an AVO that move interstate.

Family Law Act Orders

Police do not generally get involved in family law proceedings except where there is a conflict between an existing family law order and proposed or existing AVO and/or bail conditions.

DVLOs negotiating Parenting Orders

It is not the role of the Police Prosecutor or the Domestic Violence Liaison Officer (DVLO) to prepare or negotiate parenting orders or written agreements. A parenting order or written agreement is a legally binding lawful agreement made in the “best interests of the child” when determining how and or when access by either party in an application shall be granted. That process is generally undertaken after much investigation by independent sources into what the Family Court determines are the “best interests” of the child. DVLOs have no specialist knowledge relating to parenting orders and the parties to any such order should seek legal advice from a practising solicitor if amendments to orders are required.

If there is a Family Law Act parenting order

An order allowing a child to spend time with a parent under the *Family Law Act 1975* (Commonwealth) does not prevent an AVO being granted and it may be possible for two orders to operate at the same time. Where there is conflict between a family law order and an AVO and/or bail, the family law order takes precedent as Commonwealth law overrides State. For example, if an AVO/bail prohibits the defendant’s access to a child but a family law order allows the child to spend time with the defendant every alternate weekend the defendant is entitled to that and the AVO cannot be enforced unless some other aspect of the order is breached, eg. by assault, harassment or intimidation.

The *Family Law Act 1975* (Commonwealth) empowers a Magistrate to suspend a family law order to remove the conflict and validate a condition on an AVO excluding the defendant from access to the child. A Magistrate will carefully consider the interests of all parties before making a condition that takes away parental rights. On the making of a final AVO a Magistrate may vary or revoke a family law order.

Use of Family Law Act injunction or restraining orders

If there are proceedings under way in the Family Court, police may advise the protected person to seek an injunction under sections 68B or 114 of the *Family Law Act 1975* (Commonwealth). However, due to jurisdictional boundaries between State and Commonwealth legislation and the implications in investigating Commonwealth offences, the preferred course of action is the seeking of an order under the *Crimes (Domestic and Personal Violence) Act 2007*.

WHAT HAPPENS TO FIREARMS?

Police will seize any firearms

Pursuant to the *Law Enforcement (Powers and Responsibilities) Act 2002* Police who enter premises to investigate a domestic violence incident are required to inquire about the presence of firearms. If advised that there are firearms on the premises police must take such action that is reasonably practicable to search for and to seize and detain the firearm or firearms. If the police officer is told that there are no firearms on the premises but believes on reasonable grounds that there are, the officer must apply to a court for a search warrant.

Pursuant to section 23 of the *Firearms Act 1996*, any firearms licence held by the defendant is automatically suspended upon the making of an interim AVO. Police are required by section 22 of the Act to suspend any firearms licence held by a person charged with a domestic violence offence or who they have reasonable cause to believe has committed or threatened to commit a domestic violence offence. On the making of a final AVO any licence held by the defendant is automatically revoked.

Police are not permitted to issue a firearms licence to a person who:

- is not a fit or proper person
- has, within 10 years before the application was made, been convicted inside or outside of NSW of a prescribed offence, or
- is subject of an AVO or has within the previous 10 years before the application been subject of an AVO

WHO HAS TO GO TO COURT?

If police make the application

Where police initiate the complaint a police prosecutor will take carriage of the application for an AVO. The police informant and the command Domestic Violence Liaison Officer (DVLO) will liaise with persons in need of protections to provide instructions to the prosecutor. Persons in need of protection, if at court, will usually sit beside the prosecutor while the matter is mentioned before the court. The prosecutor will briefly speak with the persons in need of protection to confirm instructions.

The practice from court to court varies. Persons in need of protection will usually attend court on the first occasion to confirm instructions and to meet with court advocacy workers. In some courts, provided that instructions have been given to police, the Magistrate may grant that the persons in need of protection will not have to appear on the first mention.

If the persons in need of protection attend court for the first mention the prosecutor will usually seek to have them excused from subsequent appearances, unless the matter is set down for a defended hearing at which time the persons in need of protection and witnesses will attend to give evidence.

It is the right of persons in need of protection to attend court if they choose so that they can fully participate in the judicial process, confirm instructions to police, have the court proceedings, AVO and conditions explained to them, and be put in contact with appropriate court advocacy and victim support services.

It is important to note that the application is a police application. This means that police will usually seek AVO conditions based on the fears that police have for a victim's safety. Police will consult persons in need of protection during this process and explain why they are making this application.

It is also important to note that despite the wishes of the person in need of protection and the wishes of the NSWPF, the final arbiter on the matter is the Magistrate. The Magistrate ultimately needs to be satisfied that there are grounds for the making of an order unless the legislation requires the order to be made.

The defendant is required to attend court on each occasion. If the defendant has been served with the application and does not appear, an AVO can be made in his/her absence.

If someone other than police make the application or cause the application to be made

Police attendance

Usually police do not attend court for non-police-initiated complaints unless they have specific evidence to present.

Prosecution of hearings

A police prosecutor will only prosecute hearings where police are named as the complainant in the AVO application. In other cases, the person in need of protection prosecutes the application, or may engage the assistance of a legal practitioner.

Role of the police prosecutor in AVO applications

One of the prosecutor's roles is to assist the court by being fair and objective in leading all relevant and admissible evidence. In relation to family violence, the police prosecutor will prosecute all AVO applications initiated by police. The prosecutor must ensure that all relevant evidence is led to help inform the court in the determination of the application.

The police officer initiating an AVO application must liaise with the prosecutor to ensure they are aware of any matters listed for hearing and are provided with relevant paperwork. They should discuss with the prosecutor the option of arranging (with consent of the person in need of protection) court support.

The DVLO should:

- Explain their role to the person in need of protection
- Advise the person in need of protection of the court process and procedures
- Ensure the person in need of protection is aware of available services and told how to access the services
- Discuss with persons in need of protection their particular circumstances and needs to ensure any conditions requested in an AVO are tailored to suit the individual circumstances
- Identify if there are any safety concerns or support services requirements for the person in need of protection and seek additional assistance if required
- Explain that in certain circumstances, particularly if there are safety concerns, the prosecutor may ask the court to make an AVO without the consent of the person in need of protection.

Safety and welfare

To ensure the safety and welfare of all persons present, police must:

- make an immediate assessment of the scene and locate all people, including children, who may be present at the time
- obtain urgent medical treatment if it is required
- separate all parties where possible
- seek an interpreter as soon as possible
- speak to all parties in private where possible, including children, to identify persons in need of protection, victims, witnesses and offenders, and obtain an individual account of the incident
- request and record the details of all persons present, including their full name, age, sex, address and relationship to the parties involved in the domestic & family violence incident
- seek other police assistance as required
- notify the Community Services Helpline if they have concerns about children at risk of harm

Referral

The impact of domestic and family violence on victims is of significant concern to both the NSWPF and the community. No one agency in isolation can provide an effective response to domestic and family violence. A multi service approach is needed to provide the most effective support to victims. Referral to the appropriate support service can assist the victim to break the cycle of violence and obtain advice and support to assist them in the future.

To prevent this serious crime and provide coordinated interagency responses to domestic and family violence, police officers and LACs will develop partnerships with key local agencies to provide effective victim support. In demonstrating the strong commitment of the NSWPF to meeting the needs of victims of domestic and family violence, officers will:

- Where victims consent, refer them to support services. When a victim is required to attend court for an AVO matter, they will be referred to their local Women's Domestic Violence Court Advocacy Service (WDVCAS), or other local court support provider.
- Ensure LACs develop strong links within their communities and work with them to identify strategies to further enhance the way in which police respond to domestic and family violence.
- Work with Aboriginal communities, with the assistance of ACLOs, to gain their support and trust, particularly women, to address broader family violence issues.
- Work with culturally and linguistically diverse communities, with the assistance of MCLOs, to gain their support and trust, to develop appropriate responses to reduce domestic and family violence.

All victims will be referred to relevant support agencies providing they have given Police expressed written consent to provide their information.

The victim (person in need of protection)

When making the report

The manner in which police handle the report is crucial, particularly when the victim (person in need of protection) has called for help. The first contact a person has with police can influence their experiences and impressions of the justice system and their future decisions. Police must adopt an understanding and reassuring manner.

The primary concern is to determine that the person/s in need of protection, including any children, are safe, and whether medical assistance is required for any person.

If a victim attends a police station to make the report, police must offer them an opportunity to speak in private where practical. Police will take very preliminary information over the enquiry counter and then escort the victim into a private interview room to obtain a more detailed account of the incident. The victim will not be embarrassed or degraded in any way including disclosing their situation in a public foyer of a police station.

It is not appropriate for the NSW Police Assistance Line or Crime Stoppers to be used to take any reports of domestic and family violence incidents. Police must either attend the scene or take the report at the police station.

Before leaving the scene

Before leaving the scene, police must ensure that all issues have been considered in relation to the safety and welfare of all persons. They must also collect all the information needed to complete the COPS Event. If no legal power exists to remove the offender from the premises, police must act to ensure the safety and welfare of victims and other family members. This may be through referral to an agency that can arrange emergency accommodation.

Police should assist with the safe removal of persons from the premises, ensuring there are no breaches of the peace and that those leaving the premises, for their safety, have sufficient clothing and personal items. If necessary, police will remain at the scene until the victim and other family members are safely removed from imminent risk.

The investigation

The police response to a domestic violence incident involving a police employee is the same as the response for any other domestic violence incident. Responding police must conduct a thorough investigation to identify any criminal offences and pursue, where appropriate, a criminal prosecution and/or an apprehended violence order.

Police officers subject of an AVO are required to report the matter to their commander. This is to ensure that internal processes are followed to remove any perceived conflict of interest and in order to maintain the integrity and ethical standards of the NSWPF.

Regardless of whatever action is taken, the safety and welfare of the persons in need of protection is paramount.

Police are required to treat police offenders the same as others. However, before commencing criminal proceedings the investigating officer is required to seek permission from a designated senior officer, usually a Region Commander or equivalent.

Police served with process for an AVO are required to advise their Commander who is required to adopt risk assessment and management procedures in relation to the affected officer and the persons in need of protection.

Representation by the Office of the Director of Public Prosecutions or Crown Solicitor

To remove any perception of bias and to maintain transparency and independence, police prosecutors do not take carriage of the proceedings against police officers. The Prosecuting Authority for criminal prosecutions is the Office of the Director for Public Prosecutions. The Crown Solicitor's Office takes carriage of AVO applications against police officers.

CULTURALLY AND LINGUISTICALLY DIVERSE (CALD) COMMUNITIES

CALD communities including newly arrived migrants, refugee and humanitarian entrants have numerous circumstances and issues that complicate their behaviour and interface with services around domestic and family violence.

Police need to be aware of the factors that prevent reporting of domestic and family violence which include:

- Perceptions around
 - Levels of service response
 - Services not understanding their particular situation
 - Stresses accompanying the settlement process
 - Gender role shift
 - Intergenerational conflict
- Fears mitigating against reporting include:
 - Fear
 - Distrust of Police
 - A system they do not understand
 - Issues around confidentiality
 - Issues about immigration or residency status
 - Physical and cultural isolation
 - Losing a relationship/family if the perpetrator is the victim's husband
 - Thinking that such violence is indicative of a failed marriage and might be considered the victim's fault
 - Concern about bringing shame and embarrassment to the family

A key factor about CALD communities is the limited knowledge of English and lack of qualified interpreters.

Use of professional Interpreters

All NSWPF staff MUST use professional accredited interpreters and translators to communicate with people who are not able to speak or understand English or who have a speech or hearing impairment. Although there are some situations where it is appropriate to use the language assistance of someone who is not an accredited professional, accredited professionals must be used in operational situations where information being received or given is relevant to an investigation, a legal proceeding or will have an impact on someone's legal rights.

Except in extreme emergency situations, family members and friends should never be used to assist with interpreting. It is highly inappropriate to use children and offenders to interpret in situations of domestic and family violence.

Booking Interpreters for first time court appearance

Police will arrange an interpreter for the first day in court for the victim of a domestic and family violence incident, and for a defendant in a criminal matter. This arrangement is agreed between the NSWPF, Attorney General's Department and the Community Relations Commission.

Role of the Multicultural Community Liaison Officer (MCLO)

MCLOs are part of a statewide program with roles that include strengthening the links between police and diverse communities to ensure that police in NSW are confident and capable of working with diversity and able to respond effectively to policing needs of the whole community at the local level.

A significant aspect of the MCLO role is support for crime victims of CALD communities in consultation with other members of the Crime Management Unit (CMU). With respect to domestic and family violence MCLOs work closely with Domestic Violence Liaison Officers (DVLOs) to provide the following support:

- Assisting DVLOs to provide support to victims as required
- Assisting DVLOs to assess the victim's situation
- Assisting DVLOs to explain court proceedings and AVO conditions to victims where appropriate
- Where appropriate making referrals to relevant community agencies
- In consultation with the DVLO providing advice to victims around making formal reports
- Facilitating contact between police and victim, where the victim is reluctant to speak to police
- Provision of follow up information to victims
- Continuing link between police and victim if matter is ongoing
- Provision of support and information in victim's first language if the MCLO speaks that language
- Arranging accredited interpreters to facilitate communication between victim and police

What is Aboriginal Family Violence?

Aboriginal Family Violence includes the definition of “Family Violence” which includes domestic violence, sexual assault, the whole family, extended family, Aboriginal community, skin, clan or nation.

What are some of the causes?

- Marginalisation and dispossession
- Loss of land and traditional culture
- Breakdown of Aboriginal kinship systems and Aboriginal Lore
- Effects of institutionalisation and removal policies

What are some of the barriers that prevent reporting to police?

- Historical relationship between police and Aboriginal people
- Distrust of police
- Poor police/community relationships
- Fear of authorities/police intervening and removing children
- Perpetrator being placed in custody – Royal Commission Into Aboriginal Deaths In Custody (RCIADIC)
- Fear of community reprisals

What are some of the long term impacts?

- Has a deep and lasting effect on Aboriginal people physically, mentally and spiritually.
- Aboriginal people became trespassers on their land, with disastrous consequences for the maintenance of spiritual life and social systems.
- The loss of individual and community identity, purpose and self-esteem, values; and a breakdown of traditional social structures.

Aboriginal Strategic Direction 2007 - 2011

The NSWPF Aboriginal Strategic Direction has seven (7) objectives with objective five (5) relating to Family Violence and how it relates to managing Aboriginal family violence in terms of strategies, actions, accountability including encouraging the reporting of family violence (domestic violence and sexual assault); and encouraging the reporting of crime and violence by Aboriginal people against Aboriginal people.

Role of the Aboriginal Community Liaison Officers (ACLOs)

ACLOs are employed to liaise, develop and maintain open communication with the Aboriginal community. The ACLO assists in the development of Local Area Command (LAC) Aboriginal Action Plans and other crime prevention initiatives within their community. ACLOs are not police officers; they are field-based and are provided with ongoing training and development in Family Violence which enables them to offer appropriate advice and assistance to the community. ACLOs also provide support to victims in terms of follow-up and provide to offenders when detained or in custody.

Female Aboriginal Community Liaison Officers (ACLOs)

Four additional female ACLOs have commenced employment with the NSWPF to address the high incidents of family violence and sexual assault in some Aboriginal communities. Two positions funded for two years are at Lachlan and Port Stephens LAC, with positions funded for one year at Albury and Tweed/Byron LACs. The funding has been provided by the Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA).

Witness Assistance Service (WAS) – NSW Office of the Director of Public Prosecutions

WAS provides a range of services to meet the needs of victims of crime and witnesses appearing in court matters prosecuted by the ODPP. There are three Aboriginal Witness Assistance (WAS) officers within the service.

Aboriginal victims of indictable offences such as serious assaults including domestic violence and sexual assault (both child and adult) which are not prosecuted by police in the local court, should be referred to the WAS. Police are encouraged to identify Aboriginal victims upon presentation of the police brief of evidence to the ODPP. The WAS is located in each ODPP regional office, as well as Sydney Head office.

The WAS role involves:

- providing information to the victim re: the solicitor and Crown Prosecutor briefed with the matter and how to contact them
- what to expect at court
- information about rights and entitlements (i.e. victims compensation, charter of victim's rights)
- progress of matter through court
- other services and supports available
- referral to counselling and support services
- court preparation
- court familiarisation
- debriefing
- liaison with legal officers and police regarding victims needs

Aboriginal Support Groups (ASG)

ASGs were established in 1995 as a result of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC). Their primary function is to provide support to Aboriginal victims of crime and offenders, the Support Groups are trained in Police procedures, and are volunteers who can be called on by Police on a twenty-four hour basis.

People with disabilities

People with disabilities are a particularly vulnerable group in the community and generally are less likely to report violence to the police. This includes those suffering from cognitive impairment, which ranges from acquired brain injury to illnesses such as schizophrenia.

The NSWPF acknowledges the rights of people with disabilities to access services provided to the general community. Equally important are the rights of staff to work in an environment that complies with disability discrimination legislation and is free from harassment. The NSWPF Disability Action Plan makes a commitment on the part of police to remove barriers to access and meet our obligations to clients and staff under State and Federal disability and anti-discrimination legislation.

With respect to domestic and family violence, police will recognise the particular needs of victims, witnesses and offenders with a disability in ensuring just outcomes and full participation including the ability to fully communicate with and receive information from police. This means that police should engage the services of a support person as soon as possible. This includes using interpreters to communicate with people who have a speech and/or hearing impairments and facilitating appropriate support and referral for offenders and victims with intellectual disabilities.

If the alleged offender is present, it is also important for police to be cautious of undue influence, power imbalances and/or possible manipulation by this person over the victim.

Abuse against older people

Many older people in our community grew up in a world where abuse in the family home was rarely discussed and not widely recognised. Family matters were dealt with privately in the home, corporal punishment existed in schools and the expected role of men and particularly women were very different to that of today. As a result, abuse of older people is an issue that many older people find difficult to discuss. It can be easily concealed and some of the indicators of abuse may in fact be due to other causes.

Many forms of abuse of older people occur in the context of domestic and family violence due to the underlying abuse of power and control demonstrated by an intimate partner, relative or carer towards an older person. This can result in inhibiting the behaviour, actions and/or decision making of an older person and takes advantages of their vulnerabilities or lack of support. Whilst it is impossible to know the full extent of abuse of older people in our community, studies suggest it is far more common than previously thought.

What is abuse of older people?

Abuse of older people is any behaviour that causes physical, psychological, financial or social harm to an older person. The abuse can occur within any relationship where there is an expectation of trust between an older person who has experienced abuse and the abuser. Abuse in older people can occur in any of the following forms:

- Physical abuse – inflicting pain or injury, eg hitting or slapping, physical coercion, restraining, over medicating or refusing medication.
- Psychological abuse – inflicting mental stress, causing fear or shame, intimidating, name calling, humiliation or making threats, including actions that cause fear of violence.
- Financial abuse – illegal or improper use of an older person's money or possessions. This includes misuse of a power of attorney, forcing an older person to change their will, and taking control of their finances against their wishes.
- Neglect – the intentional or unintentional failure to provide necessities of life and care; or the refusal to permit others to provide appropriate care.
- Social abuse – preventing a person from having social contact with family members or friends.

Victims are usually dependent on the abuser in some way. Those who live on remote properties or are isolated from their friends, neighbours and family, or who have mental or physical disabilities are especially vulnerable to abuse.

The abuser is usually the abused person's carer or another family member or members, but it can also be a paid care worker, landlord or any other person in a position to do abuse or take advantage of an older person.

The increasing diversity of communities with language barriers and religious beliefs often contribute to the challenge for police in identifying abuse. The historic culture of silence is still quite prevalent in our older people today, with personal, religious and social consequences forming the basis for any reluctance to speak out.

Investigating abuse of older people

Some forms of abuse are very easily evident, for example where physical assault has occurred. Other forms of abuse can be very subtle and hard to detect. It may also be difficult to differentiate signs of abuse from illness or accidental injury. A medical assessment is therefore highly relevant and may need to be considered.

Ensuring the older person's rights to live safely in their own home free of violence, abuse, neglect and exploitation is of paramount importance to police who will refer to appropriate services to see that appropriate victim care is provided.

The primary roles of NSWPF in responding to abuse of older people are to:

- Intervene in emergency situations where there is a risk of safety and/or harm to an older person
- Respond to and investigate criminal offences
- Provide information to the victim, and carer where appropriate.

Same sex relationships

While the overwhelming majority of domestic and family violence reports and AVO applications are made by women against their male partners, or ex-partners, this does not preclude domestic and family violence occurring within same sex relationships. Some forms of abuse are unique to lesbian and gay relationships. Abusive same sex partners often use these unique issues to control or manipulate their partner in a variety of ways, including:

- Threats to 'out' their partner to family and work colleagues or others in the community
- Telling a partner that no one will help because the police and the justice system are homophobic
- Threatening or controlling behaviour where either the victim or offender is HIV positive

For more information on domestic violence in same sex, transgender and intersex relationships, refer to the Safe Relationships Project – Inner City Legal Centre, in the Referral Service Information section at the end of the Code of Practice.

Role of the Gay and Lesbian Liaison Officer (GLLO)

GLLOs are police officers located throughout the state assisting in building the overall capacity of local commands to respond to gay, lesbian, bisexual and transgender issues. GLLOs undertake a training course which covers key policing responses to homophobic violence, domestic and family violence in same sex relationships and transgender issues, among other topics.

The main aim of the GLLO program is to foster confidence in the NSWPF and encourage reporting of crime by members of these communities. GLLOs work with other specialist liaison officers such as DVLOs to support a comprehensive response to the problem of domestic and family violence in gay and lesbian relationships. A key role for the GLLO is to build local referral networks to facilitate appropriate referrals to the range of GLBT 'friendly' services available.

Disclosure of information

The *Privacy and Personal Information Protection (PPIP) Act 1998*, sets out Information Protection Principles (IPPs). Section 27 of (PPIP) Act exempts the NSW Police Force from complying with the IPPs, except in relation to administrative and educative functions. The NSWPF may therefore release information to other agencies to meet a key operational function. For example, information may be released to another agency about an individual for whom safety concerns are held.

However, the NSWPF will generally seek consent from the person in need of protection before referring them or their personal details to other Government agencies and Non-Government organisations (NGOs). Abiding by existing privacy legislation and exemptions, and obtaining the consent of victims before referrals are made, underpins the duty of care that police have to families where domestic and family violence occurs.

CHILD PROTECTION REQUIREMENTS WHEN RESPONDING TO DOMESTIC AND FAMILY VIOLENCE

Domestic and family violence is a child protection issue

Children who live in homes where domestic and family violence occurs are at risk of harm and actual injury. Whether a child witnesses domestic and family violence, is in another room when an assault occurs, or attempts to intervene to protect their parent, the impact upon children exposed to violence in the home is considerable and should not be minimised.

Domestic and family violence can occur in all communities. Police recognise that children and young people who are victims of domestic and family violence are representative of a diversity of communities. Older children and young people have additional complexities to manage as they often have to negotiate being between two communities, and are often the public representatives of newly arrived and emerging communities.

Because police are generally the first to respond to a report of domestic and family violence, they are in a key position to identify children who may be at risk of harm as a result of living with the violence.

Mandatory Reporting of Children at Risk of Significant Harm

Under the *Children and Young Persons (Care and Protection) Act*, officers of the NSW Police Force are mandatory reporters. A mandatory reporter is an individual required by law to report to Community Services when they have reasonable grounds to suspect that a child, or a class of children, is at risk of significant harm from abuse or neglect and those grounds arise during the course of or from the person's work.

Legislative responsibilities

All police officers have a legal responsibility under S24 of the *Children and Young People (Care and Protection) Act 1998* to report children **at risk of significant harm** as outlined in section 23 of the *Children and Young People (Care and Protection) Act 1998*.

Section 23 states the legislative requirements for police to report children at risk of harm, particularly when exposed to domestic and family violence:

S23 (d) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm

In the course of their duties police officers are required to report to the Community Services Helpline children who they believe meet the statutory threshold of risk of significant harm. This can include children involved in domestic and family violence incidents. The Helpline staff will assess the reports and determine what, if any, action is required by Community Services.

When police attend a domestic and family violence incident and children are present, then the attending police officer(s) will use their professional judgement to make an assessment to determine whether the child or young person is at 'risk of significant harm' and requires an immediate report to the Community Services Helpline.

A child will only be reported to the Community Services Helpline if they meet the threshold for 'significant harm' (defined below). If the child present during the domestic violence incident does not meet the significant harm threshold, then the police officer will complete their COPS Event, including a Child at Risk incident report, back at the station.

Members of the community and mandatory reporters who suspect that a child or young person is at '**risk of significant harm**' (the statutory threshold) should report their concerns to the Community Services Helpline.

What does significant harm mean?

Community Services have defined significant harm as follows:

A child or young person is at **risk of significant harm** if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person are present to a significant extent.

What is meant by 'significant' in the phrase 'to a significant extent' is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is **significant** is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or wellbeing.

In the case of an unborn child, what is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child's birth.

Significance can result from a single act or omission or an accumulation of these.

How a police officer will know if a child is at risk of significant harm

Mandatory Reporter Guidance (MRG) has been developed to help frontline mandatory reporters such as police officers, doctors, teachers and social workers, determine whether the risk to a child or young person meets the new statutory threshold. The MRG is an interactive tool that police will access automatically through COPS when completing a Child at Risk incident report. The MRG forms part of the common assessment framework for all agencies working with children, young people and families.

When completing the COPS Event, the MRG tool will determine whether a referral to the Community Services Helpline or to the NSWPF Child Wellbeing Unit is required, and the system will make the appropriate electronic dissemination.

A police officer can still call the Community Services Helpline if they don't agree with the decision made by the MRG tool. This decision will be quality reviewed by a Supervisor.

If the information is disseminated to the NSWPF Child Wellbeing Unit, the Child Wellbeing Unit will assess the information and determine whether a referral is required to an external service provider, or if the information is maintained as local intelligence for future reference.

Child Wellbeing Unit

The Child Wellbeing Unit (CWU) will receive electronic reports from COPS and officers will review these reports and conduct a further analysis of information obtained from the reporting officer or other agencies, to determine what further action is required. Officers at the CWU will use the MRG tool to reassess the information they have to see whether the threshold for significant harm is met. If the threshold is met then a report will be made to the Community Services Helpline. If the threshold is not met then the CWU officers will either make a referral to a Family Referral Services to put families in touch with appropriate local services, or retain the information locally.

Family Referral Services

Family Referral Services are being established by NSW Health and will be run by non-government organisations to provide referrals to appropriate services in local areas for families who come to the attention of Child Wellbeing Units.

Police need to work closely with families, the community and other agencies to understand the complexity of domestic and family violence in relation to child protection. This would include using all the powers available to police to improve the protection of children living in homes where violence occurs.

Children on Apprehended Violence Orders (AVOs)

Police are the only authority mandated to apply for AVOs on behalf of children and young people under section 48 (3) of the *Crimes (Domestic and Personal Violence) Act*.

In March 2008 the *Crimes (Domestic and Personal Violence) Act* was amended to encourage the inclusion on AVOs of children involved in domestic and family violence incidents. The courts, or officers of the court, are required to place children considered in need of protection on an AVO, unless satisfied that there are good reasons for not doing so. An AVO is a civil matter and does not result in a criminal offence unless the defendant breaches the AVO.

This means that when police attend a domestic and family violence incident involving children, and they take out an AVO to protect the victim, then the children of the person in need of protection will be included on the order and the conditions that apply to the person in need of protection, also apply to the children.

If a defendant breaches an AVO protecting a child or young person, then police will consider whether this breach places the child or young person at risk of significant harm in which case they will be required to make a report to the Community Services Helpline. A breach of an AVO is a criminal offence, and as such, may place the child or young person at greater risk of harm if the defendant has no respect for authority, or the safety and wellbeing of the victim or children.

Young Offenders Act

The *Young Offenders Act* (YOA) generally allows police to warn, formally caution or conduct youth conferences as an alternative to court action for a range of offences. The YOA prevents the use of such alternatives for offences under the *Crimes (Domestic and Personal Violence) Act 2007* including breach AVO, stalking and intimidation. The YOA also prevents the use of warnings for offences involving violence.

The application of the YOA to other domestic violence offences (eg. assault, malicious damage etc) is limited because of the serious nature of domestic violence and the considerations required by the YOA.

The YOA requires police to consider the seriousness of the offence, the degree of violence involved in the offence, the harm caused to any victim, the number and nature of any offences committed by the child and the number of times the child has been dealt with under the YOA, and any other matter the police think appropriate in the circumstances (sections 20 and 37 YOA). In matters of domestic violence police will also consider whether there is a history of violence and the stance of both Federal and State Governments and the NSWPF to identifying, prosecuting and preventing domestic violence. For these reasons the use of formal cautions and youth conferencing will be limited.

Where police do use an alternative to criminal prosecution, they may still be required to apply for an AVO on behalf of the protected person/s.

Role of the Youth Liaison Officer (YLO)

The YLO is specifically responsible for supporting the implementation of the *Young Offenders Act (1997)*, including education of police, making determinations under the Act, issuing police cautions and liaising with officers of the Department of Juvenile Justice. YLOs work closely with relevant police to monitor and respond to juvenile crime, including developing profiles of serious juvenile offenders and mapping the location of juvenile crime.

Police partnership with other agencies - a collaborative approach

The role of a police officer in responding to domestic and family violence is to use their investigative skills to determine whether or not an offence has been committed and to refer the parties involved to appropriate support and advocacy services. It is not the role of a police officer to mediate or provide counselling to a victim. Victim support services are responsible for providing these types of services to victims.

Region Domestic Violence Coordinator (RDVC)

The role of a RDVC is that of a strategic senior officer position, whose role is to contribute to the development of a more integrated, coordinated response by the government to domestic and family violence.

NSWPF has six Regions, Northern, Western, Southern, North West Metropolitan, South West Metropolitan and Central Metropolitan. There are two RDVC positions for each country region and one for each metropolitan region.

The role of a RDVC is to establish and maintain a regional coordination network in the NSWPF to ensure links between local domestic and family violence service delivery within the respective region. The complexity of domestic and family violence requires a multi-agency response and partnerships with other key agencies on a regional basis are strengthened through the RDVC.

The RDVCs work closely with Local Area Commands, in particular DVLOs within their region, and link with human service and other justice agencies to work collaboratively and develop local community based solutions to address the prevalence of domestic and family violence in the region.

RDVCs engage with operational managers in key partner agencies (eg. Community Services, Health, Attorney General's Department) and specialist service providers, to work collaboratively in relation to the delivery of local and regional services in a whole of government approach to domestic and family violence.

Integrated Domestic & Family Violence Services Program

The Integrated Domestic & Family Violence Services Program (ID&FVSP) commenced in July 2008 and is one of the initiatives under the NSW Government's new whole of government approach to domestic & family violence.

There are seven projects within the ID&FVSP covering the following locations:

- Mt Druitt
- Green Valley & Liverpool
- Wyong (Tuggerah Lakes)
- Canterbury/Bankstown
- Nowra
- Gosford (Brisbane Waters)
- Taree, Port Macquarie and Kempsey

Projects involve staff from government and non-government agencies delivering coordinated services to people affected by domestic and family violence in these locations. Apart from providing elements such as case management, each project is expected to be involved in community education activities both within the service system and with the community.

Services are provided through a multi-disciplinary team or are based on clear referral between service agencies such as Police, NSW Health, Housing, Community Services and non-government support agencies.

The NSWPF is one of the core partners in each of the projects (along with Community Services, NSW Health and the auspice agency).

A number of the projects are co-located with the Police.

Staying Home Leaving Violence

Staying Home Leaving Violence (SHLV) is a specialised domestic violence support program aimed at preventing clients from becoming homeless. The SHLV service model is based on intensive case management which is long-term, needs-based and integrated with other agencies. The SHLV projects work with women over 18 years (and their children), who have separated from a violent partner or family member, but choose to remain in their own home.

SHLV services provide risk assessment, safety planning and case management support to assist clients by addressing common barriers to leaving violent relationships such as: access to stable accommodation, maintaining support networks and secure employment, and continuing access to education/childcare for women and their children.

Domestic Violence Pro-Active Support Service (DVPASS)

The DVPASS is a means towards forming a partnership between a Local Area Command and a local domestic violence support service with the intention of providing a referral pathway for consenting victims to be linked to appropriate support services. There are a number of these partnership programs operating at Local Area Commands across the state.

Local Domestic Violence Committees (LDVCs)

Local Domestic Violence Committees (LDVCs) exist to resource, support and influence policy development and change around systemic issues in responding to domestic violence. The Committees use a range of community development strategies including community education, skills development and advocacy to create opportunities that facilitate positive change and outcomes for women and their families.

LDVCs are located in many communities across New South Wales in urban and metropolitan areas, and to a lesser degree in rural and remote areas. The LDVC is a network of community organisations from the government and non-government sector that provide services to women, children or families where domestic violence is identified. Membership of an LDVC reflects a whole of government approach in addressing the issue of domestic violence. Typically representatives are drawn from the NSWPF - Domestic Violence Liaison Officer (DVLO), Community Services, NSW Health, Housing NSW, women's health centres, women's crisis accommodation services, Women's Domestic Violence Court Advocacy Services, local councils and other specialist services reflective of the community including Aboriginal services and Migrant Resource Centres.

Working in partnership is a cornerstone strategy for LDVCs around the development of early intervention and prevention initiatives. In addition to networking and sharing information about services, trends and training opportunities, LDVCs play an active role in community education and awareness raising about domestic violence through campaigns such as White Ribbon Day and the 16 Days of Activism to Eliminate Violence Against Women.

Local integrated partnership services

In many areas, particularly rural areas where there are less services available, local agencies work in partnership with each other to provide the community with an integrated, coordinated response to domestic and family violence that suits the needs of the community. These local integrated services are often provided through the goodwill of workers in the services rather than through specific government funding. The types of services that may be involved in local partnerships with the police include: women's refuges, women's health centres, neighbourhood centres, family support services, Aboriginal health and legal services and community legal centres.

Women's Domestic Violence Court Advocacy Service (WDVCAS)

Women's Domestic Violence Court Advocacy Services (WDVCASs) are funded by Legal Aid NSW to provide information, assistance and court advocacy services to women and children experiencing domestic violence.

There are currently 28 WDVCASs servicing 108 local courts across New South Wales. WDVCASs that operate in areas with a high percentage of Aboriginal or CALD people are funded to employ Specialist Aboriginal and CALD Workers.

WDVCASs deliver the following services to female victims of domestic and family violence:

- Information
- Assistance and referral, and
- Court Advocacy

Further information regarding these services is explained in more detail in the Appendix section of the Code of Practice.

Domestic Violence Intervention Court Model (DVICM)

The Department of Justice and Attorney General (DJAG) is the lead agency for the Domestic Violence Intervention Court Model (DVICM). The DVICM is an integrated criminal justice and community social welfare response to domestic and family violence. The DVICM operates in Campbelltown and Wagga Wagga.

The model ensures that criminal justice and welfare agencies including NSW Police Force, Local Courts, the Department of Corrective Services (DCS), Department of Community Services, and victim support agencies work closely together to support victims and their families and challenge domestic and family violence. The DVICM aims to improve safety for victims of domestic violence offences in contact with the criminal justice system and ensure perpetrators of domestic violence offences are held to account for their actions.

The Intersectoral Domestic and Family Violence Education and Training (IDFVET) Project

The IDFVET project is a statewide interagency initiative that was established under the NSW Government's whole-of-government approach to DFV. The project is managed by NSW Health and operates from the Education Centre Against Violence (ECAV). In March 2009, a Reference Group was established as part of the project to provide a mechanism for promoting coordination and consistency in DFV workforce training across the diverse sectors that provide services to people affected by DFV. NSW Police Force, along with other key Government departments and NGO training providers, participates in this Reference Group in working towards embedding an intersectoral approach to DFV workforce training in NSW.

MONITORING THE POLICE RESPONSE

Corporate monitoring

The performance of LACs is reviewed at least monthly both locally and at the corporate level. Continual improvement in all aspects of police operations is something the NSWPF takes seriously.

Region Domestic Violence Coordinators (RDVCs)

RDVCs assist Commanders to monitor operational performance and trends within the LAC to improve the LAC response to domestic and family violence. This includes the provision of strategic support and advice to CMU officers to help identify repeat offenders and victims and develop appropriate strategies with the aim to reduce domestic and family violence, prevent re-offending and referring victims and families to ongoing support.

NSW Ombudsman

If a member of the general public thinks they have been unfairly treated by a NSW government agency (including the NSWPF) or by certain non-government service providers (including family support services and women's refuges) then they can complain to the NSW Ombudsman. The public are reminded to inform reception when making contact if they would like to speak to a member of the Ombudsman's Aboriginal Unit.

INFORMATION FOR PERSONS IN NEED OF PROTECTION

Police responsibility towards victims

Police are generally the first to arrive at the scene of a reported domestic and family violence incident. This means that they are in a position to provide valuable assistance and reassurance to a victim at this crucial point of contact.

All victims will be treated with dignity and respect, with concern for their safety, physical and emotional needs a priority. This is regardless of whether they are a first time victim or a repeat victim with whom police have had several contacts.

Charter of Victims Rights

Victims of crime in NSW have a Charter to protect and promote their rights. The Charter of Victims Rights, set out in the *Victims Rights Act 1996* establishes standards for the appropriate treatment of victims of crime and is overseen by the Victims of Crime Bureau. The Charter of Victims Rights builds upon principles already adopted by government agencies throughout NSW. These principles recognise the needs of victims as factors that should be considered when assisting victims of crime. The Charter ensures a recognised position for victims within the NSW criminal justice system.

Under the Charter, a victim includes a person who, as a direct result of a criminal offence suffers physical or emotional harm, or loss or damage to property. For the purposes of the Charter, where the criminal offence results in the death of the person, a member of that person's immediate family will also be included as a victim of crime.

The Charter includes the rights of victims to:

- be treated with courtesy, compassion, cultural sensitivity and respect,
- information about, and access to, welfare, health and counselling services,
- privacy and protection; and
- information about the criminal justice system.

If a victim considers a Government agency has not met its obligations under the Charter, a victim can contact the Victims of Crime Bureau. The Bureau will assist the victim in resolving the matter. The Victim's Rights Act 1996 provides the legislative framework for the rights of victims of crime in NSW.

Customer Service Charter - Victim follow up within 7 days

In order to comply with the NSWPF Customer Service Charter and the Charter of Victim's Rights; and to ensure that victims of crime receive appropriate and timely Police follow up, it is now mandatory to provide follow up to a victim of crime within 7 days of a report.

Victims of robbery, assault and other crimes can feel a range of emotions when they first talk to police, meaning their responses and level of cooperation will vary widely. Often information provided to a victim at the time of reporting the crime is forgotten or misunderstood. The mandatory 7 day follow up was introduced to ensure victims have another opportunity to discuss their matter with police. This opportunity provides for the exchange of information between a victim and an investigator.

It is critical that victims are informed of the progress of their investigation and the outcome in a timely, respectful manner. All victims are entitled to access information about domestic and family violence services and agencies that are culturally appropriate to their needs. The consent of a victim is required prior to providing their details to an external agency.

REFERRAL SERVICE INFORMATION

The following list of referral agencies and other services may assist in the police response to and investigation of domestic and family violence. This list is not exhaustive and local agencies may exist that provide a similar service.

Police are not restricted as to which agency or how many agencies they can contact or refer people to, provided they follow police procedures and protocols between partner agencies delivering local services.

For agencies listed in this section, please send any amendments to the Senior Programs Officer, Domestic & Family Violence, Policy and Programs Command, NSW Police Headquarters, Locked Bag 5102, Parramatta NSW 2124.

STATEWIDE AND SPECIALIST SERVICES

(TTY* Numbers also provided for hearing/speech impaired)

NSW POLICE FORCE

www.police.nsw.gov.au/community_issues/domestic__and__family_violence

000 (Triple 0) 24 hrs

106* 24 hrs

COMMUNITY SERVICES (CS) DOMESTIC VIOLENCE LINE

www.community.nsw.gov.au

1800 656 463 24 hrs

1800 671 442* 24 hrs

NSW OMBUDSMAN

www.ombo.nsw.gov.au

Ph: (02) 9286 1000

Toll free: 1800 45 15 24

Monday to Friday, 9am - 5pm (Inquiries section closes at 4pm)

VICTIMS SUPPORT LINE

www.lawlink.nsw.gov.au

1800 633 063 24 hrs

02 8688 5575* Mon – Fri, 9am – 5pm

Aboriginal & Torres Strait Contact Line – 1800 019 123

COMMUNITY SERVICES (CS) HELPLINE

www.community.nsw.gov.au

132 111 24 hrs

1800 212 936* 24 hrs

NSW RAPE CRISIS CENTRE

www.nswrapecrisis.com.au

1800 424 017 24 hrs

WDVCAS – WOMEN’S DOMESTIC VIOLENCE COURT ADVOCACY SERVICE

For information about your AVO or to find your nearest WDVCAS call

LawAccess NSW

1300 888 529 Mon – Fri, 9am - 5pm

LAWACCESS NSW

Provides free telephone legal information, referral and in some cases, advice.

www.lawaccess.nsw.gov.au

1300 888 529 Mon – Fri, 9am - 5pm

INDIGENOUS WOMEN’S PROGRAM

www.womenslegalnsw.asn.au

1800 639 784 Mon Tues Thur Fri only

10am -12.30pm and 1.30pm - 4pm

MENSLINE AUSTRALIA

www.menslineaus.org.au

1300 789 978 24 hrs

TRANSLATING & INTERPRETING SERVICE (TIS)

www.immi.gov.au/tis

131 450 24 hrs

YOUTH ACCOMMODATION LINE

www.yaa.com.au

1800 424 830 Mon – Fri, 9.30am - 6pm

After hours – recorded information relating to metro crisis
accommodation only

Refer website after hours for regional and metro crisis,
medium and long term accommodation

HOMELESS PERSONS INFORMATION CENTRE

www.cityofsydney.nsw.gov.au

1800 234 566 9am – 10pm, 7 days

DEPARTMENT OF HOUSING – TEMPORARY ACCOMMODATION LINE

1800 152 152 Mon – Fri, 4.30pm - 10pm

Sat, Sun and PH 10am - 10pm

WOMEN'S LEGAL RESOURCES CENTRE

www.womenslegalnsw.asn.au

9749 5533 Sydney Metro
Mon Tue Thurs Friday
9.30 - 12.30 and 1.30 - 4.30

1800 801 501 Regional
Mon Tue Thurs Friday
9.30 - 12.30 and 1.30 - 4.30

DOMESTIC VIOLENCE ADVOCACY SERVICE

www.womenslegalnsw.asn.au

8745 6999 Sydney Metro
Mon Tue Thurs Friday
9.30 - 12.30 and 1.30 - 4.30

1800 810 784 Regional
Mon Tue Thurs Friday
9.30 - 12.30 and 1.30 - 4.30

SAME SEX DOMESTIC VIOLENCE

www.ssdv.acon.org.au

Gender Centre

www.gendercentre.org

Ph: (02) 9569 1176

Email: reception@gendercentre.org.au

SAFE RELATIONSHIPS PROJECT - INNER CITY LEGAL CENTRE

www.iclc.org.au/srp

50-52 Darlinghurst Rd Kings Cross NSW 2011

PO Box 25 Potts Point NSW 1335

Ph: 9332 1966/1800 244 481

Fax: 9360 5941

Email: srp@clc.net.au

THE AGED CARE RIGHTS SERVICE

www.tars.com.au

02 9281 3600 Sydney Metro

Mon – Fri, 9am – 4.30pm

1800 424 079 Regional

Mon – Fri, 9am – 4.30pm

CRIMINAL JUSTICE SUPPORT NETWORK

The Criminal Justice Support Network (CJSN) is a service of the Intellectual Disability Rights Service (IDRS) that provides volunteer support workers for people with an intellectual disability who are in contact with the criminal justice system. A support worker is allocated to a person with an intellectual disability seeking assistance at police interviews, courts and related legal appointments whether they are victims, witnesses, suspects or defendants.

02 9318 0 144 or 1300 665 908

IMMIGRATION ADVICE & RIGHTS CENTRE

www.iarc.asn.au

02 9262 3833 Tues and Thurs only

2pm – 4pm

IMMIGRANT WOMEN'S SPEAKOUT ASSOCIATION OF NSW

www.speakout.org.au

02 9635 8022 Mon – Fri, 9.30am – 4.30pm

STAYING HOME LEAVING VIOLENCE SERVICES

Blacktown Staying Home Leaving Violence	Ph: 9677 1962
Campbelltown Staying Home Leaving Violence	Ph: 4633 3777
Wyong Staying Home Leaving Violence	Ph: 9481 2600
Moree Staying Home Leaving Violence	Ph: 6752 4536
Newcastle Staying Home Leaving Violence	Ph: 4926 3577
Bega Staying Home Leaving Violence	Ph: 6492 6239
Eastern Sydney Staying Home Leaving Violence	Ph: 0439 414673

WITNESS ASSISTANCE SERVICE (WAS)

The Witness Assistance Service (WAS) is part of the Office of the Director of Public Prosecutions (ODPP) and aims to reduce trauma and give specialist support to vulnerable crime victims and witnesses appearing in court matters prosecuted by the ODPP.

WAS@odpp.nsw.gov.au

1800 814 534

WIRRINGA BAIYA ABORIGINAL WOMEN'S LEGAL CENTRE

www.wirringabaiya.org.au

Ph: 9569 3847

Free call: 1800 686 587

**INDIGENOUS WOMEN'S LEGAL CONTACT LINE –
WOMEN'S LEGAL SERVICES NSW**

www.womenslegalnsw.asn.au

General contact number: (02) 9749 7700

Indigenous Women's Legal contact line: 1800 639 784

COMMUNITY RELATIONS COMMISSION LANGUAGE SERVICES

www.crc.nsw.gov.au

1300 651 500 24 hrs 7 days a week

DEAF SOCIETY OF NSW – SIGN LANGUAGE COMMUNICATIONS

Ph: 1300 123 752

S.T.A.R.T.T.S – SERVICE FOR THE TREATMENT AND REHABILITATION OF TORTURE AND TRAUMA SURVIVORS

Ph: 02 9794 1900

ABUSE AGAINST OLDER PEOPLE

Ph: Commonwealth Care link Centre 1800 052 222

OLDER WOMEN'S NETWORK (OWN)

www.own.org.au/

Ph: 02 9247 7046 OWN NSW Coordinator

Email: info@ownnsw.org.au

SERVICE LINK - Human Services Network – a free on-line directory of Government and Non-Government organisations in the human service sector in NSW

www.hsnet.nsw.gov.au/

Domestic and Family Violence Team –

Police Headquarters, 1 Charles Street, Parramatta – the Team provides key operational advice and information to police officers, manages and evaluate policies, programs and issues specific to the domestic violence program area.

- 02 8835 9235 Manager
- 02 8835 8018 Senior Project Officer,
Domestic Violence nIntervention Court Model (DVICM)
- 02 8835 9627 Prosecutions & Legal Advisor
- 02 8835 7060 Sergeant, State DVLO Coordinator

Program Development Team - Policy and Programs Command, Police Headquarters

- 02 8835 9543 Manager
- 02 8835 9347 Senior Programs Officer, Domestic Violence

Regional Domestic Violence Coordinators –

Responsible for establishing and maintaining a regional co-ordination network in the NSW Police Force to ensure links between local domestic and family violence service delivery within the region and the relevant targets set out in the NSW State Plan

- 02 9285 3142 Central Metropolitan, located at Surry Hills

- 02 9689 7398 North West Metropolitan, located at Parramatta
- 02 8700 2422 South West Metropolitan, located at Bankstown

- 02 4929 0083 Northern Region, located at Newcastle
- 02 6552 0232 Northern Region, located at Coffs Harbour

- 02 6923 1812 Southern Region, located at Wagga Wagga
- 02 4226 7712 Southern Region, located at Wollongong

- 02 6768 2867 Western Region, located at Tamworth
- 02 6883 1743 Western Region, located at Dubbo

Regional Domestic Violence Sponsors -

Are located in each of the six NSWPF Regions and can be contacted through the Region Command Offices

Corporate Spokesperson, Domestic & Family Violence

Assistant Commissioner Mark Murdoch, APM,
Region Commander, Southern Region

Aboriginal Strategic Direction (ASD)

The ASD is a working document (policy) that identifies where Police can have significant input to decrease the over-representation of Aboriginal people in the criminal justice system. A key focus is the development of Local Area Command (LAC) Aboriginal Action Plans. Listening to, understanding and working with Aboriginal people in a proactive partnership and provides Aboriginal people with a say in how their community is policed.

The ASD has seven (7) objectives and provide the basis for which Regional Aboriginal Action Plans and Local Area Command Aboriginal Action Plans can be developed. These objectives are:

- Objective 1 – Improve communication and understanding between Police and Aboriginal people
- Objective 2 – Improve community safety and reduce fear of crime
- Objective 3 – Seek innovation in the provision of Aboriginal Cultural Awareness and Aboriginal recruitment and retention
- Objective 4 – Divert Aboriginal youth from crime and anti-social behaviour
- Objective 5 – Establish an integrated approach to managing Aboriginal Family Violence
 - a) 5A Domestic Violence
 - b) 5B – Sexual Assault
- Objective 6 – Develop a strategic response to Aboriginal substance abuse
- Objective 7 – Reduce offending and over-representation of Aboriginal people in the criminal justice system

Local Area Command Aboriginal Consultative Committee (LACACCs)

The LACACC is the first tier of the advisory bodies and meets as required. The LACACCs are established in areas with high Aboriginal populations they identify strategies in the development of joint action plans. The Local Area Commander (or appropriate representative) chairs these committees and Aboriginal membership is voluntary. The Aboriginal Community Liaison Officer (ACLO) assists in the establishment of the LACACC, ensuring that representation from the Aboriginal community includes women and youths. The NSWPF Aboriginal Strategy oversees their establishment as well as monitoring and providing ongoing support. Not all **LACs will need a LACACC.**

The role of the LACACC is to:

- Be a voice for local Aboriginal communities within the LAC
- Develop programs for youths, men and women
- Monitor the implementation of the Aboriginal Strategic Direction; and provide feedback to the Commissioner of Police through the Regional Aboriginal Advisory Committee (RAAC)

Aboriginal Strategy – Policy and Programs – Field Operations

The role of Aboriginal Strategy is to develop and implement corporate policy and respond to legislation in relation to Aboriginal issues and to support/lead the various structures that manage Aboriginal issues across the organisation.

Their role includes:

- Point of contact for in-service and external enquiries regarding variety of Aboriginal issues.
- Collect and analyse data, and report on trends/incidents in policing and their impact on the Aboriginal community.
- Investigate improved methods of service delivery with regard to the police and the Aboriginal community, with particular reference to fostering goodwill between police and Aboriginal people.
- Coordinate, support and negotiate training and development of all ACLOs.

WOMEN'S DOMESTIC VIOLENCE ADVOCACY SERVICE (WDVCAS)

Women's Domestic Violence Court Advocacy Services (WDVCASs) are funded by Legal Aid NSW to provide information, assistance and court advocacy services to women and children experiencing domestic violence.

There are currently 28 WDVCASs servicing 108 local courts across New South Wales. WDVCASs that operate in areas with a high percentage of Aboriginal or CALD people are funded to employ Specialist Aboriginal and CALD Workers.

WDVCASs deliver the following services, which are explained in more detail below:

- Information;
- Assistance and referral; and
- Court Advocacy.

Information

This includes legal information. Legal information involves describing legal procedures or processes and includes providing basic information about:

- Domestic violence legislation or other area of law;
- Making an application for an ADVO;
- Making a complaint to Police regarding a criminal offence;
- Court proceedings including ADVO applications and hearings;
- How to make an ADVO effective including reporting of "breaches";
- The role of the Police; and
- The role of legal representatives including individual solicitors, representatives from Legal Aid NSW, police prosecutors and community legal centres.

Legal information does not include telling women the most appropriate course of legal action to take, interpreting the law or making an assessment of the consequences of any legal course of action. This is called legal advice and WDVCAS staff do not provide legal advice. If a woman needs legal advice she should be referred to a legal service.

Assistance and Referrals

WDVCASs do not engage in ongoing casework or case management of clients. A WDVCASs engagement with a client is short-term, focused on ensuring legal protection and assessing the clients other legal and social welfare needs and making appropriate referrals.

It is important that WDVCAS workers understand the boundaries of their role and act within those boundaries.

WDVCAS provide a range of assistance within their role depending on their resources. It may include assisting a client to make an ADVO application, making a complaint to police about a breach of an ADVO or other criminal offence or writing a letter of support for a housing provider.

Referrals are made when the WDVCAS considers that a client can be more appropriately serviced by another organisation and refers the person to the other organisations for assistance. Examples include:

- Legal services (e.g. family law, care and protection, victims compensation matters, credit and debt);
- Housing services (e.g. refugees, Department of Housing, Staying Home Leaving Violence services);
- Counselling and emotional and practical support services (such as professional counsellors, family support services);
- Financial assistance services (e.g. Centrelink, financial counsellors).

Wherever possible 'warm referrals' (referrals in which the referrer introduces the client to the referee) should be made.

Court Advocacy

An advocate builds relationships with other key partners (such as Police, Local Courts, legal representatives) in order to gain specialist knowledge about the systems and services available to assist women and children experiencing domestic violence. Advocacy involves using this knowledge in a respectful and collaborative way to assist women to negotiate these systems effectively.

This may also involve advocating on her behalf (with her consent) with other key partners.

Examples of court advocacy include working with the DVLO or police prosecutor to ensure ADVO conditions are appropriate to the client's needs, ensuring women receive the support and assistance they need to address breaches and when they disclose offences against them and prevent secondary victimisation of women by the system.

Advocacy does not mean providing legal representation or advice.

