

**Code of practice for the
NSW Police Force Response to**

Domestic and Family Violence



NSW Police Force

Title: Code of Practice for the NSW Police Force Response to Domestic and Family Violence

Subject: Domestic and Family Violence

Command Responsible: Operational Programs

Available to: Unrestricted

Publication number (TRIM): F/2013/24174

Publication date: 25 November 2013

Version number: 2.2

Review date: 25 November 2016

Caveat

© 2013. Crown Copyright belonging to the Crown in right of the State of New South Wales (through NSW Police Force) is hereby reserved.

This Code of Practice for the NSW Police Force Response to Domestic and Family Violence is not a comprehensive set of the requirements which must be followed by police in exercising the powers of their office. In exercising these powers and in their treatment of suspects and members of the public, police must be aware of the obligations and responsibilities imposed on them by legislation, NSW Police Force policies and operating procedures, and other corporate documents such as the Code of Conduct and Ethics.

Note: The contents of this document may be reproduced, without permission, for any of the following purposes:

- education or public awareness, or
- private study or research.

Any proposed reproduction of the whole or any part of the contents of this document must comply with the following conditions, namely that it is:

1. reproduced accurately and in a manner and context which are not misleading as to its intended meaning and application
2. not used in connection with commercial use, advertising, endorsement or any form of undignified association
3. not used in any circumstances which are knowingly or potentially defamatory of individuals, companies or organisations
4. not reproduced for political purposes
5. acknowledged that the NSW Police Force is the source.

Any other proposed reproduction of the whole text or of a substantial part, requires the written consent of: The Commander, Operational Programs, Level 2, 20 Charles St, Parramatta NSW 2150.

Contents

.....

Commissioner’s Message	8
Corporate Sponsor’s Message	9
Executive Summary	10
Proactive policing responses	12
Terms used	13
Introduction	14
The Nature of Domestic and Family Violence	14
Is domestic and family violence a gendered crime?	15
NSW Domestic & Family Violence Reforms	15
NSWPF Domestic Violence Safety Assessment Tool (DVSAT)	16
The NSW Domestic Violence Justice Strategy 2013 –2017 (DVJS)	17
Domestic Violence Evidence in Chief (DVEC)	18
The National Plan	18
Governance	19
NSW 2021 (State Plan)	19
The NSWPF Corporate Plan 2012 - 2016	19
Corporate Sponsor	20
Domestic and Family Violence Policy Statement	21
The role of police in responding to domestic and family violence	22
Principles of police responses to domestic and family violence	22
Aims of the Code of Practice	23
Implementing the Code of Practice	23
Complaints if you consider the Code of Practice to have been breached	23
What police do and how they respond	24
Frontline Policing	24
First Response Officers (General Duties Police)	24
Shift Supervisor (Sergeant)	24
Duty Officer (Inspector)	24
Local Area Commander (Superintendent)	25
Crime Management Units (CMU)	25
Crime Manager (Inspector)	25
Domestic Violence Liaison Officers (DVLOs)	25
Custody Managers	26
Police Prosecutor	26
When police receive reports of domestic and family violence	27
Police act on any reports	27
The steps police take in the process	28
How family violence is reported to police	28

Initial action by police	28
Timeliness of the police response	28
Safety first	29
What police do when they attend the scene	30
Role of the supervisor	30
Plan of action	30
Entry to premises	30
Assessment of the risks and threats	31
Management of the incident	31
Level of future protection required	31
Recording incidents of domestic and family violence	32
Domestic Violence Incidents	32
Information police might record	32
Information police may give to others	32
Initial action by police	33
Stages of the police investigation	33
People who police might talk to	33
Arresting the offender	34
Preserving the crime scene	34
Criminal Investigators (Detectives)	35
Searching for and seizing firearms and other weapons	35
The decision to prosecute	36
Evidence based	36
If there is insufficient evidence to justify prosecution	36
Briefs of evidence	37
When police prepare a brief of evidence	37
What if there is insufficient evidence?	37
Role of the person in need of protection in the pursuit of criminal options	38
Obtaining evidence	38
What happens if the victim does not want police to charge the offender?	38
What happens if the victim fails to appear to give evidence after a subpoena to attend has been served upon them?	38
Role of witnesses to domestic & family violence in the pursuit of criminal options	39
Who is a witness?	39
Taking a witness statement	39
Apprehended Violence Orders (AVOs)	40
What are Apprehended Violence Orders (AVOs)?	40
Police issued Apprehended Domestic Violence Orders	40
When may the court grant an AVO?	40
AVO Conditions	41

Exclusion Condition	42
Who may apply for an AVO?	42
When police must make application for AVO	42
Considerations when a child is involved	43
What happens if police do not make application for an AVO?	43
What police do when pursuing an AVO	44
Provisional AVO	44
Interim AVO	44
Application for an AVO (non-urgent)	44
Breach of an Apprehended Violence Order	46
Criminal offence	46
What police do if they detect a breach?	46
Interview with the offender	46
Consent is not a defence	46
Revoking, varying, extending or appealing an AVO	47
Need for clear and appropriate conditions	47
Appealing an AVO	47
Extending, varying or revoking an AVO	47
Family Law Act Orders and Interstate Orders	48
Interstate order	48
Family Law Act Orders	48
If there is a Family Law Act parenting order	48
Use of Family Law Act injunction or restraining orders	48
What happens to firearms?	49
Police will seize any firearms	49
Who has to go to court?	50
If police make the application	50
If someone other than police make the application or cause the application to be made	50
Prosecution of hearings	50
Role of the police prosecutor in AVO applications	51
How police respond to persons in need of protection	52
Safety and welfare	52
Referral	52
The victim (person in need of protection)	53
Police employees who are victims or offenders	53
Culturally and Linguistically Diverse (CALD) communities	55
Use of professional Interpreters	55
Booking Interpreters for first time court appearance	56
Role of the Multicultural Community Liaison Officer (MCLO)	56
Aboriginal family violence	57
What is Aboriginal Family Violence?	57

What are some of the causes? _____	57
What are some of the barriers that prevent reporting to police? _____	57
What are some of the long term impacts? _____	57
Aboriginal Strategic Direction 2012 - 2017 _____	58
Aboriginal Community Liaison Officers (ACLO) _____	58
Witness Assistance Service (WAS) – NSW Office of the Director of Public Prosecutions _____	59
Aboriginal Cell Support Groups (ACSG) _____	59
People with a disability _____	60
Barriers to reporting to Police _____	60
Abuse against older people _____	62
What is abuse of older people? _____	62
Investigating abuse of older people _____	63
Abuse experienced by gay, lesbian, bisexual, transgender and intersex (GLBTI) people _____	64
Role of the Gay and Lesbian Liaison Officer (GLLO) _____	64
Consent and privacy legislation _____	65
Disclosure of information _____	65
Child protection requirements when responding to domestic and family violence _____	66
Domestic and family violence is a child protection issue _____	66
Mandatory Reporting of Children at Risk of Significant Harm _____	66
Legislative responsibilities _____	66
What does significant harm mean? _____	67
How a police officer will know if a child is at risk of significant harm _____	67
Child Wellbeing Unit (CWU) _____	68
Family Referral Services _____	68
Children on Apprehended Violence Orders (AVOs) _____	68
Young Offenders Act _____	68
Role of the Youth Liaison Officer (YLO) _____	69
Partnerships to deliver integrated domestic and family violence services to the community _____	70
Police partnership with other agencies - a collaborative approach _____	70
Region Domestic Violence Coordinators (RDVC) _____	70
Integrated Domestic & Family Violence Services Program _____	70
Staying Home Leaving Violence _____	71
Domestic Violence Pro-Active Support Service (DVPASS) _____	71
Local Domestic Violence Committees (LDVCs) _____	72
Local integrated partnership services _____	72
Women’s Domestic Violence Court Advocacy Service (WDVCAS) _____	73
Domestic Violence Intervention Court Model (DVICM) _____	73
Monitoring the police response _____	74
Corporate monitoring _____	74

Region Domestic Violence Coordinators (RDVCs)	74
NSW Ombudsman	74
Information for persons in need of protection	75
Police responsibility towards victims	75
Charter of Victims Rights	75
Customer Service Program	75
Customer Service Charter - Victim follow up within 7 days	76
Referral service information	77
Statewide and specialist services	77
Appendix	83

Commissioner's Message

Domestic and family violence is an abhorrent crime. It causes immeasurable damage at every level of our communities and is related to approximately 40% of all homicides. Consequently, the NSW Police Force is committed to reducing domestic and family violence, and ensuring a swift and appropriate response to victims of this complex crime.

Responding to domestic and family violence incidents is a frequent and significant component of a police officer's work. Invariably the circumstances are highly emotionally charged and that can create volatile and unpredictable situations for first responders as well as for victims and their families.

The NSW Government has recently announced a suite of reforms to the NSW response to domestic and family violence, noting that addressing this crime requires a whole of government coordinated response. Notable amongst the new reforms is the implementation of a domestic violence risk identification and assessment process to which the NSW Police Force is a key partner.

Complementing the reforms is the implementation early this year by the Department of Attorney General and Justice of the NSW Domestic Violence Justice Strategy. The Strategy is an operational framework that outlines the approaches and standards justice agencies in NSW will adopt to improve the criminal justice system's response to domestic violence. The NSW Police Force is one of the agencies involved in the Strategy.

The Code of Practice for the NSW Police Force Response to Domestic and Family Violence has been updated to reflect these reforms and other legislative changes that have occurred in the 3 years since the first Code of Practice was released.

It is vital that that community has contemporary knowledge about the police response to domestic and family violence. The Code of Practice provides information about the strong and consistent responses directed at ensuring the safety and well being of victims; holding perpetrators to account; and reducing risks to police safety.

The Code of Practice reflects our commitment to building trust and confidence in the NSW Police Force amongst victims of personal violence with the aim of increased reporting and legal action rates.



A P Scipione APM
Commissioner of Police

Corporate Sponsor's Message

Since the release of the first Code of Practice in 2009 there have been a number of significant advancements in the policing response to domestic and family violence.

These include improvements to the electronic Apprehended Domestic Violence Order application system; the increased use of Domestic Violence Evidence Kits to obtain critical evidence at domestic violence incidents; enhanced training for police; an independent evaluation of the Domestic Violence Pro Active Support Service referral process (known as the Yellow Card); and the development of a Police Risk Identification Tool to help operational police to better identify the level of threat and potential harm to victims of this insidious crime. The Police Risk Identification Tool will be implemented in the coming year as part of the suite of domestic violence reforms recently announced by the NSW Government.

However, one of the main achievements for the NSW Police Force in the area of domestic violence has been the increased reporting of domestic violence to police. When the Code of Practice was first released in 2009 the NSW Police Force responded to 107,062 domestic violence events in the 2009/2010 financial year.

In the 2012/2013 financial year police responded to 118,222 domestic violence events. It is evident that this significant increase in reporting reflects the community's confidence that police do take domestic violence seriously and will proactively investigate each incident and proceed to prosecution if there is sufficient admissible evidence.

While acknowledging the increase in reports to police it is also necessary to acknowledge that there is still further work to be done to improve consistency in the police response so no matter where you live in NSW, everyone in the state can expect to receive the same response by police when they report domestic and family violence.

The Code of Practice aims to improve consistency in policing practice and to assist the NSW Police Force, its partner agencies and the community to deliver a more integrated and coordinated response to domestic and family violence.

I commend the Code of Practice to you as a comprehensive information resource to better understand the procedures utilised by police during the course of a domestic and family violence investigation.



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

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. It complements the *NSW Police Force Corporate Plan 2012 – 2016* and the vision of the NSW Police Force for a safe and secure NSW. The Code of Practice also aligns with *NSW 2021* and *Directions in Australia New Zealand Policing 2012 – 2015*.

The first Code of Practice was developed as a result of the 2006 NSW Ombudsman special report to Parliament *Domestic violence – improving police practice*. This second edition of the Code of Practice reflects the significant domestic and family violence reforms announced by the NSW Government in June this year and which will be implemented in 2014-2015.

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.

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 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 operational policies and 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, the Customer Service Charter and the Charter of Victims Rights.

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.

The aims of the Code of Practice are to:

- increase the level of safety for victims of domestic and family violence, including children, through increased knowledge about domestic and family violence
- encourage persons to report incidents of domestic and family violence to police
- maximize victims understanding of criminal justice processes

- improve the general public's understanding of the roles and responsibilities of police
- promote the importance of early intervention, investigation and prosecution of criminal offences
- recognise the significant value of specialist domestic violence service providers in the delivery of integrated responses to break the cycle of domestic and family violence
- achieve good practice through an appropriate, consistent, transparent and accountable response to 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 Priorities for Working in a Culturally, Linguistically and Religiously Diverse Society and Multicultural Policies and Services Forward Plan 2011 – 2014*).
- Police will be mindful of the cultural differences among Aboriginal communities and will work with them to reduce family violence (*Aboriginal Strategic Direction 2012-2017*).
- 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.

Proactive policing responses

“It is clear that policing practices have improved greatly in recent years, assisted by both legislative reform, policy changes and effective leadership. More than ever, the Police Force takes domestic violence seriously, with a proactive approach that encourages all police to conduct thorough investigations to support prosecution, with charges laid against offenders where evidence exists to support them.”

(Standing Committee of Social Issues Parliamentary Hearing into Domestic Violence Trends and Issues Consultation Paper, 3.2 page 20, 2012).

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.

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
CRP	Central Referral Point
DAGJ	Department of Attorney General and Justice
DV	Domestic Violence
DFV	Domestic and Family Violence
DVJS	Domestic Violence Justice Strategy
DVLO	Domestic Violence Liaison Officer
FACS	Family and Community Services
GDs	General Duties
GLLO	Gay and Lesbian Liaison Officer
LAC	Local Area Command
LEPRA	<i>Law Enforcement (Powers & Responsibilities) Act 2002</i>
MCLO	Multicultural Community Liaison Officers
NGO	Non-Government Organisation
NSWPF	NSW Police Force
PIO	Police Issued Order
PRIT	Police Risk Identification Tool
RAMP	Risk Assessment Management Project
RDVC	Region Domestic Violence Coordinators
Sgt	Sergeant
TIS	Translating Interpreting Service
WDVCAS	Women's Domestic Violence Court Advocacy Service
WNSW	Women NSW
YLO	Youth Liaison Officer
YOA	<i>Young Offenders Act</i>

Introduction

.....

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.

Is domestic and family violence a gendered crime?

NSW legislation defines a domestic relationship as much more than an intimate partner relationship. While the majority of incidents reported to police involve a male offender and a female victim, it is the experience of police that both genders can be victims and offenders.

Police also encounter domestic and family violence in a variety of relationship types. 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.

A NSWPF analysis of domestic violence trends for a five-year calendar period (2006 – 2010) confirmed that the gender distribution of victims has remained the same during this period. The majority of victims in all domestic violence incidents continue to be females 65.9%, and 33.9% being male.

(NSWPF COPS/EDW data prepared by the Chief Statistician, 10/08/11)

Violence against women is a violation of the rights and fundamental freedoms of women. 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.

NSW Domestic & Family Violence Reforms

Upon being elected in 2010 the NSW Government commenced a comprehensive review of domestic violence in NSW with a view to reducing domestic and family violence by reforming the statewide response to this insidious crime.

As part of the reform process a number of government reviews and inquiries have occurred, including the following:

- Australian Law Reform Commission Report 2010 – *Family Violence & Commonwealth Laws – Improving Legal Frameworks*
- NSW Law Reform Commission Report 2010 – *Family Violence – A National Legal Response*
- NSW Auditor-General's Report, Performance Audit 2011 - *Responding to domestic and family violence*
- NSW Ombudsman Special Report to Parliament 2011 *Audit of NSW Police Force handling of domestic and family violence complaints*
- Parliamentary Inquiry into Domestic Violence Trends & Issues in NSW 2011 - 2012
- NSW Domestic Violence Death Review Team Annual Report 2011 – 2012.

These reviews and inquiries have resulted in a number of recommendations across agencies aimed at delivering improved coordinated services to domestic violence victims and their families. As a lead agency and key stakeholder in delivering domestic violence services, each of these reviews proposes a number of recommendations for NSWPF.

In summary the recommendations have several common themes:

- improving justice responses and legislation relating to domestic violence
- greater police powers to respond immediately to urgent situations of domestic violence
- information sharing between government and non government organisations
- implementation of electronic victim referrals and enhanced victim support
- risk identification and management
- improved coordinated planning and service delivery
- IT systems and data collection enhancements
- training.

The NSW Domestic and Family Violence Reforms aim to ensure that individuals who have experienced domestic violence receive the best possible responses – both for the short term and long term.

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

The reforms were launched in February 2014 and are being implemented in a staged rollout over the next 5 years.

NSWPF Domestic Violence Safety Assessment Tool (DVSAT)

The NSWPF Domestic Violence Safety Assessment Tool (DVSAT) is central to the new streamlined victim referral pathway that forms one of the elements of the whole of government domestic and family violence reforms being implemented over the next five years.

The reforms were launched in Canobolas LAC on 15 September 2014 and in the Waverley Local Court Catchment area on 22 September 2014.

The reforms were launched in February 2014 and are being implemented in a staged rollout over the next 5 years.

The DVSAT comprises two parts: Part A and Part B.

Part A – Risk Identification

Part A contains 25 evidence based risk identification questions that will assist the investigating officer to determine whether the risk level to the victim may be “at threat” or “at serious threat”.

Part A is applicable only to ‘intimate partner’ DV incidents and is based on research that has identified specific behaviours and circumstances commonly found in intimate partner homicides.

Part B (repeat victim/professional judgement)

Part B is applicable to all DV incidents (intimate and non intimate) and is intended to capture information such as the level of fear felt by the victim, the reasons for those fears and most importantly allows for an officer to use their professional judgement if they see fit to do so.

An assessment of “at serious threat” can be made based on the professional judgement of the officer completing or reviewing the DVSAT.

The DVSAT is a tool that will now allow police to accurately and consistently identify the level of threat to a victim. At the same time, police can still use their professional judgement to increase the recorded threat level if they think it is appropriate.

Although the introduction of the DVSAT forms part of a new business process, in reality it simply formalises the job that operational police do on a daily basis. Police will continue to mitigate the risk to victims by conducting thorough criminal investigations and applying for ADVOs as required.

On completion of the DVSAT, it will be electronically transferred to an external Central Referral Point (CRP) who will then refer to a Local Coordination Point (LCP) based on the postcode of where the victim lives. The LCP will review the DVSAT, conduct a secondary risk assessment and either refer the victim to a specialist domestic violence service for appropriate follow up, or automatically refer those assessed at ‘serious threat’ to a Safety Action Meeting (SAM). The Crime Manager will chair their local SAM, which is likely to be held fortnightly.

It is proposed that a SAM will include representatives of other government agencies (including NSW Health, Community Services, Housing, Education, and Corrective Services) and non-government service providers in the local area. Broader membership of the meetings will reflect the needs of the local community.

The DVSAT will be implemented statewide by NSWPF from 1 July 2015. Refer to the Appendix for more information.

The NSW Domestic Violence Justice Strategy 2013 –2017 (DVJS)

The NSWPF is a key partner in the NSW Domestic Violence Justice Strategy (DVJS). The DVJS is an operational framework that outlines the approaches and standards justice agencies in NSW will adopt to improve the criminal justice system’s response to domestic violence. Its objectives are to make victims safer, hold perpetrators accountable and prevent domestic violence from reoccurring.

The strategy commits all justice agencies and victims support services to work together to provide an effective and integrated response. It sets out six justice outcomes agencies will aspire to achieve to ensure victims and perpetrators experience high standards of service across the NSW justice system. These outcomes are:

1. Victims’ safety is secured immediately and the risk of further violence is reduced.
2. Victims have confidence in the justice system and are empowered to participate.
3. Victims have the support they need.
4. The court process for domestic violence matters is efficient, fair and accessible.
5. Abusive behaviour is stopped and perpetrators are held to account.
6. Perpetrators change their behaviour and re-offending is reduced or eliminated.

The Strategy also identifies areas where reform is needed to ensure effective implementation of the Strategy. Throughout its term, these key areas are being addressed through research, policy and legislative reform.

Domestic Violence Evidence in Chief (DVEC)

On 1 June 2015, the *Criminal Procedure Amendment (Domestic Violence Complainants) Act 2014 (NSW)* will come into force. This Act is often referred to as 'Domestic Violence Evidence in Chief' (DVEC).

DVEC will allow Police to take a domestic violence victim's statement by video or audio recording, and use this recording as all or part of the victim's 'evidence in chief', or main evidence. This means that victims will not have to give written statements.

DVEC will only be used for defended hearings relating to criminal charge matters, and Apprehended Domestic Violence Order (ADVO) applications connected to these charge matters.

DVEC is designed to:

- reduce trauma for victims by decreasing the time spent giving evidence in front of defendants
- reduce difficulty for victims in remembering details of incidents at a later date in court
- assist victims to give an accurate account of what happened to the court
- assist the court to understand the experience and demeanour of the victim at the time of the incident
- reduce or eliminate intimidation of the victim by the defendant to change their evidence
- increase the number of early pleas of guilty
- save time for victims in giving statements.

Refer to the Appendix section for more information.

The National Plan

The Australian Government has released the *National Plan to Reduce Violence against Women and their Children*. Under the National Plan, Governments from all around Australia will work with the community to reduce violence against women and their children. The plan is for the next 12 years and has 4 stages to its implementation. A progress report is provided to the Government every 3 years with a final report due after 12 years. The plan 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.

The plan aims to make improvements that will last for a long time, including:

- building respectful relationships
- encouraging men and women to treat each other as equals
- preventing violence from happening in the first place
- making sure that people who hurt others are held responsible for their actions
- offering more services to people who hurt others to help them stop using violence.

For more information visit The National Plan.

<http://www.fahcsia.gov.au/our-responsibilities/women/programs-services/reducing-violence/the-national-plan-to-reduce-violence-against-women-and-their-children>

Governance

NSW 2021 (State Plan)

NSW 2021 is a 10 year plan to rebuild the economy, return quality services, renovate infrastructure, restore accountability to government, and strengthen our local environment and communities.

NSW 2021 contains a series of priorities, goals and targets, and explicitly focuses on the protection of vulnerable members of our community as well as the prevention and reduction of crime to improve safety and security in our neighbourhoods.

The Minister for Police and Emergency Services has accountability for reducing domestic violence as part of Goal 16, **'Prevent and reduce the level of crime'**. NSW 2021 commits the Government and public sector agencies to implementing initiatives to significantly reduce domestic and sexual violence against women and their children including providing long-term accommodation and support; expanding the availability of legal advice and support; delivering a more coordinated police and service response; and ensuring appropriate court support is available to victims.

The NSWPF Corporate Plan 2012 - 2016

Reducing domestic and family violence is important to the NSW Police Force and a key priority in the [NSW Police Force Corporate Plan 2012-2016](#).

The Corporate Plan priorities of **'Reduced domestic, family and sexual violence'** and **'Enhanced resilience of communities and 'at risk' groups'** reflect the NSW Government's intent of reducing domestic violence, articulated in NSW 2021, and its priority action of implementing initiatives to reduce domestic and sexual violence against women and their children.

These priorities are also consistent with the *Australasian Policing Strategy for the Prevention and Reduction of Family Violence*, which commits the NSWPF to reducing and preventing family violence through strong, consistent, and compassionate responses. Various policies and procedures including this Code of Practice and the [NSW Domestic Violence Justice Strategy](#) support Corporate Plan priorities.

The Corporate Plan contains indicators of success to monitor and assess performance:

Indicators of success	Target 2016
• Repeat domestic violence assault victims	≤ 13.6%
• Legal actions for domestic violence assaults	≥ 60%
• Concern about being a victim of domestic or family violence	≤ 7.3%
• Concern about being a victim of sexual assault	≤ 10.9%
• Victim follow-up notifications within timeframes	≥ 80%

These indicators encourage a proactive policing response to reports of domestic violence assault as well as the protection of individuals from re-victimisation.

Performance against domestic and family violence indicators is reported in the [NSW Police Force Annual Report](#). Performance against the repeat victimisation indicator is also reported in the [NSW 2021 Performance Report](#).

Corporate Sponsor

The NSWPF operates a corporate sponsors program that allocates responsibility to senior officers for the development of strategies for portfolios like domestic and family violence. Corporate sponsors are also responsible for overseeing and monitoring the development and implementation of policy and practice; inter-agency and community liaison; and speaking publicly on behalf of the Commissioner in relation to their portfolio.

Domestic and Family Violence Policy Statement

The NSW Police Force takes domestic and family violence seriously and is committed to reducing the levels of domestic and family violence, and to improving our response to victims. You are encouraged, whether you may be experiencing domestic violence yourself, or know of someone who is, to contact NSW Police for advice. For urgent matters call Triple Zero (000).

If you are a perpetrator of domestic violence you will come to our attention and you will be held to account for your actions and behaviour.

Our commitment is to ensure that NSW Police Force:

- Regards all personal violence crimes, in particular crimes against women and children, the elderly, the disabled and the vulnerable, as serious and damaging to individuals, families and to our community.
- Conducts thorough investigations to support a proactive prosecution response to the investigation and management of domestic and family violence.
- Encourages investigating officers to give the strongest consideration to arresting offenders of domestic and family violence. Charges will be laid against offenders where evidence exists to support criminal charges.
- Enforces a proactive victim support response and will ensure appropriate protective measures are taken to keep victims safe and prevent further violence against them, including applying for an Apprehended Violence Order (AVO) and referral to specialist domestic violence services.
- Recognise that domestic and family violence is a child protection issue and we will be proactive in fulfilling our role and responsibilities as mandatory reporters of children and young people at risk of significant harm. If a child has been abused, or is in need of protection from the offender, police will make an application for an AVO.
- 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 following principles underpin this policy statement:

- Domestic and family violence will not be tolerated. Domestic violence offences and crimes cause significant trauma to the victims, their families and communities.
- The NSW Police Force will respond to domestic and family violence incidents in a timely and professional manner.
- The NSW Police Force will regard the safety, protection and wellbeing of victims as of paramount importance.
- The community in which police serve represents a community diverse in Aboriginal, cultural, religious, gender, language, social, sexuality, ability and age differences. Police must consider understanding, and recognition of these differences when responding to victims and offenders of domestic and family violence, and the families affected by this crime.

Assistant Commissioner Mark Murdoch APM
Corporate Sponsor for Domestic and Family Violence
30 July 2012

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 Priorities for Working in a Culturally, Linguistically and Religiously Diverse Society and Multicultural Policies and Services Forward Plan 2011 – 2014*).
- Police will be mindful of the cultural differences among Aboriginal communities and will work with them to reduce family violence (*Aboriginal Strategic Direction 2012-2017*).
- 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, through increased knowledge about domestic and family violence
- encourage persons to report incidents of domestic and family violence to police
- maximize victims understanding of criminal justice processes
- improve the general public's understanding of the roles and responsibilities of police
- promote the importance of early intervention, investigation and prosecution of criminal offences
- recognise the significant value of specialist domestic violence service providers in the delivery of integrated responses to break the cycle of domestic and family violence
- achieve good practice through an appropriate, consistent, transparent and accountable response to 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
- needs of children being addressed
- investigation and prosecution where appropriate
- identification of future risk of harm to the victim
- appropriate referral being made
- 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 (02) 9286 1000, Toll free: 1800 45 15 24, Monday to Friday, 9am - 5pm (*Inquiries section closes at 4pm*)

What police do and how they respond

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 is as 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 LEPRA 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 LEPRA 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.

Recording incidents of domestic and family violence

Domestic Violence Incidents

Police will record all domestic and family violence incidents reported to them with a view to identifying whether the risk level to persons is at threat or serious threat, identifying repeat offenders, monitoring trends and taking proper action. 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 – consent is not required if police have concerns for a person's safety and wellbeing.
- 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.

Initial action by police

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.

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 LEPR 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).

Role of the person in need of protection in the pursuit of criminal options

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 may 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.

What happens if the victim fails to appear to give evidence after a subpoena to attend has been served upon them?

If a victim does not attend court when required to give evidence police will consult with the DVLO and relevant victim/client advocates if present at court. Police will only seek a warrant for the arrest of an alleged domestic violence victim in exceptional circumstances.

If a person who initially made a complaint of criminal behaviour, in the context of domestic violence, against another person and thereafter makes admissions to fabricating the initial complaint, police will investigate this matter. In investigating the alleged fabricated complaint, police will be cognisant of the dynamic of domestic violence and the possibility that the admission of fabrication is based upon fear, intimidation or other pressures being brought to bear upon the person. Before any decision is made to initiate a prosecution of such persons, police shall seek approval to do so from a senior officer.

Role of witnesses to domestic & family violence in the pursuit of criminal options

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.

Apprehended Violence Orders (AVOs)

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.

Simply stated, an AVO is an order made by the court telling the person who has been violent to the victim what they must NOT do. The AVO aims to protect the victim from the violence being experienced.

Police issued Apprehended Domestic Violence Orders

On 18 February 2013 Cabinet approved amendments to the *Crimes (Domestic & Personal Violence) Act 2007* to allow for police issued Apprehended Domestic Violence Orders (ADVOs).

The amendments allow police officers at the rank of Sergeant or above to issue provisional ADVOs. They also provide police with detainment options for defendants while they apply for and serve a provisional ADVO. The amendments will improve the immediate safety of those within our community who experience domestic violence and increase operational efficiencies for police.

This new legislation commenced in May 2014.

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:

1. Mandatory Orders:
 - (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

The law regarding AVOs is predominantly governed by the *Crimes (Domestic & Personal Violence) Act 2007*. This legislation has been under review by DAGJ and it is expected that changes to this legislation will be announced during 2013-2014.

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 stalking or intimidation offence, 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.

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.

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 electronically (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. Police may apply to vary an AVO if the circumstances of the relationship between the parties have changed that warrants different conditions. This will only occur where police believe the present conditions are no longer required.

Revoking, varying, extending or appealing an AVO

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. This may be done in consultation with an appropriate court advocacy or victim support agency. 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.

Family Law Act Orders and Interstate Orders

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.

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.

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.

Use of Family Law Act injunction or restraining orders

If there are proceedings under way in the Family Court, a party may receive advice 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 whether a domestic violence offence has occurred 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 even if the occupants ask police to leave. 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 protection 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.

How police respond to persons 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, gender, 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.

Police will refer details of victims of alleged domestic violence and offenders to an appropriate support agency. Consent is not required to do this. The support agency will attempt to contact the person/s to offer support. Except in emergency circumstances the agency will require consent of the person in need of protection to refer their details to other agencies. Consent of the defendant is not required.

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:

- refer victims to specialist 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) by a police officer that attended the event, before the end of the officer's shift
- where no WDVCAS is available or for male victims, victims will be referred to the Victims Access Line who will coordinate access to local support

- 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.

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 Link 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.

Police employees who are victims or offenders

The investigation

When a police officer is an offender in a domestic and family violence incident police are required to refer to their internal *Domestic and Family Violence Standard Operating Procedures*.

Initiation of proceedings for an ADVO against a police officer constitutes a complaint under the *Police Act 1990* and the matter must be brought before the LACs Complaint Management Team and notified to the

Ombudsman. An investigation provides an opportunity to monitor the outcome of the ADVO proceedings and to ensure that sufficient information is gathered to determine the nature of any interim and/or ongoing management action that may be required.

The complaint file should include the following specific information for domestic violence complaints:

- the allegations supporting an ADVO application against a serving police officer, consistent with the victim's statement.
- any interim management action taken.
- the final court outcome in relation to the ADVO application.

Access to firearms by police officers subject to an AVO

Officers subject to an ADVO are to have their NSWPF firearm access restricted until the ADVO is confirmed or revoked.

The investigating officer will make inquiries as to whether the officer is the holder of a firearms licence. They will ensure procedures are followed for the suspension of any firearms licences and seizure of any firearms. This includes making inquiries to see whether the officer has access to firearms through secondary employment that does not require a licence (e.g. Army Reserve). Steps will be taken to ensure the officer's access to those firearms is restricted.

ADVO proceedings where the victim seeks an order in relation to firearms

The Crown Solicitor is ordinarily instructed to appear in ADVO proceedings involving police officers.

Where there exists an issue in relation to firearms and it is likely that the applicant will be seeking an order in relation to the subject officer's access to firearms, the normal order that, **'the defendant must surrender all firearms and related licences to police'** can be ambiguous when it comes to the officer's service firearm. It is therefore important that the Crown Solicitor's Office is instructed to bring to the attention of the court that the defendant in the matter is a serving police officer and required to carry his/her service firearm while on duty.

The *Firearms Act 1996* does not apply to the availability and use of firearms issued to serving police officers in NSW, therefore the NSWPF requires a specific order in relation to the officer's access to his/her service firearm during the period of the order. It is also important to highlight to the Court, the employment ramifications of restricting the availability of a service firearm belonging to a police officer, as well as the current processes in place to manage police officers subject to ADVO's in the workplace to help inform its decision.

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.

Some CALD women may not know that sexual violence is a crime in Australia, particularly when it occurs in an intimate relationship.

For many CALD women 'rape' within marriage concept is not a familiar one. The common understanding is that the marriage contract implies consent for sexual intercourse for the duration of the relationship. Often there is no phrase for 'rape in marriage' in their languages. Generally, sexual violence is not discussed among members of such communities especially when it occurs within a marriage.

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

- perceptions around
 - Levels of police response
 - Police may not understand their particular situation and culture of domestic relations
 - Stresses associated with migration and settlement process
 - Gender role shift in Australian context
 - Intergenerational conflict
- factors preventing CALD women reporting violence to police may include:
 - Distrust of police
 - Lack of awareness of Australian legal system and own rights
 - Lack of permanent residency and fear of deportation if the relationship breakdown occur during their temporary visa status
 - Limited or no family support, pregnancy obligations and cultural isolation
 - Fear of losing a relationship/family if the perpetrator is the victim's husband or wife
 - Thinking that such violence is indicative of a failed marriage and might be considered the victim's fault
 - Fear about bringing shame and embarrassment to the family or to the community

An important factor in some CALD communities is the limited knowledge of English and lack of qualified interpreters.

Use of professional Interpreters

Interviews in situations of domestic violence and sexual assaults are most often stressful for all concerned. Second language competency skills decrease in stressful situations and people may be more fluent in their first language in a time of crisis, especially victims with little support and/or prior traumatic experiences e.g. refugees.

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 are Deaf and Hard of Hearing. 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 not be used to assist with interpreting. Under no circumstances should children and offenders 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. Details of the process for police are found within the NSWPF Language Services Standard Operating Procedures.

Role of the Multicultural Community Liaison Officer (MCLO)

MCLOs are the frontline staff of a statewide program whose roles include strengthening the links between police and culturally diverse communities to ensure that police in NSW are confident and capable of working with cultural 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 as required
- 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.

MCLOs also arrange opportunities for DVLOs to conduct information sessions to culturally and linguistically diverse community groups.

MCLOs also participate in interagency activities around Domestic Violence providing further access to DV information for culturally and linguistically diverse community groups.

Aboriginal family violence

What is Aboriginal Family Violence?

Aboriginal Family Violence encompasses physical, emotional, sexual, social, spiritual, cultural, psychological and economic abuses that occur within families, intimate relationships, extended families, kinship networks and communities. It extends to one on one fighting, abuse of Indigenous community workers, as well as self harm, injury and suicide.

What are some of the causes?

- Unresolved intergenerational grief, loss and trauma
- Loss of traditional lands and culture
- Breakdown of the Aboriginal kinship systems
- Effects of institutionalisation and removal policies – Stolen Generation.
- Lack of relationship and parenting skills caused through the impact of the Stolen Generation
- Lack of access to the law and mainstream services
- Untreated alcohol and drug abuse
- Undiagnosed mental illness
- Dysfunctional communities

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

- Expectation of bias attitudes
- Distrust of police due to the historical relationships between police and Aboriginal people
- Poor ongoing police/community relationships
- Fear of children being removed
- Fear of partner's death in custody – Royal Commission Into Aboriginal Deaths In Custody (RCIADIC)
- Fear of community reprisals

What are some of the long term impacts?

- Untreated intergenerational grief, loss and trauma can lead to alcohol and drug abuse causing ongoing high levels of dysfunction in some Aboriginal communities resulting in a high incidence of family violence and child abuse.
- Research suggests that children from violent homes may be likely to exhibit attitudes and behaviours that reflect their childhood experiences of witnessing domestic violence.
- Due to the level of Family Violence in Aboriginal communities Aboriginal children are vastly over represented in the Out of Home Care program (OOHC), 1 in 10. Children in OOHC are more likely to experience poor educational outcomes and have higher rates of physical, developmental, and emotional problems than their non-OOHC peers.

Aboriginal Strategic Direction 2012 - 2017

The Aboriginal Strategic Direction 2012-17 is the overarching document which guides the NSWPF in its management of Aboriginal issues. The ASD 2012-2017 has four key priority areas. These key priorities are linked to the service delivery priorities and the corporate strategies of the NSWPF.

There are four priority areas under the ASD they are:

1. Ensure community safety.
2. Improve communication and understanding between police and Aboriginal people.
3. Reduced involvement and improved safety of Aboriginal people in the criminal justice system.
4. Reduction and diversion from harm

The outcomes under the priority "Ensure community safety" will need input by the DVLO's so that the Commander can report results on Compass. These actions are:

- Identify and target repeat offenders and victims of Aboriginal Family Violence.
- Improved recording of status of Aboriginality of victims on COPS.
- Providing ATSI victims of family violence with appropriate information, support and referral.
- Development of programs in partnership with other agencies and the Aboriginal community to reduce the incidence of family violence.
- Active Engagement of DVLOs in appropriate interagency meetings, PACC's and educational workshops to address issues relating at Aboriginal family violence including Aboriginal Community Justice Groups, Aboriginal Working Parties, Aboriginal Interagency Meetings.
- Develop and implement appropriate cultural protocols for dealing with female victims of family violence outcome.

[Aboriginal Strategic Direction 2012- 2017 - NSWPF Intranet](#)

Aboriginal Community Liaison Officers (ACLO)

ACLOs are employed at specific Local Area Commands that have higher populations of Aboriginal people. Their role is to liaise, develop and maintain

open communication with the Aboriginal community. The ACLO assists in the development of *Aboriginal Action Plans* and other crime prevention initiatives within their community. They are also required to assist with the facilitation of community workshops to inform the community of policing issues, specialist positions such as DVLOs and inform the community of the ASD and the *Aboriginal Action Plan* developed for the community itself.

ACLOs are not police officers; they are field-based unsworn employees and are provided ongoing training and development that enables them to offer appropriate advice and assistance to the community and police in their day to day interactions. The Aboriginal community should have an understanding of the role of the ACLO within the LAC structure.

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 Cell Support Groups (ACSG)

Aboriginal Cell Support Groups have been established within the NSWPF since 1995. Their primary function is to provide support to Aboriginal offenders held in NSWPF cells. Members of Aboriginal Cell Support Groups are volunteers who can be called on by police on a 24 hour basis.

It is the responsibility of the LAC to ensure that these volunteers receive appropriate education and practical support, such as assistance with transport if necessary. Additionally, Commander's may consider the training of support persons to assist Aboriginal victims. For further information and guidelines police are encouraged to refer to the Support Persons page on the intranet site.

Members of the Cell Support Group may wish to assist with this role as well. The establishment of such a group may contribute to achieving compliance with obligations under the *Charter of Victims Rights*. Terms of Reference and Guidelines for the establishment and maintenance of Aboriginal Support Groups are available to police through the Aboriginal Issues Knowledge Map on the intranet.

People with a disability

People with disabilities are a particularly vulnerable group in the community and generally are less likely to report violence to the police. Australia has 1 in 5 people (approx 20% or just over 4 million) with a reported disability. 19.8 per cent of all males and 20.1 per cent of all females report having a disability (ABS 2003). Approximately 937,000 people (of all ages) live in NSW with a diverse disability that can impact on activity limitations and participation restrictions

Historically, the majority of people with a disability have been marginalized and socially excluded. People with a disability, and particularly women with a disability, are still far from achieving social, economic and political equality. Therefore, the social situations that they may find themselves in, often place them in precarious, vulnerable, dependent and risky living situations.

A person's disability may not be easily noticed or easily discussed. A person may never describe themselves as having a disability, and may not be comfortable in disclosing information about a disability, possibly due to negative reactions to past disclosures. Consequently, people with disabilities may not want to disclose they have a disability.

People with a disability are at greater disadvantage in responding to violence because they may not be aware of what constitutes domestic and family violence or know where to seek assistance. Education about what constitutes violence does not routinely occur in disability settings, rendering people with a disability at a loss to both recognize abusive behaviour as such or to take action to prevent its recurrence. People with a disability are may be taught to be compliant, and women with disabilities are often perceived to be asexual, powerless and physically helpless.

The NSWPF acknowledges the rights of people with disabilities to access services provided to the general community. The *NSWPF Disability Action Plan* makes a commitment on the part of NSWPF to remove barriers to access and meet our obligations to clients and staff under State and Federal disability and anti-discrimination legislation.

Barriers to reporting to police

Many people with a disability have had a lifetime of negative encounters with social/welfare services and criminal justice systems. As a result of prior ineffective remedies and harmful consequences, people with a disability may be hesitant to use systems and resources.

Many people with disabilities have never sought help for the abuse they have experienced. Some of those reasons for example:

- fear being institutionalised in a nursing home or rehabilitation centre
- fear other loss of self-autonomy
- not recognising their experience as abuse
- blaming themselves for the abuse
- having no other options

- not trusting agencies to respond effectively
- fear of losing their independence
- fear of losing their children
- pride.

In many cases, people with a disability depend on the perpetrator for assistance with dressing, eating and other essential activities of daily life, creating major barriers to leaving the violent relationship. Other barriers to leaving include fear of losing independence, fear of being institutionalised, fear of having no or adequate personal care assistant, fear of not being believed.

Furthermore, people with disabilities who have limited mobility or who rely on assistive technology or personal paid carers may find themselves unable to leave the relationship for architectural or practical reasons, particularly if a perpetrator damages, removes, or destroys adaptive equipment that facilitates movement or communication.

Disability specific types of domestic and family violence:

- denial of care or denial of assistance with essential activities of daily life
- destruction or withholding of adaptive equipment
- withholding food or medication
- limiting access to communication devices
- threats of institutionalization
- threats to report to Community Services, meaning a fear of losing children
- manipulation of medication
- forced sterilization of women.

Domestic and family violence against people with a disability can occur in residential settings (including group homes or supported disability accommodation services), boarding houses. Perpetrators of DFV can include paid and unpaid carers.

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 are Deaf or Hard of Hearing, or who have a communication impairment and facilitating appropriate support and referral for offenders and victims with a disability.

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. It is also becoming more evident that financial abuse of older people by their adult children is increasing as our population ages.

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.

Further advice and information is available on the following link:

[Interagency Protocol for Responding to Abuse of Older People](#)

Alternatively, the Elder Abuse Helpline provides information, advice and referrals relating to the abuse of older people in NSW and puts the safety of the older person first. Contact details for the Elder Abuse Hotline are located in the Referral service information section at the end of this document.

Abuse experienced by gay, lesbian, bisexual, transgender and intersex (GLBTI) people

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 and abuse experienced by transgender and intersex people. The NSWPF Policy on sexuality and gender diversity 2011-2014 requires DVLOs and any other officer investigating incidents involving GLBTI people to work closely with GLLOs, other relevant officers and external agencies.

Domestic and family violence experienced by GLBTI people may be similar to the abuse occurring in heterosexual relationships however there are some particular and unique tactics of control and manipulation that have been reported, 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 relationships, or abuse experienced by transgender and intersex people, refer to ACON's LGBTI Domestic Violence Project and 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, transgender and intersex issues. GLLOs undertake a training course which covers key policing responses to homophobic violence, domestic and family violence in same sex relationships and by transgender and intersex people, 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 experienced by GLBTI people. A key role for the GLLO is to build local referral networks to facilitate appropriate referrals to the range of GLBTI 'friendly' services available.

Consent and privacy legislation

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.

Police will refer details of victims of alleged domestic violence and offenders to an appropriate support agency. Consent is not required to do this. The support agency will attempt to contact the person/s to offer support. Except in emergency circumstances the agency will require consent of the person in need of protection to refer their details to other agencies. Consent of the defendant is not required.

New arrangements will come into effect regarding information sharing between state agencies and Non-Government organisations (NGOs) pursuant to the *Crimes (Domestic & Personal Violence) Amendment (Information Sharing) Bill 2013*. DAGJ are currently preparing Information Sharing Protocols that will outline how the new legislation impacts on police in terms of immediate referral to services. Provisions will also be included allowing for information sharing between government agencies and NGO support services where there is a serious threat to the victim's life, health or safety.

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. In an incident of domestic violence (whether a child/young person was present or not) that child is at risk. The impact upon children exposed to violence in the home is considerable and should not be minimized. This includes a child/young person who witnesses domestic and family violence, is in another room when an assault occurs, or attempts to intervene to protect their parent.

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 diverse 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 significant harm as a result of living with violence.

Mandatory Reporting of Children at Risk of Significant Harm

Under the *Children and Young Persons (Care and Protection) Act 1998*, officers of the NSWPF are **mandatory reporters**. A mandatory reporter is an individual required by law to report to the Child Protection Helpline 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 Child Protection Helpline children/young persons 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 or not 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 Child Protection Helpline.

A child will only be reported to the Child Protection Helpline if they meet the threshold for 'significant harm' (defined below). If the child is present or not during the domestic violence incident and the 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 Child Protection 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 Child Protection Helpline or to the NSWPF Child Wellbeing Unit (CWU) is required, and the system will make the appropriate electronic dissemination.

A police officer can still call the Child Protection 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 CWU, the CWU 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 (CWU)

The NSWPF CWU will receive electronic reports that do not meet the risk of significant harm threshold 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. Assessment Officers at the CWU will re apply 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 escalated to the Child Protection Helpline. If the threshold is not met then the CWU Assessment 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. The CWU does not receive any dissemination for any event that is recorded as a Domestic Violence - No offence/verbal argument.

Family Referral Services

Family Referral Services are run by non-government organisations to provide referrals to appropriate services in local areas for families who come to the attention of CWUs.

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 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 1997* (YOA) generally allows police to warn, formally caution or conduct youth justice 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.

Partnerships to deliver integrated domestic and family violence services to the community

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 Coordinators (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 and Family Violence Services Program (IDFVSP) is a multi-agency, coordinated response to people affected by domestic and family violence. It aims to improve the safety of women and children and improve outcomes for people that seek protection.

Six services operate under this program, and they work with police and other agencies to increase the collaboration between victims and the range of agencies within the service systems.

Services provided include:

- crisis support and information provision
- case management and case coordination to ensure victims access to services such as counseling and legal advice

- use of brokerage to purchase client services
- these services often operate a central referral coordination service and connect perpetrators with behaviour change programs to improve their accountability and victim safety, and where possible, to reduce future offending
- provision of education and training sessions including healthy relationship programs in high schools and training sessions
- awareness raising within the community and local service networks.

The services are located in: Mt Druitt, Green Valley/Liverpool, Central Coast, Mid-North Coast, Nowra and Canterbury/Bankstown.

A number of these services are co-located with 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 provides intensive case management which is long-term, needs-based and integrated with other agencies including NSW Police Force, Housing and Women's Domestic Violence Court Advocacy Service.

The SHLV services 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. Home and personal security upgrades are an important component of SHLV services, and sometimes involve the expertise of Crime Managers.

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.

The services operate in the following locations: Bega, Eastern Sydney, Blacktown, Mt Druitt, Redfern, Penrith, Parramatta, Holroyd, Liverpool, Fairfield, Campbelltown, Wollongong, Nowra, Dubbo, Tamworth, Moree, Kempsey, Gosford, Wyong, Maitland, Cessnock, Lake Macquarie, and Newcastle.

Domestic Violence Pro-Active Support Service (DVPASS)

The Domestic Violence Pro Active Support Service (DVPASS), or Yellow Card as it is known throughout the NSWPF and specialist DV services, was developed and implemented by NSWPF in 2003 to provide Local Area Commands with a mechanism to refer domestic violence victims to specialist domestic violence services, usually non government organisations. There are a number of these partnership programs operating at Local Area Commands across the state.

A yellow card containing generic information and contact details is used as a consent form which is signed by a victim to indicate whether or not they give permission for their name and contact details to be provided to a domestic violence support worker for follow up and support.

As a result of the suite of statewide domestic and family violence reforms previously referred to in this document (consent no longer required to refer victims to support services) and the inconsistency in how the

yellow card is used across the state; NSWPF and WNSW entered into a partnership arrangement to have the DVPASS formally evaluated by external consultants.

While the evaluation clearly identified that the current DVPASS model is seen as valuable and having benefits for DV victims, almost all stakeholders were able to identify areas where there is room for improvement. The evaluation findings recommended a preferred proactive model not dissimilar to the proposed whole of government risk identification and management model.

The following four elements were recommended for a preferred proactive model:

1. Replacement of the yellow card with electronic collection using COPS.
2. Incorporation of a risk assessment mechanism.
3. Compulsory referral for victims (electronically via COPS).
4. A single referral pathway to support services with both court and DV expertise.

As a result of the findings of the evaluation and the proposed implementation of the DV reforms including the PRIT, the yellow card will be phased out and replaced by the PRIT. This is expected to occur with the implementation of the reforms after July 2014.

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, Ministry of 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
- 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)

DAGJ is the lead agency for the Domestic Violence Intervention Court Model (DVICM). The DVICM was established in Wagga Wagga and Campbelltown in 2005 as a testing ground for strategies to improve the justice system's response to domestic violence within NSW, and operated as an integrated criminal justice and community social welfare model. The objectives of the DVICM were to ensure victim's safety and well-being, hold perpetrators accountable while addressing offending behaviour, and ensure the justice process was efficient.

In 2011 a strategic review of the DVICM was completed. The review recommended that the strategies of the DVICM be incorporated into the policies and procedures of justice agencies and victim support services within the mainstream justice system, to ensure accessibility of specialist approaches and high standards of service in all areas of NSW.

The original strategies have been developed into general principles to be applied to the mainstream justice system through implementation of the Domestic Violence Justice Strategy (DVJS). The DVICM will be incorporated into the DVJS in 2013.

Monitoring the police response

Corporate monitoring

Domestic and family violence data is available publicly from a variety of sources including quarterly and annual recorded crime reports published by the [NSW Bureau of Crime Statistics and Research](#) (BOCSAR); the [NSW Police Force Annual Report](#); and the [NSW 2021 Performance Report](#).

The performance of NSWPF commands is monitored through the COMPASS system, which provides data on a number of performance indicators relating to domestic, family and sexual violence, including those indicators contained within the *NSW Police Force Corporate Plan 2012-2016*.

Commands report quarterly where performance is below target and briefly describe the current situation with respect to each indicator, provide commentary on identified trends and risks as well as action taken and / or planned to address these issues.

This information supports the corporate sponsor for domestic and family violence in providing advice to the Commissioner and Executive Team.

In addition to the routine monitoring of results and quarterly reporting, all commands are subject to an annual assessment, culminating in a COMPASS forum before the Commissioner's Executive Team. Significant variations to corporate expectations are examined and action items generated. COMPASS forums call together the command under assessment, the Commissioner's Executive Team, the corporate sponsor and relevant contributors such as Operational Programs, to ensure a collaborative approach to address identified issues.

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 and Support Act 2013* establishes standards for the appropriate treatment of victims of crime and is overseen by the Victims Services. 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 Victims Services who will assist the victim in resolving the matter. The *Victim's Rights and Support Act 2013* provides the legislative framework for the rights of victims of crime in NSW.

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 NSW 2021.

Victims are our special customers. Each should be treated fairly and openly in accordance with the Charter of Victims Rights and the *Police Handbook*.

Customer Service Charter - Victim follow up within 7 days

Police are often the first to arrive at the scene of an accident, disaster or reported incident and are usually one of the first people to converse with a victim of crime. Police interaction with victims can have a major bearing on the impact of the crime and effectiveness of the victim's recovery.

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.

The Charter of Victims Rights defines a victim as a person who, as a direct result of a criminal offence, suffers physical or emotional harm; or loss of property; or damage to property. However it is also important to recognise secondary victims and their families when providing support. A secondary victim is someone who may be injured as a result of witnessing domestic violence, such as a child. A parent or guardian of a primary victim of an act of violence who was under the age of 18 years at the time of the act and are injured as a result of learning of the act of violence is also considered a secondary victim.

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.

For more information police are encouraged to refer to the Guidelines for the NSWPF Response to Victims of Crime through the Victims of Crime Knowledge Map on the intranet.

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 contact details to the Senior Programs Officer, Domestic & Family Violence, Operational Programs, Level 2, 20 Charles Street, 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 Zero) 24 hrs

106* 24 hrs

NSW Police Force Child Wellbeing Unit

Enquiries regarding "Child at risk of significant harm"

1800 72 56 54

Monday to Friday, 7am – 6pm

Saturday and Sunday and Public Holidays, 7am – 3pm

Community Services

www.community.nsw.gov.au

Child Protection Helpline

www.community.nsw.gov.au

132 111 24 hrs

1800 212 936* 24 hrs

NSW Domestic Violence Line

www.community.nsw.gov.au

1800 65 64 63 24 hrs

1800 67 14 42 (TTY) 24 hrs

Integrated Domestic and Family Violence

http://www.community.nsw.gov.au/docs_menu/parents_carers_and_families/domestic_and_family_violence/stayhome_leaveviolence.html

Staying Home Leaving Violence Services

http://www.community.nsw.gov.au/docs_menu/parents_carers_and_families/domestic_and_family_violence/stayhome_leaveviolence.html

Translating & Interpreting Service (TIS)

www.immi.gov.au/tis

131 450

24 hrs

Victims Access Line

http://www.lawlink.nsw.gov.au/lawlink/victimsservices/ll_vs.nsf/pages/VS_counselling24hour

1800 633 063

02 8688 5575

Monday to Friday, 8am – 6pm (except Public Holidays)

Aboriginal & Torres Strait Contact Line – 1800 019 123

LawAccess NSW

www.lawaccess.nsw.gov.au

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

1300 888 529

Monday to Friday, 9am – 5pm

Homeless Persons Information Centre

www.cityofsydney.nsw.gov.au

1800 234 566

9am – 10pm, 7 days a week

Housing NSW – Temporary Accommodation Line

1800 152 152

Monday to Friday, 4.30pm – 10pm

Saturday, Sunday and Public Holidays, 10am – 10pm

Community Relations Commission Language Services

www.crc.nsw.gov.au

1300 651 500

24 hrs, 7 days a week

NSW Elder Abuse Helpline

This is a confidential helpline offering information, advice and referrals for people who experience, witness or suspect the abuse of older people living in their homes in NSW.

1800 628 221

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/

NSW Ombudsman

www.ombo.nsw.gov.au

(02) 9286 1000 or Toll free **1800 45 15 24**

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

Older Women's Network (OWN)

www.own.org.au/

02 9247 7046

OWN NSW Coordinator

Email: info@ownnsw.org.au

Family Referral Services

<http://www0.health.nsw.gov.au/initiatives/kts/frs.asp>

Staying Home Leaving Violence (SHLV) Services

http://www.community.nsw.gov.au/docs_menu/parents_carers_and_families/domestic_and_family_violence/stayhome_leaveviolence.html

The program operates in the following locations:

Bega	6492 6239
Blacktown/Mt Druitt	9677 1962
Campbelltown	1800 077 760
Dubbo	6883 1560
Eastern Sydney	9526 4701
Fairfield	9601 7777
Kempsey	6563 1588
Lake Macquarie	4943 9255
Liverpool	9601 7777
Maitland	4934 2585
Moree	6752 4536
Newcastle	4926 3577
Penrith	4721 2499
Redfern	9699 9036
Shoalhaven	4421 7400
Walgett	6828 1611
Wollongong	4255 5333
Wyong	4350 1748

WDVCAS – Women’s Domestic Violence Court Advocacy Service

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

1300 888 529 Monday to Friday, 9am – 5pm

Rape & Domestic Violence Services Australia

www.nswrapecrisis.com.au

1800 424 017 24 hrs

1800RESPECT (1800 737 732) 24 hrs

Domestic Violence NSW

<http://www.dvnsw.org.au/>

Women’s Legal Services NSW

www.womenslegalsw.asn.au

General contact number:

02 8745 6900 Monday to Friday, 9am – 1pm and 2pm – 4.30pm

Women’s Legal Contact Line

www.womenslegalsw.asn.au

02 8745 6988 Sydney Metro
Monday, 9.30am – 12.30pm
Tuesday, 1.30pm – 4.30pm
Thursday, 9.30am – 12.30pm

1800 801 501 Regional
Monday, Tuesday and Thursday

Domestic Violence Legal Advice Line

www.womenslegalsw.asn.au

02 8745 6999 Sydney Metro
Monday, 1.30pm – 4.30pm
Tuesday, 9.30am – 12.30pm
Thursday, 1.30pm – 4.30pm
Friday, 9.30am – 12.30pm

1800 810 784 Regional

Indigenous Women’s Legal Contact Line

www.womenslegalsw.asn.au

02 8745 6977 Monday, Tuesday and Thursday only
10am – 12.30pm

1800 639 784 Regional

Same Sex Domestic Violence

www.ssdv.acon.org.au

Gender Centre

www.gendercentre.org

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
02 9332 1966 or **1800 244 481**
Fax: 9360 5941
Email: srp@clc.net.au

Youth Accommodation Line

www.yaa.com.au

1800 424 830 Monday to Friday, 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.

Immigrant Women’s Speakout Association of NSW

www.speakout.org.au

02 9635 8022 Monday to Friday, 9.30am – 4.30pm

Immigration Advice & Rights Centre

www.iarc.asn.au

02 9262 3833 Tuesday and Thursday only
2pm – 4pm

The Aged Care Rights Service

www.tars.com.au

02 9281 3600

Sydney Metro

Monday to Friday, 9am – 4.30pm

1800 424 079

Regional

Monday to Friday, 9am – 4.30pm

Community Legal Centres NSW

<http://www.clcnsw.org.au/>

Wirringabaiya Aboriginal Women's Legal Centre

www.wirringabaiya.org.au

02 9569 3847

Free call: 1800 686 587

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 0144 or **1300 665 908**

NSW Health Education Centre Against Violence (ECAV)

Specialist training provider in relation to interpersonal violence

www.ecav.health.nsw.gov.au

02 9840 3737

Email: ecav@wsahs.nsw.gov.au

Witness Assistance Service (WAS)

WAS@odpp.nsw.gov.au

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.

1800 814 534

Deaf Society of NSW – Sign Language Communications

1300 123 752

S.T.A.R.T.T.S – Service for the Treatment and Rehabilitation of Torture and Trauma Survivors

02 9794 1900

Mensline Australia

www.menslineaus.org.au

1300 789 978

24 hrs

NSW Police Force

Domestic and Family Violence Team

Operational Programs, Level 2, 20 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 9768 0702	Manager
02 9768 0710	Senior Programs Officer, Domestic Violence
02 9768 0712	Senior Project Officer, Domestic Violence Intervention Court Model (DVICM)
02 9768 0715	Legal Consultant
02 9768 0714	State Domestic Violence Liaison Officer (DVLO) Coordinator
02 9768 0716	Project 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

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

Corporate Sponsor, Domestic & Family Violence

Assistant Commissioner Mark Murdoch, APM, Region Commander, Central Metropolitan Region

Appendix

Aboriginal Strategic Direction (ASD)

The *Aboriginal Strategic Directions 2012 - 2017* is the overarching document which guides the NSWPF in its management of Aboriginal issues. It seeks a genuine level of Aboriginal community ownership and involvement through a consultative and proactive approach. A key approach of this Policy is to involve Aboriginal people in the consultation process so that they understand the objectives and intent of the NSWPF and that the community is engaged in the process. It is a living document that identifies where police can have significant input in the decrease of the overrepresentation of Aboriginal people in the criminal justice system. Twenty years after the Royal Commission into Aboriginal Deaths in Custody, Aboriginal incarceration in NSW remains significantly higher than the broader population.

The *ASD 2012 - 2017* has four key priority areas. These key priorities are linked to the service delivery priorities and the corporate strategies of the NSWPF.

The four priority areas are:

1. Ensure community safety.
2. Improve communication and understanding between police and Aboriginal people.
3. Reduced involvement and improved safety of Aboriginal people in the criminal justice system.
4. Reduction and diversion from harm.

The Outcomes, Actions and Targets set out in the *ASD 2012 - 2017* should be incorporated into the development of *Aboriginal Action Plans* in LAC PACCs. The development of *Aboriginal Action Plans* will give the Aboriginal community, through the PACC, an opportunity to focus on local crime issues and those having the most significant impact on the community, crime prevention strategies and diversionary programs. This enables a proactive, equal role and ownership of the ongoing monitoring, evaluation and management of that action plan. Clear and measurable objectives should also be set.

Police Aboriginal Consultative Committee (PACC)

PACCs are established specifically to address Aboriginal issues associated with crime and crime prevention. The PACC is the first tier of the advisory bodies and meets quarterly in areas with high Aboriginal populations. This replaces the Local Area Command Aboriginal Consultative Committee (LACACCs). In LACs with widely dispersed or distinct Aboriginal communities, separate PACCs may be required. It should be noted that it is not to be used as a consultative committee for broader community issues.

Aboriginal Coordination Team - Operational Programs

The Aboriginal Coordination Team (ACT) 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. The ACT team provides secretariat support to the ASDSC and Police Aboriginal Strategic Advisory Committee chaired by the COP. It also plays a key role in the training and up-skilling of LAC based Aboriginal Issues Officers; supporting the PACCs; and compiling reports for the information of the Corporate Spokesperson and the Aboriginal Strategic Direction Steering Committee based upon the minutes of PACCs, crime statistics and quarterly reports. Employees of the ACT team are administrative officers and are Aboriginal. They are available to assist LACs with any aspect of the requirements of the ASD in its delivery to Aboriginal communities across the state.

NSWPF Statewide Implementation of the Domestic Violence Safety Assessment Tool (DVSAT)

The NSW Police Force (NSWPF) Domestic Violence Safety Assessment Tool (DVSAT) will be implemented statewide across all Local Area Commands (LACs) from 1 July 2015.

What does this mean for police?

From an operational police perspective it will involve the use of the NSWPF DVSAT at all domestic violence (DV) incidents, the results of which will be electronically referred to specialist DV support services.

What is the DVSAT?

The DVSAT is a tool developed for police to identify the level of threat of future harm, particularly serious injury or death, to a victim of domestic violence. The DVSAT is central to the Safer Pathway (streamlined victim referral pathway) which is the second element in the It Stops Here domestic and family violence reforms.

Safer Pathway is modelled on DV risk assessment processes used in other Australian and international jurisdictions which have seen significant success in reducing the levels of re- victimisation and serious injury to victims. Safer Pathway, incorporating the DVSAT, was launched in September 2014 in Waverley and Orange. While the DVSAT is being implemented in all LACs from 1 July 2015 the broader reforms under It Stops Here are being implemented in a staged rollout over the next 3 – 5 years.

The DVSAT is made up of two parts: Part A & Part B.

Part A contains 25 risk identification questions to be asked of people in intimate partner relationships. The questions are based on research that has identified specific behaviours and circumstances commonly found in intimate partner homicides.

There are five basic underlying themes:

1. The background/current environment of the offender/partner.
2. The threat of violence.
3. The dynamics of the specific relationship.
4. The presence of children.
5. Sexual behaviours/assault.

Part B relates to all DV incidents (intimate and non intimate) and is intended to capture information such as the level of fear felt by the victim, the reasons for those fears, and most importantly allows for an officer to use their professional judgement if they see fit to do so.

The DVSAT identifies a victim at one of two threat levels – either ‘at threat’ or ‘serious threat’. Victims that are deemed at ‘serious threat’ are automatically referred to a SAM which will be held fortnightly and chaired by a senior police officer (Crime Manager). This meeting will also be attended by other agencies and a safety action plan will be created to reduce the risk of harm to the victim.

What amounts to a 'serious threat' level?

Victims can be assessed at serious threat based on:

1. 12 or more 'yes' answers in Part A.
2. Police have used their professional judgement to determine the victim is at threat.
3. Meeting the NSWPF standard for repeat victimisation.

How will it work?

Police who attend a domestic violence incident will investigate and take action where appropriate as they would normally. However, they will also ask the victim the 25 risk identification questions on the DVSAT and record the answers in their notebook. When the investigating officer returns to the police station they will create an event on their computer and transfer the answers from their notebook to the DVSAT screen. They will then answer the questions in Part B on the screen. The investigating officer is required to complete the DVSAT prior to the end of their shift.

When the DVSAT is completed, it will be automatically, electronically referred to the Central Referral Point (CRP) along with the contact details of the victim and a short description of the event. The CRP will then forward the DVSAT to a Local Coordination Point (LCP) based on the postcode for where the victim lives. The LCP will contact victims and assist them in obtaining support and referral to other specialist services.

What are the expected benefits?

1. The use of the DVSAT will allow for a consistent approach by police to identify the level of threat of future harm to DV victims.
2. Increased information exchange between government agencies.
3. Improved agency accountability to ensure that other agencies will play their part in assisting and supporting victims of domestic violence.
4. Reduced re-victimisation: the experience of international and Australian jurisdictions, that use similar models, has been that victims are less likely to be re-victimised because of the increased support available to them and the increased information available for agencies to make informed decisions.
5. Improved victim safety.

For further information about It Stops Here and the Safer Pathway reforms visit

<http://www.domesticviolence.nsw.gov.au/>

DVEC Domestic Violence Evidence in Chief Summary

On 1 June 2015, the *Criminal Procedure Amendment (Domestic Violence Complainants) Act 2014 (NSW)* will come into force. This Act is often referred to as 'Domestic Violence Evidence in Chief' (DVEC).

DVEC will allow Police to take a domestic violence victim's statement by video or audio recording, and use this recording as all or part of the victim's 'evidence in chief', or main evidence. This means that victims will not have to give written statements.

DVEC will only be used for defended hearings relating to criminal charge matters, and Apprehended Domestic Violence Order (ADVO) applications connected to these charge matters.

DVEC is designed to:

- reduce trauma for victims by decreasing the time spent giving evidence in front of defendants
- reduce difficulty for victims in remembering details of incidents at a later date in court
- assist victims to give an accurate account of what happened to the court
- assist the court to understand the experience and demeanour of the victim at the time of the incident
- reduce or eliminate intimidation of the victim by the defendant to change their evidence
- increase the number of early pleas of guilty
- save time for victims in giving statements.

Who can give evidence by way of DVEC recording? Victims against whom a domestic violence offence is alleged to have been committed.

When must the recording be made? As soon as practicable after the commission of the offence. This will usually mean at the scene of the incident or when the incident is reported to Police.

Do police need a victim's consent? Yes, Police need a victim's informed consent to take their statement by video or audio recording. It is the victim's choice to give a recorded statement or a written statement.

Do police have to take video or audio recorded statements for all DV offences? No, police can still take typed or notebook statements. In addition, only police officers who have undergone special training will be allowed to take video or audio recorded statements.

Do prosecutors need a victim's consent to play the recording at court? No. Prosecutors must consult victims about whether they want the recording played in court, but the prosecutor makes the final decision. The prosecutor must consider whether the victim is being intimidated or pressured by the defendant when making the decision.

Will defendants get a copy of video statements? No. The legislation is clear that defendants cannot be given copies of video statements. Instead, police are only obliged to give defendants an audio extract of video statements.

Will a defendant's lawyer get a copy of a video statement? Yes. Police can serve the defendant's solicitor with copies of the video. However, the law makes it an offence for a legal representative – or any other person – to give a copy of the video to the defendant.

What if a defendant does not have a lawyer? Police must, as far as is reasonably practicable, provide the unrepresented defendant with an opportunity to view the DVEC video recording at a police station.

What if additional evidence comes to light? If Police become aware of additional evidence after a victim has given a video or audio statement, the victim will need to give a written statement about the additional evidence.

Will victims still have to attend court for defended hearings? Yes. While the recorded statement will form their evidence in chief, victims must still attend court for cross-examination.

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
- 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
- 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 WDVCS 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. refuges, 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.

