



**NSW Police Force**

# **DOMESTIC AND FAMILY VIOLENCE POLICY**



Image courtesy of Dot Radley Photography

**PERFORMANCE AND PROGRAM SUPPORT COMMAND**

## DOCUMENT CONTROL SHEET

### DOCUMENT PROPERTIES

<b>TITLE</b>	Domestic and Family Violence Procedure
<b>SUBJECT</b>	Domestic and Family Violence
<b>COMMAND RESPONSIBLE</b>	Performance and Program Support Command
<b>AUTHORISATION</b>	Commissioner of Police
<b>SECURITY CLASSIFICATION / PROTECTIVE MARKINGS</b>	Unclassified – available to the general public
<b>PUBLICATION DATE</b>	February 2018
<b>CURRENT VERSION NUMBER</b>	V4
<b>REVIEW DATE</b>	October 2021
<b>DOCUMENT NUMBER</b>	D/2017/12596

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### MODIFICATION HISTORY

Version #	Version approval date	Author/Position	Summary of changes
4		SPO, Domestic & Family Violence	Inclusion of DV reforms implemented since publication of previous policy/procedures

## 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 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.

This policy aims to clearly articulate how, through adherence to clear principals and a comprehensive and co-ordinated response, the NSW Police Force will reduce domestic and family violence.

### OUR COMMITMENT IS TO ENSURE THAT THE 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 pro-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 sufficient admissible 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 Domestic Violence Order (ADVO) and referral to specialist domestic violence services.
- Recognises child protection issues and will be proactive in fulfilling its 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 ADVO.
- Recognises the prevention of domestic violence 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 and 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 while ensuring offenders are held to account for their actions.
- The community served by police is diverse and inclusive of Aboriginal and Torres Strait Islander people and cultural, religious, gender, language, sexuality, social, ability and age differences. Police recognise and appreciate these differences when responding to victims and offenders of domestic and family violence, and the families affected by this crime.

**KEY RESPONSIBILITIES:**

- **Senior Executive** – approve and support the NSW Police Force policy / procedure / commitment; regularly monitor and review the policy / procedure; and promote and support a culture that achieves the required outcome.
- **Document Owner** – design, develop, implement, monitor and improve policy / procedure.
- **Commanders/Managers** – communicate, manage and achieve compliance with policy / procedure within their command by identifying risks and obligations; developing controls; monitoring effectiveness of controls; reporting breaches; and attesting to the effectiveness of command compliance / adherence.
- **All staff** – know and comply with policy / procedure / guideline; undertake tasks / actions etc required by policy / procedure; and promptly report breaches / compliance issues / misconduct etc to management.

**Assistant Commissioner Mark Jones APM**  
**Corporate Sponsor for Domestic & Family Violence**  
**4 December 2017**

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## DOMESTIC AND FAMILY VIOLENCE PROCEDURES

This document describes the core requirements for NSW Police Force corporate Domestic and Family Violence Procedures in relation to the Domestic and Family Violence Policy.

### ESSENTIAL SUMMARY

The Domestic and Family Violence Procedures and associated Policy apply to all NSW Police Force employees. The specific objectives are to:

- Clearly communicate the NSW Police Force position and commitment to the safety, protection and wellbeing of victims of domestic and family violence as being of paramount concern in all domestic and family violence investigations.
- Highlight the NSW Police Force position to actively target serious repeat offenders and encourage their compliance with related Apprehended Domestic Violence Order conditions and/or bail conditions.
- Provide clear direction to NSW Police Force employees to ensure they understand their responsibilities as mandatory reporters of children and young people suspected of being at risk of significant harm as a result of their exposure to domestic and family violence.
- Reinforce the commitment of the NSW Police Force as a lead government agency in responding to domestic and family violence, to work together with key interagency partners to achieve joint outcomes for victims, their families and communities, and to work together to improve domestic and family violence service responses.

## 1. CORPORATE SPONSOR MESSAGE

The NSW Police Force takes domestic violence seriously.

Many forms of domestic and family violence, or domestic violence (DV) as it is more commonly known, are criminal. These include physical violence, sexual assault, stalking, property damage, threats, sharing intimate images without consent 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 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 who witness violence at home or are hurt because of violence towards them or from trying to stop someone they love being hurt.

It is the most underreported of crimes because the perpetrator knows the victim intimately through a long-term, close or developing relationship. The more times a perpetrator commits the crime, the greater the likelihood the affected partner becomes vulnerable to further abuse and violence.

If you personally are experiencing domestic violence then I encourage you to contact the NSW Police Force on Triple Zero (000). If someone you know is experiencing domestic violence then I encourage you to contact Crime Stoppers on 1800 333 000. There is no such thing as an innocent bystander.

If you are a perpetrator of domestic violence then police will pursue you and hold you to account for your criminal behaviour under NSW law and place you before the courts.

**Assistant Commissioner Mark Jones APM**  
**Corporate Sponsor for Domestic and Family Violence**

## 2. SCOPE

All NSW Police Force employees are required to comply with the principles outlined in these Procedures and with the associated Domestic and Family Violence Policy.

## 3. PROCEDURES

### 3.1. Context

#### **Domestic and Family Violence is a Crime**

Domestic and family violence involves an abuse of power, mainly perpetrated by men in an intimate partner relationship or after separating from the relationship. It extends beyond physical violence and may involve the exploitation of power imbalances and patterns of abuse over many years. Domestic and family violence can occur in all sectors of the community and in traditional and non-traditional settings. It amounts to a pattern of behaviour that can include:

- escalating levels of abuse and violence
- intimidation
- stalking
- physical abuse
- sexual assault
- verbal abuse and/or threats
- psychological abuse
- threats to harm others, and/or causing harm to pets
- threats to damage property or actually damaging property
- financial deprivation and social isolation
- coercive control in order to maintain control over the victim's behaviour, or to have them suffer emotional or physical torment and live in fear

The investigation of domestic and family violence is complex due to the unpredictability, interpersonal nature of incident/s, and associated risk factors for police and victims.

The NSW Police Force 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 ADVO on behalf of victims and any children living or spending time with the victim (whether they are by consent or not), investigating breaches of ADVOs, and developing solutions to managing repeat offenders.

### 3. PROCEDURES

Due also to the recidivist nature of domestic violence, police need to be thorough in assessing the risk of future harm for victims when investigating domestic and family violence.

Police have at their disposal a range of options to enable officers to intervene to protect victims and prevent domestic and family violence. They include:

- making an application for an ADVO on behalf of victims
- the power to direct or detain for the purposes of applying detain a person who is to be subject to an Apprehended Domestic Violence Order (ADVO)
- use of **Domestic Violence Evidence in Chief (DVEC)** - video recorded statements of victims of domestic violence offences that are admissible as part of their evidence in chief
- arresting and charging the offender
- referrals to support agencies
- development of strategies to deal with repeat victims and repeat offenders

These options offer protection against many forms of domestic and family violence, including acts that are not physically violent.

#### 3.2 Legislation

The primary pieces of legislation which govern police responses to the investigation and management of domestic and family violence are the:

- *Crimes (Domestic and Personal Violence) Act 2007*
- *Crimes Act 1900*
- *Children and Young Persons (Care and Protection) Act 1998*
- *Young Offenders Act 1997*
- *Criminal Procedure Act 1986*
- *Family Law Act 1975*

#### 3.3. Definitions

For the purpose of these Procedures definitions are taken from section 3 of the *Crimes (Domestic and Personal Violence) Act 2007*. Section 11 defines a domestic violence offence as follows:

“Domestic violence offence means an offence committed by a person against another person with whom the person who commits the offence has (or has had) a domestic relationship.”

### 3. PROCEDURES

#### Section 5 Meaning of “domestic relationship”

- 1) For the purposes of this Act, a person has a domestic relationship with another person if the person:
  - a) is or has been married to the other person, or
  - b) is or has been a de facto partner of that other person, or
  - c) has or has had an intimate personal relationship with the other person, whether or not the intimate relationship involves or has involved a relationship of a sexual nature, or
  - d) is living or has lived in the same household as the other person, or
  - e) is living or has lived as a long-term resident in the same residential facility as the other person and at the same time as the other person (not being a facility that is a correctional centre within the meaning of the *Crimes (Administration of Sentences) Act 1999* or a detention centre within the meaning of the *Children (Detention Centres) Act 1987*), or
  - f) has or has had a relationship involving his or her dependence on the ongoing paid or unpaid care of the other person, or
  - g) is or has been a relative of the other person, or
  - h) in the case of an Aboriginal person or a Torres Strait Islander, is or has been part of the extended family or kin of the other person according to the Indigenous kinship system of the person’s culture.
- 2) Two persons also have a domestic relationship with each other for the purposes of this Act if they have both had a domestic relationship of a kind set out in subsection (1) (a), (b) or (c) with the same person.

**Note: “De facto partner” is defined in section 21C of the Interpretation Act 1987.**

**Note:**

- ‘Domestic relationship’ includes intimate personal relationship (including marriage, de facto, boyfriends, girlfriends, children, parents, wider relatives and indigenous kinship systems) as well as house/flat mates, long term residents in residential facilities (e.g. nursing homes, university residences, group homes etc) and carers (whether paid or unpaid).
- It does not matter how long the parties are in an intimate relationship for or how long ago the intimate relationship was.
- A woman’s ex-partner and current partner would be in a domestic relationship with each other for the purposes of the Act, even if they had never met. For example, the following relationships would be considered a domestic relationship:
  1. The relationship between a former spouse and a current spouse/partner of a person.
  2. The relationship between a former de-facto and a current spouse/de-facto partner of a person.
  3. The relationship between a former intimate partner and current spouse/intimate partner of a person.

### 3. PROCEDURES

#### 3.4. Background

The NSW Police Force has a strong commitment, and a clear responsibility to develop and implement strategies for the detection, investigation, prevention and management of domestic and family violence. Police officers are generally the first to respond to domestic and family violence incidents, and therefore the NSW Police Force has a major responsibility to ensure police officers respond appropriately, professionally, consistently and ethically.

There has been significant reform in the domestic and family violence sector in NSW over the past few years since the publication of the previous NSW Police Force policy document. These reforms have resulted in notable changes to improve victim safety and support, initiatives to prevent reoffending and hold offenders accountable for their actions, and government enhancements to the service sector and judicial response.

These Procedures and the associated Domestic and Family Violence Policy have been informed by these reforms as well as:

- NSW 2021
- Time for Action: The National Council's Plan for Australia to Reduce Violence Against Women and their Children 2010 – 2022
- Domestic Violence Justice Strategy 2012 – 2017, NSW Department of Justice
- It Stops Here: The NSW Domestic and Family Violence Framework for Reform 2014, NSW Government
- Victorian Royal Commission into Family Violence 2015
- Australia and New Zealand Police Commissioners Protecting Women and Children from Family Violence Leadership Statement 2016
- Premier's Priority to Reduce Domestic Violence Re-offending 2016
- NSW Domestic and Family Violence Blueprint for Reform 2016-2021: Safer Lives for Women, Men and Children, NSW Ministry of Health
- NSWPF Aboriginal Strategic Directions 2017 – 2020
- NSWPF Policy on the Investigation and Management of Adult Sexual Assault
- NSWPF Sexuality, Gender Diversity and Intersex Policy Statement and Strategy 2016-2020
- NSW Sexual Assault Strategy
- Preventing and Responding to Abuse of Older People NSW Interagency Policy 2015

## 3. PROCEDURES

### 3.5. The role of police in responding to domestic and family violence

Police have six 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, including children and young people.
3. Place offenders before a court or apply the Young Offenders Act to young offenders where appropriate.
4. Be proactive in preventing Domestic and Family Violence.
5. Target repeat offenders and actively encourage compliance with Apprehended Domestic Violence Orders and bail conditions.
6. Work with local service providers to reduce incidents of domestic and family violence.

The police response will take into account the needs and experiences of people from diverse backgrounds, and work with these communities to reduce domestic and family violence NSW Police Force Multicultural Policies and Services Plan (MPSP) 2017-2020; Disability Action Plan 2011; NSWPF Sexuality, Gender Diversity and Intersex Policy Statement and Strategy 2017-2020.

Police will be mindful of the cultural differences among Aboriginal communities and will work with them to reduce family violence (Aboriginal Strategic Direction 2017-2020).

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

Police have respect for the value of different community practices and beliefs on policing. Aboriginality, ethnicity, age, language, culture, religion, sexuality, gender identity, education, abilities, socio-economic factors, area of residence, etc. all contribute to the formation of diverse families and communities that police work with.

Policing responses to all communities will be flexible, respectful and appropriate to the needs of the families with whom police work.

## 3. PROCEDURES

### 3.6. Details

#### NSW Domestic and Family Violence Blueprint for Reform 2016-2021

In August 2016 the NSW Government launched the *NSW Domestic and Family Violence Blueprint for Reform 2016-2021* (the Blueprint). The Blueprint builds on the 2014 reform framework of *It Stops Here* and aims to achieve a domestic and family violence service system in the future that prevents domestic and family violence, intervenes early with vulnerable communities, supports victims, holds perpetrators to account, delivers quality services and improves the service system.

#### Safer Pathway

Arising from the *It Stops Here* reforms and continuing under the NSW Domestic and Family Violence Blueprint for Reform 2016-2021 (the Blueprint), the NSW Police Force is a key partner agency to the implementation of Safer Pathway, which provides a single referral point and coordinated support for victims of domestic and family violence.

Research has shown that the context, type of abuse and number of incidents of domestic violence does provide predictors of future harm. This is one of the reasons that police apply the **Domestic Violence Safety Assessment Tool (DVSAT)** to all victims of domestic and family violence. The DVSAT is a risk assessment tool developed for police to identify the threat level of future harm to male and female DV victims, aged 16 years and over in intimate partner relationships, and determine their safety. If the victim is less than 16 years then the current mandatory reporting guidance will take place. The DVSAT determines whether a victim meets the threshold for being 'at threat' or at 'serious threat'.

Under *Safer Pathway* once a police officer completes the DVSAT it is automatically, electronically referred to the Central Referral Point (CRP), an electronic platform operated by Victims Services. Based on the gender and location of the victim, the CRP then refers the victim to receive local specialist support services. Female victims are referred to a Women's Domestic Violence Court Advocacy Service (WDVCAS) and in sites where Safer Pathway has been rolled out, to a Local Coordination Point (LCP) for follow up and support. Male victims are referred to a local specialist service providing telephone advice, counselling, support and referral for male victims.

Integral to *Safer Pathway* are **Safety Action Meetings (SAMs)**. SAMs are chaired by a senior police officer, generally a Crime Manager. SAMs are fortnightly meetings attended by senior representatives from a number of government agencies with a focus on reducing the immediate threat to a victim's safety through targeted information sharing by SAM members. A victim is referred to a SAM if they are identified as being at 'serious threat' as a result of the DVSAT questions that police officers ask victims of domestic and family violence at the time of a reported incident.

SAMs are not case management. At the meeting members share information to build a comprehensive picture of a victim's circumstances and their needs. SAM members develop a Safety Action Plan for each victim on the agenda. This plan consists of a list of actions for member agencies to take that are aimed at reducing the threat level to the victim's safety.

### 3. PROCEDURES

By the end of 2018, Safer Pathway will be operational at the following sites: Albury, Armidale, Ashfield/Burwood, Auburn/Granville, Bankstown, Bathurst, Blacktown, Blue Mountains, Bourke, Broken Hill, Campbelltown, Central Sydney, Coffs Harbour, Deniliquin, Dubbo, Far South Coast, Fairfield, Gosford, Goulburn, Griffith, Hunter Valley, Illawarra, Lismore, Liverpool, Moree, Mt Druitt, Newcastle, Newtown, North Sydney, Northern Beaches, Nowra, Orange, Parramatta, Penrith, Port Macquarie, Queanbeyan, St George, Sutherland, Tamworth, Taree, Toronto, Tweed Heads, Wagga Wagga, Walgett, Waverley, Wollongong, and Wyong.

#### Domestic Violence Evidence in Chief

Domestic and family violence requires a high standard of professional investigation that can lead to more effective prosecutions. The importance of gathering forensic and other evidence helps avoid the over reliance upon the victim's willingness and capacity to testify in court.

On 1 June 2015 the Domestic Violence Evidence in Chief (DVEC) reforms were introduced into the *Criminal Procedure Act 1986*. The reforms make NSW the first Australian jurisdiction to allow complainants to give their evidence in chief by way of a pre-recorded video statement in domestic violence offence proceedings.

The amendments mark a fundamental change in how the law treats victims of domestic violence and have been shown to greatly benefit victims by recognising and combating the two fundamental obstacles they face:

- the trauma of giving full and free evidence in front of the offender and
- the difficulty in conveying, in the sterile atmosphere of a court room, just what the victim actually experienced (and perhaps what was still being experienced) at the time of the intervention by police.

**Note: Only domestic violence complainants can give evidence by DVEC and only in proceedings for domestic violence offences and related ADVO applications.**

#### 3.7. Premier's Priority to Reduce Domestic Violence Reoffending

In addition to protecting and supporting victims, police have a role in the prevention of domestic and family violence to identify high risk offenders and repeat victims, and to ensure appropriate action is taken to protect the victim and demonstrate that offender behaviour is unacceptable.

In September 2015 the NSW Premier announced a State Priority (Premier's Priority) to reduce the proportion of domestic and family violence perpetrators reoffending within 12 months by 25% by 2021 (based on the 2019 cohort of perpetrators). This reflects the need to address domestic and family violence at its root and has seen the focus shift to consider what more should be done to strengthen perpetrator accountability and reduce reoffending.

The NSW Police Force will use a proactive approach in dealing with offenders. This approach requires police not only to respond to incidents of domestic and family violence, conduct thorough investigations and give strongest consideration to arrest, but to also reduce recidivism. In adopting a thorough proactive investigation, police will interview witnesses, take statements, record injuries and property damage using digital and video cameras to gather evidence, and prepare detailed briefs for the prosecution.

### 3. PROCEDURES

NSW Police have implemented a suite of strategies to respond to the Premier's Priority. These include the following:

#### **DV Suspect Target Management Plan II (STMP II)**

The statewide Suspect Target Management Plan II (STMP II) is a well established framework for Police Area Commands (PAC) to use to assess and target high risk domestic violent offenders. Once repeat offenders are identified the specialist domestic violence and intelligence officers at the LAC develop specific strategies to monitor the offender. The offender is informed by a Domestic Violence Liaison Officer (DVLO) that they've been identified as a repeat domestic violence offender and that police will be monitoring them and that any offence they commit will be thoroughly investigated with a zero tolerance approach. The DVLO also informs them that the DVSTMP II process is a police initiative and not a result of any complaint made by a victim. The DVLO also contacts the victim to advise them that the offender is being monitored.

#### **Domestic Violence High Risk Offender Teams**

Four Domestic Violence High Risk Offender Teams (DV HROT) have been established to support the PACs to target recidivist offenders and investigate domestic and family violence incidents through utilisation of numerous investigative strategies. An additional two teams will be implemented by 2019.

#### **Referral of male offenders to Men's Referral Service**

Under the Blueprint the Men's Referral Service (MRS) based in Victoria have been contracted to receive automatic referrals of male offenders from NSW Police via the Central Referral Point. This mirrors the process for the automatic referral of victims from NSW Police to the Central Referral Point. Referrals will only be made for defendants in Apprehended Domestic Violence Order (ADVO) applications and domestic violence related criminal charges. Only defendants in the sites where the Safer Pathway reforms have been implemented are able to be referred.

The MRS is a service for men who identify they are having problems with violence and abuse in family relationships. The aim of a proactive telephone intervention for male perpetrators of domestic and family violence is to support a consistent and integrated approach to managing threats to the safety of victims of domestic and family violence, while ensuring that perpetrators are assisted to change their abusive behaviours and are held accountable for their violence.

### 3. PROCEDURES

#### 3.8. 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. It is important to note however that while some men are the victims of violence they are most at risk from other men as evidenced by the statistics below for non-intimate relationships.

While the overwhelming majority of ADVO applications are made by women against their male intimate 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.

The NSWPF Chief Statistician in a review of domestic violence related assaults for the 2016-17 Financial Year determined:

- In **all** DV-related assaults, 72% of victims are female and 28% are male. 22% of Persons of Interest (POIs) are female and 78% are male.
- However, 37% of DV-related assaults involve people in **non-intimate relationships**. In these cases, male/female involvements are much closer: 56% of victims are female and 44% are male, while 31% of persons of interest (POIs) are female and 69% are male.

(The extent of non-intimate relationships in DV statistics is usually not recognised, with most policy and media focus equating “DV” with “intimate partner violence”).

- When only **intimate partner-related DV** is analysed, the reality that DV (as commonly understood) is a gendered crime becomes clear. 84% of victims are female and 16% male, while 18% of POIs are female and 82% male.
- The relative extent of DV reported within same sex and different sex relationships is also available for analysis. Of intimate partner-related DV:
  - 80% involves a male POI and female victim
  - 15% involves a female POI and male victim
  - 3% involves a POI and victim who are both male
  - 2% involves a POI and victim who are both female

Research data<sup>1</sup> suggests that around one third of respondents in same sex relationships have experienced domestic violence. The data suggests even more concerning rates for transgender and intersex respondents.

1. Coming Forward. The underreporting of heterosexist violence and same sex partner abuse in Victoria, December 2008 (The Australian Research Centre in Sex, Health and Society, La Trobe University, Melbourne)

Private Lives. A report on the health and wellbeing of GLBTI Australians, March 2006 (The Australian Research Centre in Sex, Health & Society, La Trobe University, Melbourne)

Fair's Fair. A snapshot of violence and abuse in Sydney LGBT relationships 2006 (ACON and the Same Sex Domestic Violence Interagency Working Group)

### 3. PROCEDURES

The challenges faced by transgender and intersex people were highlighted in recent research – Calling it What it Really is (2015)<sup>2</sup>. The data suggests that many transgender people wrongly believe that they are obliged to tolerate a certain level of abuse and violence in their lives. Because humiliation and harassment tends to be an everyday experience, many will tolerate an abusive relationship and do not report violence to anyone, including the police.

Police often face conflicting versions of events and counter allegations of violence from both parties involved in the incident. However, research suggests that the types of abuse used by men differ to the types of abuse used by women.

“Based on research with female victims, we may also expect that domestic violence reported to the police involves behaviours (whether physical, sexual, psychological, emotional, verbal, financial, etc.) used as an ongoing pattern of fear and coercive control by one person against another with whom they have or have had a relationship ... will usually involve one partner being violent, involve frequent abuse, and is likely to escalate and to result in serious injury. Within this context it has been found that women, in particular, may use ‘violent resistance’ against violent male partners<sup>3</sup>.

When police attend a domestic and family violence incident they will investigate the incident with a view to identifying the alleged victim in the incident together with the person of interest. To make an informed decision the process will involve looking at all the circumstances of the incident, the history of domestic violence between the parties and forming an opinion on the basis of the information at hand.

Applications for ADVOs will be pursued, and strong consideration will be given to applying for an exclusion condition as part of a provisional order, taking into consideration the victim’s immediate safety and the longer term impact on the victim and any children.

#### 3.9. Domestic violence and sexual assault

Sexual assault is one of the tactics used by some offenders of domestic violence. The experience of sexual assault is different for everyone who experiences it, regardless of whether it is committed by a stranger or someone known to the victim. It is like any other major shock or trauma, with a whole range of short and long term effects for the victim. Police will respond in a manner that supports victims, recognises their needs and wishes and provides the best investigative response possible at Police Area Commands, specialist areas and through our partnerships with other agencies.

Due to the intersection between the crimes of domestic violence and sexual assault the NSW Government has developed the NSW Sexual Assault Strategy in partnership with NSW Police, other agencies and specialist

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2. Calling it What it Really is. A Report into Lesbian, Gay, Bisexual, Transgender, Gender Diverse, Intersex and Queer Experiences of Domestic and Family Violence, 2015 (LGBTIQ DFV Interagency, UNSW, Sydney)

3. Hester, M. (2009) Who Does What to Whom? Gender and Domestic Violence Perpetrators, Bristol: University of Bristol in association with the Northern Rock Foundation

### 3. PROCEDURES

experts from the domestic violence and sexual assault sector. The Strategy has a dual focus on prevention and ensuring coordinated, high quality care and support for victims.

#### 3.10. Domestic and family violence is a child protection issue

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

When police attend a domestic and family violence incident and children are present, then the attending police officer(s) will use their professional judgement to make an assessment to determine whether the child or young person is at 'risk of significant harm' and requires an immediate report to the Family and Community Services (FACS) 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 present during the domestic violence incident does not meet the significant harm threshold, then the police officer will complete their COPS Event, including a Child at Risk incident report.

#### Child protection requirements when responding to domestic and family violence

All police officers have a legal responsibility under section 24 of the *Children and Young Persons (Care and Protection) Act 1998* to report children at risk of significant harm as outlined in section 23 of the Act.

Section 23 states the legislative requirements for police to report children at risk of **significant** 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*

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**.

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.

### 3. PROCEDURES

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.

#### **Mandatory reporting**

Under Section 27 of the *Children and Young Persons (Care and Protection) Act 1998*, officers of the NSW Police Force are *mandatory reporters*. A mandatory reporter is an individual required by law to report to Family and Community Services (FACS) 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.

Reports regarding children at risk are completed electronically on WebCOPS using the mandatory reporter guidance (MRG) tool and disseminated to either the Child Protection Helpline, where appropriate, or to the NSWPF Child Wellbeing Unit. The MRG forms part of the common assessment framework for all agencies working with children, young people and families. Police officers will apply the MRG tool to determine whether a child or young person meets the threshold for being at risk of significant harm.

A police officer can still exercise professional judgement and 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 the Supervisor. They can also call the Child Protection Helpline to report a child or young person at imminent risk of significant harm instead of reporting the matter electronically.

To find out more about the role of police in recognising and reporting children and young people at risk of significant harm, police officers are referred to the following documents that should be read in conjunction with this policy:

- Domestic and Family Violence Standard Operating Procedures
- *Children and Young Persons (Care and Protection) Act 1998*
- Child Wellbeing and Child Protection – NSW Interagency Guidelines
- NSW Police Force Youth Strategy 2013 -2017

#### **Child Wellbeing Unit (CWU)**

The NSW Police Child Wellbeing Unit is staffed by NSW Police employees, both sworn and unsworn. The CWU receives child at risk reports completed by Police in COPS where the outcome is NO ROSH (No Risk of Significant Harm). Assessment Officers at the CWU conduct further analysis of these reports, assessing information received from the event, other government and non government agencies, and also from a database utilised by all CWU's.

### 3. PROCEDURES

At the conclusion of this analysis, the CWU may deem the matter to meet ROSH or IROSH and a report will be made to the Child Protection Helpline by the CWU. Other outcomes if the NO ROSH decision is upheld include referral to early intervention services such as the Family Referral Service (FRS). The Police CWU is an internal Police Unit only, and has no direct contact with children, families or victims.

#### Children on Apprehended Violence Orders (ADVOs)

If there are only children listed in an ADVO application, police are the only authority who can make the application under section 48(3) Crimes (Domestic and Personal Violence) Act.

Police are encouraged to include children in ADVOs where children are involved in domestic and family violence incidences. The courts, or officers of the court, are required to place children considered in need of protection on an ADVO, unless the defendant can justify the exclusion of the children from the order (see section 38(2) & (3)).

An ADVO is a civil application and does not result in a criminal offence unless the ADVO is breached by the defendant. This means that when police attend a domestic and family violence incident involving children, and they take out an ADVO to protect the victim, the children of the person in need of protection will be included on the order. The conditions that apply to the person in need of protection, also apply to the children.

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

#### 3.11. Young offenders

Contrary to popular belief young offenders involved in domestic and family violence may be dealt with under the *Young Offenders Act 1997* depending on the seriousness of the offence, the degree of violence and the harm caused to any victim. These considerations must be balanced against the NSW Police Force proactive stance on domestic violence and community expectations.

The NSW Police Force recognises the advantage of dealing with young offenders involved in domestic and family violence matters under the *Young Offenders Act* to:

- retain family involvement in the process without placing the victim in jeopardy
- allow young offenders to take responsibility for their offending behaviour and restore the damage done to the victim
- provide opportunity to address the offending behaviour, and
- decrease the number of young offenders going to court

### 3. PROCEDURES

Taking out an ADVO against a young offender is also appropriate where it is necessary to protect the victim, however where exclusion conditions are necessary, duty of care towards the young offender must be taken, and all efforts must be taken to ensure that the young offender is accommodated appropriately. This will not interfere or affect any action taken under the *Young Offenders Act* such as a caution or a youth justice conference. The ADVO will need to include a condition to enable the victim to participate in the conference if applicable.

**Note: An offence of breach ADVO cannot be dealt with under the *Young Offenders Act* (pursuant to section 8).**

In 2016 the Joint Protocol (the Protocol) to reduce the contact of young people in residential out-of-home care with the criminal justice system was released. The Protocol has been prepared by the NSW Ombudsman based on extensive consultation with relevant stakeholders and applies to young people under 18 years of age living in residential out-of-home care in NSW.

While the central purpose of the Protocol is to reduce unnecessary police contact with young people, it is equally important that residential service staff respond to the needs of any victim(s). Police will continue to use their discretion to determine whether to apply the *Young Offenders Act* and will consider information provided by staff members, victims and witnesses and their own judgement and Standard Operating Procedures in applying the Protocol.

#### 3.12. Victim support

The impact of domestic and family violence on victims is of significant concern to both the NSW Police Force and the community. No one agency can provide an effective response to domestic and family violence. A multi-service approach is needed to provide the most effective support to victims.

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 NSW Police Force's strong commitment to meeting the needs of victims of domestic and family violence, officers will:

- Apply the NSW Police Force Domestic Violence Safety Assessment Tool (DVSAT) to each and every domestic and family violence incident.
- Ensure Police Area Commands 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 culturally and linguistically diverse communities, with the assistance of Multicultural Community Liaison Officers, to gain their support and trust, to develop appropriate responses to reduce domestic and family violence.
- Work with Gay and Lesbian Liaison Officers to support the LGBTI victims.

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### 3.13. Working with diverse communities

#### Aboriginal communities

Aboriginal people continue to be the most disadvantaged group in Australian society and over represented in the criminal justice system. *The Aboriginal Strategic Direction (ASD) 2012-2017* is the overarching document which guides the NSW Police Force in its management of Aboriginal issues. It seeks a genuine level of Aboriginal community ownership and involvement through a consultative and proactive approach.

Police will work with Aboriginal communities, with the assistance of Aboriginal Community Liaison Officers, to gain their support and trust, particularly women, to address broader family violence issues.

#### Lesbian, gay, bisexual, transgender, intersex (LGBTI)

The NSWPF *Sexuality, Gender Diversity and Intersex Policy Statement and Strategy 2016-2020* are guiding documents for all police officers, particularly liaison officers such as DVLOs. Collaborative work is encouraged, as are efforts to ensure that all officers are equipped to respond sensitively and effectively to lesbian, gay, bisexual, transgender and intersex victims of domestic and family violence. The experiences of transgender and intersex people as victims of domestic and family violence and when seeking help and reporting violence as they are especially vulnerable. Police must be considerate of the complexity and vulnerability of these victims in order to provide appropriate services and referrals.

The Gay and Lesbian Liaison Officer (GLLO, now LGBTI liaison) program enables investigators of domestic and family violence in same sex relationships, or violence experienced by transgender and intersex people, to contact a GLLO for advice and/or victim support. Many PACs will have a GLLO; however GLLOs in nearby PACs can also be called on for assistance.

#### Older People

Evidence suggests that the abuse of older people is most often committed by adult children against their parents. The offender may also be the person's partner, family member or carer.

Police may respond to the abuse of older people in a range of settings such as in the family home or in residential aged care facilities. It is important to ensure the safety of the older person and that they are not left in the care of an abuser. Decisions about an older person's capacity should only be made by qualified medical officers or health professionals.

If there is a demonstrated lack of capacity from the older person or a carer or suspected abuser makes claims about capacity issues, police may utilise the services of an Aged Care Assessment Team (ACAT).

### 3. PROCEDURES

#### People with a disability

People with a disability may be victims of intimate partner violence, violence committed by a family member, violence committed by a carer or violence committed in an institutional residential setting, including group homes and boarding houses. People with a disability are at significantly higher risk of violence than able bodied people.

Particular dynamics that can occur when the victim has a disability include:

- restricting access to aids, guide dogs or wheelchairs, support services;
- withholding or forcibly administering medication, food or other substances;
- Intimidating the victim, this can have a disproportionate effect on a person with an intellectual disability.

In many cases of domestic and family violence against a person with a disability, the offender may be the person's main carer. This makes it particularly difficult for the victim to leave a violent situation.

Victims may have particular needs depending on the nature of their disability. For example, a victim with a physical disability may need assistance with accessing a police station or court and may need an interpreter e.g. Auslan language. A victim with an intellectual disability may need a support person to assist them while being interviewed, and may need to have the legal process clearly explained to them while the support person is present.

#### Culturally, linguistically, and religiously diverse (CALD) communities and new and emerging communities

There may be a number of considerations to assist police in working with CALD, refugee and other newly settled communities. While a person's cultural background and experience is no excuse for domestic violence, understanding cultural and contextual interpretations will assist police in determining the starting points in collecting information, gathering evidence, interviewing witnesses, or engaging in violence prevention strategies.

Police will use accredited professional interpreters and translators in formal procedures to ensure that information is communicated and understood by all parties involved.

#### 3.14. Interagency Partnerships

Across the state police work on a local level with a variety of key partners to provide effective legal and social services to victims of domestic and family violence. There are a number of interagency partnerships involving police that aim to deliver a coordinated response. These include, but are not limited to, the following:

- **Women's Domestic Violence Court Advocacy Program (WDVCAP)** which oversees 28 Women's Domestic Violence Court Advocacy Services across 114 local courts

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- **Staying Home Leaving Violence (SHLV)** – operating at Bega, Blacktown, Broken Hill, Campbelltown, Clarence Valley, Coffs Harbour, Dubbo, Eastern Sydney, Fairfield/Liverpool, Gosford, Grafton, Kempsey, Lake Lismore, Macquarie, Maitland/Cessnock, Moree, Newcastle, Nowra, Orange, Parramatta/Holroyd, Penrith, Redfern, Tamworth, Tweed Heads, Wollongong, Wyong/Gosford.
- **Integrated Domestic & Family Violence Services Program (ID&FVSP)** – consists of six projects covering 10 locations across NSW. The NSW Police Force is one of the key partners in each of these projects.
- **LGBTIQ Domestic and Family Violence Interagency** – operating since 2000 and includes a range of government and non-government service providers in LGBTIQ specific and mainstream services ([www.anothercloset.com.au](http://www.anothercloset.com.au)).
- **Local Domestic Violence Committees**
- **Regional DFV Committees in some Regions**

It is the responsibility of the Commander at each PAC to support the development of strong links with local agencies, through their Crime Management Unit and DVLO, to provide an effective, coordinated local response to investigating and managing domestic and family violence.

#### 3.15. Impact on police of working with domestic and family violence

Working in the area of domestic and family violence is demanding and at times can be rewarding or demoralising. Often there are no obvious answers or quick resolutions to matters. It is not uncommon for police to respond to repeat victims and repeat offenders. Responses to incidents will often require different approaches due to the complex and often uncertain nature of domestic and family violence. The type and level of support given to officers will often have a bearing on the effectiveness of the outcome.

Domestic and family violence offences require a thorough and comprehensive investigation. This is achieved through good supervision and ongoing monitoring of investigations. New police officers will be teamed with more experienced police when dealing with a domestic and family violence incident.

#### 3.16. Implementation

The contents of this document, will be communicated to NSW Police Force staff including operational police officers, intelligence practitioners, Crime Managers, Crime Coordinators, Police Area Commanders, Specialist Operations Commanders, Domestic Violence Liaison Officers, Youth Liaison Officers, Aboriginal Liaison Officers, Gay & Lesbian (LGBTI) Liaison Officers, Multicultural Community Liaison Officers, School Police Liaison Officers, the NSW Police College and the Crime Management Programs Unit.

## APPENDIX 1

### ROLES & RESPONSIBILITIES

The role of police in domestic violence has changed over the years. There is now a greater emphasis on police not only responding to incidents of domestic and family violence but working with the community to prevent an incident of violence or any further escalation. To this end NSWPF are committed to working with other service providers to improve practice and reduce incidents of domestic violence in the community.

To help achieve this, the NSWPF has identified specific roles and responsibilities within the organisation to coordinate its responses to domestic violence. These roles and responsibilities are both operational and corporate and aim to improve the strategic and local responses to domestic and family violence. They include specialist liaison officer positions located within the Crime Management Unit at a Pocal Area Command.

#### Domestic Violence Liaison Officer (DVLO)

DVLOs are specialist officers, often part of a DV Team in a PAC, whose role it is to support the PAC response to DFV 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:

- 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 within the Command
- assist victims through the court process for ADVOs.
- liaise with court staff and prosecutors to ensure local procedures are complied with and that police within the Command are aware of these procedures
- keep police abreast of the latest legislative changes and research in domestic and family violence, and bring such changes to police within the Command
- monitor repeat victims and repeat offenders.

#### Domestic Violence Operatives (DVO)

The DVO role has a primary function to proactively identify, target and monitor repeat and high risk offenders. The DVO will provide advice and assistance to investigating police, coordinate compliance operations and work closely with both government agencies and non government organisations targeting DV offenders.

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### Youth Liaison Officer (YLO)

The YLO ensures that matters involving young offenders are dealt with under the *Young Offenders Act* where possible, and to consider the nature of family dynamics when delivering a police caution under the *Young Offenders Act*. The YLO should also not involve the victim as the support person for the young offender during the caution. They are also responsible for addressing school related issues and providing crime prevention workshops to schools. The YLO also plays a quality control role in the policing of young people.

### Aboriginal Community Liaison Officer (ACLO)

Aboriginal Community Liaison Officers (ACLOs) are unsworn officers and at a Police Area Commands. Their primary role is to liaise, mediate, develop and maintain open communication lines and establish rapport with the Aboriginal community. They are responsible for providing advice and support to police about the management of Aboriginal issues within the local area as it relates to the Aboriginal Strategic Direction.

In addition, ACLOs assist in developing, implementing and monitoring programs that bring about positive outcomes between police and Aboriginal people. They also work towards reducing tensions between police and Aboriginal people by enhancing understanding of policing roles and ensuring that police stay well informed and aware of local Aboriginal issues. ACLOs establish and maintain a close personal rapport with Elders, respected community leaders and other members of the Aboriginal community.

### Gay & Lesbian Liaison Officers (GLLO, now LGBTI)

The Gay and Lesbian Liaison Officers (GLLOs) Program is central to the NSW Police Force's response to anti-gay/lesbian/transgender violence, and a range of issues affecting lesbian, gay, bisexual, transgender and intersex people. This incorporates same sex domestic and family violence, and violence experienced by transgender and intersex people.

### Multicultural Community Liaison Officers (MCLO)

The Multicultural Community Liaison Officer (MCLO) program employs unsworn officers at the local level to work with local communities and police towards achieving corporate priorities through liaison, project implementation, victim support and networking. The role of MCLOs in strengthening links and facilitating communication and interaction between police and culturally and linguistically diverse communities is critical to a high quality customer focused policing service. Some MCLOs provide assistance to DVLOs at court and are actively involved in assisting DVLOs to develop their understanding of working with culturally, linguistically and religiously diverse communities.

### Crime Prevention Officer (CPO)

Crime Prevention Officers (CPO) are located within each the PAC and assist in the implementation and coordination

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of community based safety and crime prevention strategies and programs within the Command. They liaise and work closely with other government departments and agencies in developing strategies and solutions to local issues including environmental factors through Crime Prevention through Environmental Design (CPTED).

### CORPORATE RESPONSE TO DOMESTIC & FAMILY VIOLENCE

#### Corporate Sponsor for Domestic & Family Violence

The Corporate Sponsor for Domestic & Family Violence holds the responsibility for representing the Commissioner externally and internally on matters concerning domestic and family violence and ensures that profile of police in managing domestic and family violence is corporately supported. The Corporate Sponsor responsibilities include:

- providing advice to the Commissioner and the Executive Team on matters relating to domestic and family violence
- participating in, and coordinating the NSWPF involvement in, appropriate interagency activities that require NSWPF input
- overseeing and monitoring the development of NSWPF policy and practice regarding domestic and family violence
- speaking publicly on behalf of the Commissioner on matters concerning domestic and family violence
- overseeing internal NSWPF activities and priorities (including chairing committees) concerning domestic and family violence

#### Domestic and Family Violence Team, Performance and Program Support Command

The Domestic and Family Violence Team consists of both sworn and unsworn staff and provides advice and support to both the NSWPF Senior Executive and the field on operational, legal and corporate issues. The Team is also a strategic and active partner in many interagency forums with government and non-government agencies. The team includes a Legal Consultant who is a specialist domestic violence police prosecutor. The Domestic and Family Violence Team is instrumental in developing and implementing projects and strategies to holistically improve NSWPF response in the investigation and management of domestic and family violence.

#### Region Domestic Violence Sponsors (RDVS)

Region Domestic Violence Sponsors are selected Police Area/District Commanders from each of the six NSWPF regions. Their role is to promote awareness and understanding of contemporary policing in the investigation and management of domestic and family violence within their respective regions. The Sponsors provide a critical link between operational responses and corporate issues. In addition they maintain an awareness of interagency work and promote the benefits of coordinated responses to domestic and family violence across

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the Region.

### **Region Domestic Violence Coordinators (RDVC)**

Region Domestic Violence Coordinators (RDVC) positions have been established within each of the six NSWPF Regions. The positions answer directly to their respective Region Operations Managers and work very closely with the Region Domestic Violence Sponsors. The RDVC position is a vital link between NSWPF and other government agencies and non government organisations to provide an integrated, coordinated response at the local level to domestic and family violence.

## APPENDIX 2

### Protecting Women and Children from Family Violence Leadership Statement

Family violence is a blight on our communities. We have been witness to this violence, especially against women and children, far too often.

As leaders of our police organisations we are committed to doing everything within our power to prevent family violence, protect victims and hold perpetrators to account.

Over the past decade, our organisations have progressed towards a much more effective recognition and response to family violence. We have improved our service delivery, our policies and our training. We have initiated police issued domestic or family violence orders so we can stop the violence then and there; we have enhanced our training to improve our understanding and upskill our first responders; we have implemented teams of officers dedicated to family violence response and investigation to ensure better expertise and oversight; and we have strengthened partnerships with other service providers and the community to enhance information sharing and risk assessments.

However family violence is not an issue that can be solved by police alone. It is a community issue and requires a community response. We will play our part and continue to enhance the services police provide, but others need to play theirs – including men who in the vast majority of cases are the perpetrators of violence.

The underlying causes of male violence against women have their roots in cultural attitudes towards the role of women in society – attitudes which all of us, but particularly men, need to take responsibility for changing.

In downplaying violence within the family context, perpetrators fail to take responsibility and reasonable steps to address the problem. We acknowledge firstly that most men are not violent, abusive or controlling; and secondly that men can also be victims of family violence. However, we all need to ask ourselves how we contribute to the attitude, unconscious or otherwise, that leads some men to feel that it is their right to exert power and control over those closest to them.

No longer can we as a community turn a blind eye to family violence or endemic disrespect of women, whether it is in the workplace, in our sporting clubs or in the pub.

This Leadership Statement reflects our commitment as leaders of our police organisations and in our communities, to contribute to making change. Our message to women and children affected by family violence is that we believe your stories, we take all reports seriously and we can help. To the broader community, we say all of us have a responsibility to challenge behaviour and contribute to cultural change that protects women and children from family violence.

**Australia and New Zealand Police Commissioners 22 April 2016**

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