

CODE OF PRACTICE

FOR THE INVESTIGATION OF FAMILY VIOLENCE



VICTORIA POLICE

SUPPORTING AN INTEGRATED RESPONSE
TO FAMILY VIOLENCE IN VICTORIA

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FOREWORD

A young woman came to see me about an incident attended by Victoria Police more than two years ago.

At the time, she was living in Melbourne with her two young children, one a three-year-old and the other 18 months.

She was separated from her husband. He had access rights to the children, but an intervention order prevented him entering her house. One day her husband came to the house, he followed one of the children inside, locked the door and beat the woman. He broke her jaw and then left.

The woman called police, who attended and found her sitting on the bathroom floor, bloodied, with two crying toddlers.

She said the two attending police told her the beating was her own fault and that she should not have allowed her husband into the house. They had warned her, they said, that to do so would cause problems.

I cannot imagine any police members I have ever met responding in that way.

There may have been a number of reasons for this response. They may have thought it 'just another domestic' and too complicated. Maybe they believed they would not be able to get sufficient evidence to charge the man as it would have been his word against hers. Or, at the time, the victim may have been reluctant to take it further, through fear of the offender.

These reasons are not acceptable. And this story reinforces for me the whole issue around family violence.

Police confront it every day. It is complex. It is emotional. And it is not easy for police. But, it is our job and we cannot back away from it.

A broken jaw is a serious criminal offence and should be treated just like any other serious offence, and police are obliged to ensure the safety of any children present.

At the end of her story, the woman went on to tell me she had since established a very positive relationship with her local police, who had supported her through her difficulties.



For some people, how we as police respond to family violence can mean the difference between life and death - about half the homicides in Victoria over recent years have been the result of family violence.

More often, it can mean the difference between people having a life of misery or a life where they can see a more positive future.

This is why we have developed the Code of Practice. It gives police more options to assist victims, and to take an independent view in assessing family violence incidents and investigating them in the same way they would any other crime.

The Code of Practice was developed by police, in consultation with specialist family violence service providers. All of these people have had a long understanding and involvement with family violence issues and believe it is the best way forward.

I fully support this Code of Practice and believe it is the way we can make a difference to stop family violence.



Christine Nixon, APM
Chief Commissioner of Police

August 2004



ACKNOWLEDGMENTS

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Victoria Police Code of Practice Working Group

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Members of the Statewide Steering Committee to Reduce Family Violence

Office of Women's Policy (Department of Victorian Communities)

Organisations representing diverse communities

- Aboriginal Family Violence Prevention Legal Service
- Elizabeth Hoffman House
- Immigrant Women's Domestic Violence Service
- Disability Discrimination Legal Service
- Regional Family Violence Networkers
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- Acting Sergeant Melinda Edwards (contributions to the same sex relationships section)

Publisher's Note:

The information contained in this Code of Practice was current at the time of printing. While Victoria Police will update its website as the need arises, users are urged to make themselves aware of all updates and amendments and to ensure that their own copy of the Code is the most current.



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LEGEND

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EXECUTIVE SUMMARY

The *Victoria Police Code of Practice for the Investigation of Family Violence* outlines how police will respond to reports of family violence and emphasises that all such reports will be treated seriously by police.

Many forms of family violence are criminal. These include physical violence, sexual abuse, stalking, property damage, threats and homicide.

Other forms, which are not categorised as criminal offences but which can be just as destructive for victims and their families, include coercive or controlling behaviours and any behaviour that may cause a person to live in fear, to suffer emotional and psychological torment, financial deprivation or social isolation.

In late 2001, Victoria Police conducted a review into all matters related to violence against women. The review team consulted widely with Government and non-Government specialist service providers and published their findings, *The Way Forward: Violence Against Women Strategy*, in August, 2002.

One of the 25 recommendations contained in the strategy was the development of the *Victoria Police Code of Practice for the Investigation of Family Violence*.

The Code's main aims are safety and support for victims, early intervention, investigation and prosecution of criminal offences, and minimisation of family violence in the community. It gives police greater flexibility to work in partnership with specialist service providers, where appropriate, and to provide the best service to the victim. Referral agencies and other specialist services are listed within the Code.

In most cases, women and children are the victims of family violence. However, the Code recognises that it can occur in all communities and in any kind of relationship and that victims can include men, transgender persons, elderly people and disabled people.

It also recognises that some victims may be more disadvantaged than others when seeking assistance. This can be due to factors such as isolation, cultural differences, language barriers, disabilities, gender and age. Children are particularly vulnerable and the Code acknowledges the inter-relationship between family violence and child abuse.

Family violence also exists among Victoria Police employees and those victims and offenders will be treated under the Code in the same way as other members of the community.



The Code consolidates legislation and police policy and procedure, as well as introducing changes. The main changes are:

- Police will follow the step-by-step processes outlined in the Police Options Model detailed in the Code. This Model provides three options, which are the referral option, the criminal option and the civil option. Police will choose one or more of these options, depending on the victim's circumstances and needs.
- Police will respond to the needs of children individually.
- Police will investigate all breaches of an intervention order and a police supervisor will decide whether there is sufficient evidence to warrant prosecution. Training will reinforce that it is not the role of police to consider pleas of 'technical breach' or 'breach with consent'.
- Supervisors will be more accountable in ensuring police under their supervision take the most appropriate action.
- Ten full-time family violence advisors will be placed in regions across Victoria.
- In certain situations, a case conferencing process will be followed to allow cases to be reviewed.

The Code reinforces the following existing policy:

- Police will treat every report of family violence as genuine and respond and act on all reports, regardless of where the reports have originated.
- Police will assess the immediate risks and threats to victims and manage each incident.
- Police will assess the level of future protection required for victims.
- Stronger emphasis will be placed on police recognition that diverse communities and some incidents may require a different approach.
- All reported incidents of family violence must be recorded to allow identification of recidivist offenders, monitoring of trends and identification of persons at risk.
- Referral will be a mandatory component of any police response.

All operational police will undergo a four-hour training session on the Code – this training program will take about 12 months to complete.

The Code is one of the many programs under *The Way Ahead*, the Victoria Police Strategic Plan 2003-2008, whose goals are to reduce crime, increase levels of customer satisfaction and ensure people feel safe in the community.

UPDATES

This Code will be updated to reflect any changes to legislation and police policy and procedure. Updates will be available on the Victoria Police website www.police.vic.gov.au and the Family Violence Unit website on the Victoria Police Intranet.



INQUIRIES

Questions related to the Code can be directed to:

- The Family Violence Liaison Officer at each 24-hour police station - listed in the White Pages under 'p' for police.
- Family Violence Advisors located at the following police stations: Melbourne, Broadmeadows, Werribee, Ballarat, Mill Park, Shepparton, Nunawading, Wangaratta, Narre Warren and Morwell.
- The Family Violence Manager (who is also the Local Priority Policing Inspector) at each police region –
 - Region 1 (Central), Victoria Police Centre, 637 Flinders Street, Melbourne.
Tel: **9247 5688**.
 - Region 2 (West), level 5, 38 Little Malop Street, Geelong,
Tel: **5223 7816**.
 - Region 3 (North West), 15 Dimboola Road, Broadmeadows,
Tel: **9302 8268**.
 - Region 4 (North East), 247-249 Rosanna Road, Rosanna,
Tel: **9457 4444**.
 - Region 5 (South East), 50 Langhorne Street, Dandenong,
Tel: **9767 7621**.
- The Family Violence Unit, Victoria Police Centre, on **9247 6921**.



INTRODUCTION

ABOUT FAMILY VIOLENCE

Family violence includes violent, threatening, coercive or controlling behaviour that occurs in current or past family, domestic or intimate relationships. This encompasses not only physical injury that may result in death, but also direct or indirect threats, sexual assault, emotional and psychological torment, economic control, property damage, social isolation and behaviour such as stalking, which causes a person to live in fear.

While child abuse and family violence are generally considered separately, it is important to acknowledge the inter-relationship between family violence and child abuse and that there are many benefits of the agencies within these sectors working more closely together. Child abuse and family violence often co-exist, with violence sometimes being directed at children. It is also a form of psychological child abuse if a child hears or witnesses violence directed towards another, even if that child is not a primary victim.

Family violence is predominantly, but not exclusively, perpetrated by men against women and children. However, family violence can be perpetrated by any member of a family against any other member. Violence can occur in any kind of relationship, including lesbian, gay and transgender, and against people who are elderly or disabled.

ABOUT THIS DOCUMENT

Victoria Police has developed this *Code of Practice for the Investigation of Family Violence* as part of the State Government initiative to reduce family violence and in response to the recommendations of the Victoria Police review findings, *The Way Forward: Violence against Women Strategy*. It has been informed by the broad principles underpinning the State Government's *Women's Safety Strategy* and is linked to the two wider initiatives: *Growing Victoria Together* and *Safer Streets and Homes*. It complements and supports an integrated multi-agency response to family violence by detailing the options available to police and how those options are to be implemented to assist in breaking the cycle of family violence.



Police procedures



This document does not detail in full the police procedures required to meet some expectations of the Code of Practice. These procedures are in the *Victoria Police Manual* and are referenced by a call-out box in the text. The *Victoria Police Manual* is a public document and is available for purchase from the Corporate Policy Unit, Organisational Development Department.

Legislation and policy



Call-out boxes indicate references to the legislation and the *Victoria Police Manual*. The following abbreviations are used in the call-out boxes: CFVA for the *Crimes (Family Violence) Act 1987*; VPM for the *Victoria Police Manual*; and CYPA for the *Children and Young Persons Act 1989*.

Referral information

Section 7 of this Code of Practice is a list of referral agencies and their contact numbers.

GOVERNING PRINCIPLES

The police response to, and investigation of, family violence is governed by this Code of Practice, respective legislation and the *Victoria Police Manual*. Police action will be consistent with the *Victoria Police Code of Ethics* and *Code of Conduct*.

The *Code of Practice* also embraces the ideals of *The Way Ahead*, the *Victoria Police Strategic Plan 2003-2008*.



TERMS USED

Aggrieved family member – defined in section 3 of the *Crimes (Family Violence) Act 1987* and means the family member whose person or property is the subject of the complaint for an order. For the purposes of this Code of Practice, it is an interchangeable word with victim (of crime), as an intervention order may not always be sought or granted, and includes a secondary victim

CALD – culturally and linguistically diverse communities

CDEB – Central Data Entry Bureau (unit within Victoria Police responsible for electronically recording information)

CIU – Criminal Investigation Unit, Victoria Police

DHS – Department of Human Services, Victoria

Family member – defined in section 3 of the *Crimes (Family Violence) Act 1987* and in relation to a person means any of the following:

- the spouse or domestic partner of that person
- a person who has or has had an intimate personal relationship with that person
- a person who is or has been a relative of that person
- a child who normally or regularly resides with that person
- a child of whom that person is a guardian
- another person who is or has been ordinarily a member of the household of that person.

FVLO – Family Violence Liaison Officer, Victoria Police

Indigenous – Aboriginal and Torres Strait Islander people

Informant – the police person who prepared and is responsible for the compilation of the brief of evidence

LEAP – Law Enforcement Assistance Program (the Victoria Police system of electronically recording police records, such as criminal histories and incidents attended)

Offender – reference to an offender also means an alleged offender and/or a defendant

SOCAU – Sexual Offence and Child Abuse Unit, Victoria Police

VATE – Video and Audio Taped Evidence according to section 37B of the *Evidence Act 1958*



POLICE ROLE IN BREAKING THE CYCLE OF FAMILY VIOLENCE

1.1 THE WAY AHEAD



THE WAY AHEAD-
VICTORIA POLICE
STRATEGIC PLAN
2003-2008

The *Victoria Police Code of Practice for the Investigation of Family Violence* is one of the many programs under *The Way Ahead*, the Victoria Police Strategic Plan 2003-2008 that will help Victoria Police achieve its goals to reduce crime, increase the levels of customer satisfaction and ensure people feel safe in the community.

The program comes under Partnership Policing, one of the Plan's four key strategies. This strategy allows the establishment of working relationships with partner organisations to solve problems.

The following organisational values underpin the Plan:

- Integrity
- Leadership
- Flexibility
- Respect
- Support
- Professionalism

1.2 AIMS OF THE CODE OF PRACTICE

The aims of this Code of Practice are to:

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



1.0

1.3 FUNCTIONS OF POLICE IN FAMILY VIOLENCE

Police have four main functions in relation to family violence:

- Provide safety and support to those involved
- Investigate and identify criminal offences
- Present offenders before the court
- Assist in minimising family violence in the community.

1.4 ROLE OF THE POLICE SUPERVISOR

Police supervisors have a critical and continuing role in checking the appropriateness of the police investigation and response to family violence. While they do not have to attend every family violence incident, the supervisors' role is to provide guidance, monitor responding police and to sanction the final recommendations and outcome. Supervision is a continual process from receipt of the initial call to conclusion of the incident and any subsequent court process.

1.5 OUTCOMES

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

- Safety of the aggrieved family member and others affected by the family violence
- Appropriate referral being made
- Investigation and prosecution where appropriate
- Disruption to the cycle of family violence.

1.6 POLICE PARTNERSHIP WITH OTHER AGENCIES



Victoria Police's focus is to deliver a safer Victoria by providing intelligent and confident policing focused on the development of partnerships and a community capacity that empowers individuals to build a safer Victoria.

Victoria Police is committed to working in partnerships to deal most effectively with family violence. Breaking the cycle of family violence requires police to act with other agencies and the community. Call-out boxes indicate where external agencies have a role that will enable police to meet their responsibilities.



2.0

WHAT POLICE DO WHEN FAMILY VIOLENCE IS REPORTED TO THEM

2.1 POLICE ACT ON ANY REPORTS

Victoria Police acknowledges that a strong and effective criminal justice response can have a deterrent effect. Police will respond to and take action on any family violence incident reported to them, regardless of who made the report and how it was made. The action taken will be based on an assessment of the risks and threats, regardless of whether the aggrieved family member makes a verbal complaint or written statement.

In meeting this policy of mandated action, police will:

- Take immediate action to protect and support aggrieved family members
- Be sensitive to the individual circumstances of each incident
- Investigate all family violence incidents coming to their notice by gathering background information and physical evidence, including pictures, clothing and statements from witnesses
- Arrest any offenders where it is appropriate
- Pursue criminal and/or civil options where there is sufficient evidence to do so and regardless of whether an arrest has been made
- Refer all parties involved to appropriate services
- Record all family violence incidents reported to them with a view to identifying recidivist offenders, monitoring trends, and identifying persons at risk.

2.2 POLICE ACTION BASED ON AVAILABLE OPTIONS

2.2.1 Police options

The following three options are available to police in their investigation and response to family violence:



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4 FOR MORE
INFORMATION ON
CRIMINAL OPTIONS

- **Criminal option** – acting under appropriate legislation to bring offenders before the court. An example is arresting an offender for intentionally causing injury pursuant to section 18 of the *Crimes Act 1958*, conducting an interview pursuant to section 464 of the Act and then charging and bailing with conditions according to the *Bail Act 1977*.



2.0



GO TO SECTION
5 FOR MORE
INFORMATION
ON CIVIL OPTIONS

→ **Civil option** – acting according to the *Crimes (Family Violence) Act 1987*. This may mean seeking an interim intervention order, an intervention order or a complaint and warrant for an intervention order. Police may make application to a Magistrates' Court for an intervention order on behalf of the aggrieved family member or assist the aggrieved family member in seeking an appropriate order from the court.



GO TO SECTION
3 FOR MORE
INFORMATION ON
REFERRAL OPTIONS

→ **Referral** – an option that police follow in all cases. It includes police providing advice and referring parties to appropriate services who can give necessary support and assistance as required.

2.2.2

The police options model

The police options mentioned in section 2.2.1 are shown in the following chart, which depicts the decision-making processes police follow from the time they receive the first report of a family violence incident to the closure of the incident by police.

The underpinning principles of this options model are:

- Safety
- Support
- Investigation
- Accountability
- Supervision

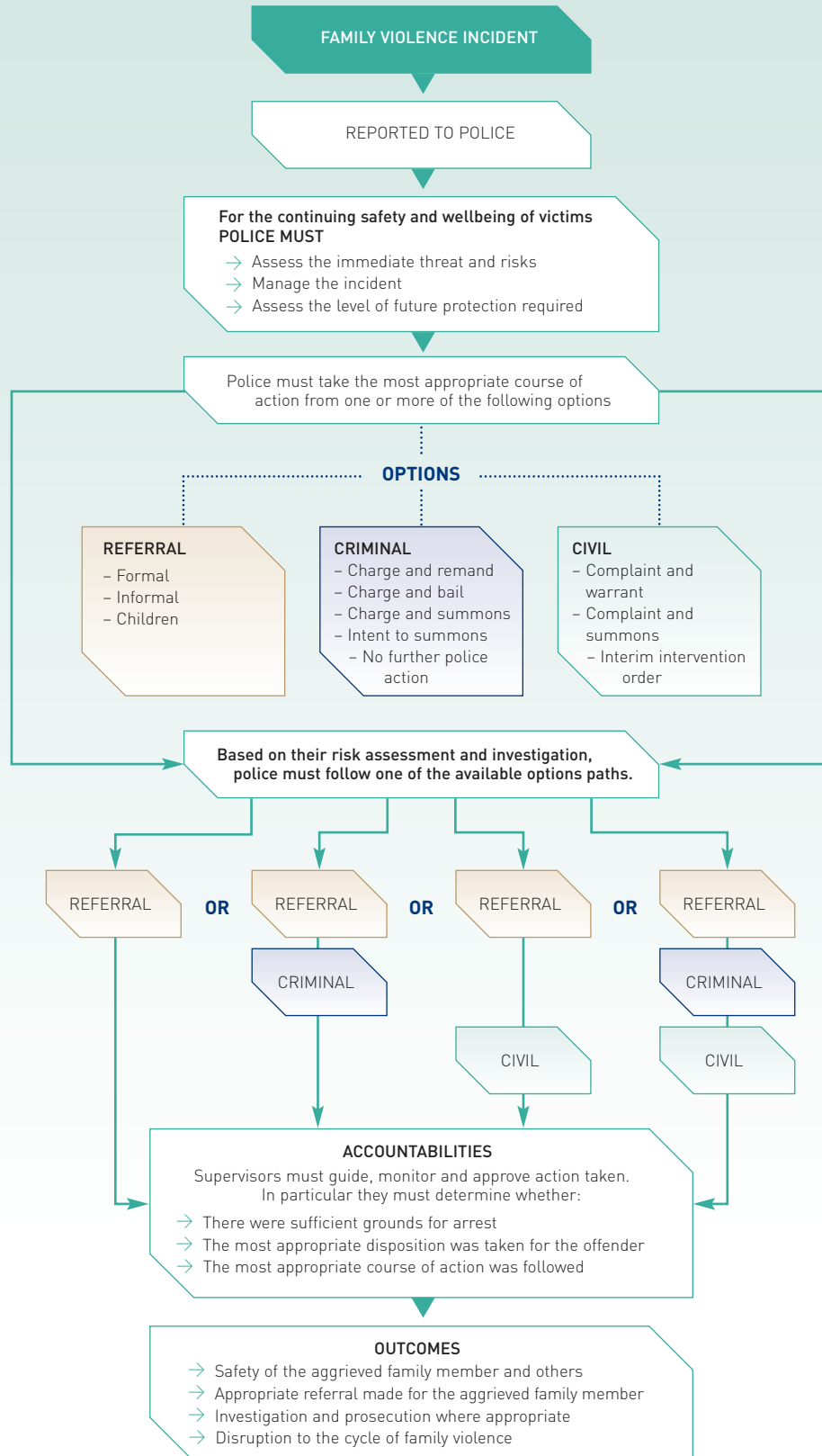
See over for Police Options Model



2.0

THE POLICE OPTIONS MODEL >>

IN RESPONSE TO AND INVESTIGATION OF FAMILY VIOLENCE



2.0

2.2.3 How police decide which option path to follow

For the continued safety and wellbeing of aggrieved family members and their children, police must choose the best and most appropriate process to initiate actions from one or more of the option paths. The option paths are:

- Referral
- Referral and Criminal
- Referral and Civil
- or
- Referral and Criminal and Civil.

Each option path requires police to conduct a thorough risk assessment of the dangers to the aggrieved family member and their children. Police must be sensitive to the individual circumstances of each case and any action taken will be commensurate with the aims of this Code of Practice.

Police action is determined through:

- An assessment of the risks and threats
- Management of the incident
- The level of future protection required.

This decision-making process generally occurs in consultation with the aggrieved family member, who may be assisted by other agencies, and is supported by the responding police member's observations and experience and third party reports.

2.3 STEPS IN THE DECISION-MAKING PROCESS

2.3.1 The first report

2.3.1.1 How family violence is reported to police

Police may receive reports of family violence direct from the aggrieved family member or member of their family, including children, from a friend, neighbour or anonymous person or from another agency. The report may be made by telephone, in person at a police station or by some other means. Police may also detect family violence in the course of their normal duties.

Where police consider that another employee may be a victim or offender of family violence, they have a duty to report these incidents – see section 2.5.7 in this Code.



2.0

2.3.1.2 Initial action by police

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

- Obtain as much information as possible including the whereabouts of aggrieved family members, children and offenders, the nature of the family violence, whether weapons or firearms are present, whether alcohol or drugs are involved, any injuries, previous history, etc
- Assess the risks and threats
- Seek any immediate assistance as required, e.g. 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 family violence incident, police must follow the above steps as far as practicable and:

- Respond as required by section 2.3.1.3
- or
- Provide appropriate advice and referral and, if necessary
- Further investigate the report to establish all known facts to enable an appropriate assessment of the risks and threats.

In all cases, the family violence incident must be recorded as detailed in section 2.6 of this Code of Practice.

2.3.1.3 Timeliness of the police response

Police will respond to family violence as a priority unless it is clear that the report relates to a past incident and there is no risk of imminent danger or the person is seeking advice only.

Although police respond to reports of family violence as soon as possible, operational necessity may require a supervisor to allocate other priorities and an immediate response may not always be possible. However, police must respond and take action in accordance with this Code of Practice.

2.3.1.4 Safety first



GO TO SECTION
2.4.8 FOR MORE
INFORMATION
ON FIREARMS

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



2.0



GO TO SECTION
2.3.2.4 FOR MORE
INFORMATION ON
RISK ASSESSMENTS

Before attending the scene of a reported family violence incident, police where possible will gather all available information about the incident and the persons involved. This includes the existence of any current or expired intervention orders 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 and a family violence risk assessment.

2.3.2

What police do when they attend the scene

2.3.2.1

Role of the supervisor



GO TO SECTIONS
1.4 AND 6.1.1 FOR
MORE INFORMATION
ON THE ROLE OF
THE SUPERVISOR

Supervisors must monitor family violence incidents attended by police and as required provide assistance to those responding, to ensure safety, welfare and an appropriate level of investigation and timeliness of police response.

2.3.2.2

Plan of action

On arriving at the scene police must:

- 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.

2.3.2.3

Entry to premises



SECTION 18AB CFVA –
POWER OF ENTRY

VPM 105-2:
SEARCHES OF
PROPERTIES

The *Crimes (Family Violence) Act 1987* empowers police to enter premises and with force if necessary. Circumstances dictate the police response. However on most occasions, police will attempt a peaceful entry before resorting to the use of force. Any forced entry is subject to the Victoria Police searches of properties policy and procedure.

2.3.2.4

Assessment of the risks and threats

Police receive operational safety training and are aware of the risk factors when attending any incident. However, a family violence incident requires a particular risk and threat assessment that considers present and past incidents and all family members, including children.



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To assist in making an appropriate risk and threat assessment, attending police will use the risk assessment tool which has been developed for this purpose.

This tool requires police to consider a range of issues that include but are not limited to the:

- Level of fear of the aggrieved family member and/or their children
- Level of violence in the current incident
- Nature of previous violence
- Likelihood of escalation of the incident
- Presence of children
- Presence of or access to firearms or other weapons
- Threats of suicide or murder
- Assessment of vulnerability factors, e.g. pregnancy or recent separation
- History of family violence.

2.3.2.5

Management of the incident



VPM 101-1:
OPERATIONAL
SAFETY PRINCIPLES

VPM 104-1:
INCIDENT
MANAGEMENT

VPM 108-1:
CRIME SCENES

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 crime scene management policy.

Police must consider the following during management of the incident:

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

2.3.2.6

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 aggrieved family member and/or their children. Due to the individual effects family violence can have, each person's needs, including the needs of children, must be considered separately. The information gathered in the earlier risk assessment and management of the incident, combined with the following factors, will assist in determining the level of future protection required:



2.0

- History of physical violence by the offender
- History of sexual assaults by the offender against family members or others
- History of threats by the offender to family members or others
- Recent escalation in frequency or severity of violence or threats
- History of reported family violence incidents, intervention orders or Family Court orders
- History of breaches of intervention orders
- Further incidents of violence after police intervention
- Past breaches of bail or other court orders
- Obsessive or stalking behaviours
- The intent, ability, means and opportunity the offender has of being involved in any further family violence incidents
- Level of support readily available to the aggrieved family member or children through family, friends or other services, etc.
- Previous use of women's refuge or relocation for safety.

2.4

HOW POLICE INVESTIGATE FAMILY VIOLENCE

2.4.1

Stages of the police investigation



GO TO SECTION
4 FOR MORE
INFORMATION ON
PURSUING CRIMINAL
OPTIONS AND
THE POLICE
INVESTIGATION

Police consider any reported family violence incident to be a crime until they establish that no criminal offences have been committed. This requires police to conduct a thorough investigation. The investigation occurs regardless of whether the aggrieved family member makes a verbal complaint or a written statement.

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 stages of the police investigation are:

- At the scene or on receiving the report – whether there are sufficient grounds to make an arrest
- After interview and investigation – whether there is sufficient evidence to charge an offender or whether another disposition is required
- Authorisation of the police brief of evidence – whether there is sufficient evidence to justify a prosecution.



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2.4.2

People to whom police might talk



GO TO SECTION
4.3.1.2 FOR MORE
INFORMATION ON
TAKING STATEMENTS

During the investigation, police will identify and speak with as many people as possible. However it is recognised that not everyone will be willing to cooperate. It may be that victims or witnesses are reluctant to speak to police because of a fear of the consequences from offenders, the impact on their children and family members, general stigma or for some other reason. Police will treat these people with compassion and reassurance, explaining police and court procedures and obtaining assistance from other police, such as the CIU, or another agency where appropriate and/or necessary.

No person can be compelled to provide details or a statement to police except in accordance with the *Crimes Act 1958* or other specific legislation such as the *Firearms Act 1996*. Where the victim is reluctant to provide information or details, police will still endeavour to encourage and support them. Reluctance to provide information at the present incident or past incidents should not prevent police from continuing their investigation.

2.4.3

Information police might record



GO TO SECTION
2.6 FOR MORE
INFORMATION
ON THE FAMILY
VIOLENCE REPORT

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 a Family Violence Report.

Additionally, police may photograph or video the scene or people involved in the family violence incident when offences have been identified. Other documents, such as telephone messages, letters or personal documents, may also be taken to assist in the investigation or to protect a person's safety and wellbeing.

2.4.4

Arresting the offender



GO TO SECTION
4.2.1 FOR MORE
INFORMATION ON
ARRESTING THE
OFFENDER

Police will pursue all avenues of inquiry and investigation to identify the predominant aggressor or 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 offender's removal from the premises in support of the aims and functions of this Code of Practice. Powers of arrest include sections 458 and 459 of the *Crimes Act 1958* and section 23 of the *Crimes (Family Violence) Act 1987* for breach of an intervention order.

Victoria Police 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 the Victoria Police *Code of Conduct*, *Code of Ethics* and the *Victoria Police Manual*.



2.0

2.4.5



Preserving the crime scene

It is sometimes necessary for police to seal off and preserve the scene of a family violence incident. In such instances, 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 the CIU, Forensic Services Department and/or a designated Crime Scene Officer may be called to attend and provide specialist forensic assistance.

2.4.6



Criminal Investigation Unit (CIU)

Depending on the circumstances, attending police may request the CIU or a State crime squad to assist at the scene. Circumstances that may require CIU assistance include, but are not limited to, incidents involving serious criminal offences. However, the CIU must either take responsibility for, or actively oversee, an investigation involving any of the following:

- Stalking
- Threats to inflict serious injury or death
- Sex offences
- An assault on a child or adult involving injury, including strangulation or attempted strangulation, or involving a weapon and regardless of whether medical attention is sought or required
- Significant property damage.

If the CIU do attend and become involved in the investigation, they are responsible for the criminal investigation in accordance with this Code of Practice. The attending uniform police are responsible for ensuring any civil action and/or referral.

2.4.7



Sexual Offence and Child Abuse Unit (SOCAU)

Where there is a disclosure of any sexual assault or a physical assault on a child, attending police must immediately notify a SOCAU.

The SOCAU will respond in accordance with their standard operating procedures. Children and mentally impaired persons who meet the legislated criteria may be interviewed by VATE.



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2.4.8



GO TO SECTION
5.6 FOR MORE
INFORMATION
ON FIREARMS

Searching for and seizing firearms and other weapons

Police must investigate the offender's possession of, or access to, firearms when attending any family violence incident. Avenues of investigation include, but are not limited to, LEAP checks and speaking to any persons who may have knowledge of the offender's access to firearms.

Where police believe that on the balance of probabilities there are grounds for the issue of an intervention order, they may enter any place where the offender resides, or has resided, to search for firearms (section 18A of the *Crimes (Family Violence) Act 1987*). Police must seize any firearms.

Where any firearm has been seized, or an intervention order has been made, go to section 5.6 to find out what happens at court.

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

2.5

HOW POLICE DEAL WITH THE PEOPLE INVOLVED IN FAMILY VIOLENCE

2.5.1

Safety and welfare



GO TO SECTION
2.5.4.2 FOR MORE
INFORMATION ON
THE SAFETY AND
WELFARE OF
CHILDREN

GO TO SECTION
2.5.6.7 FOR MORE
INFORMATION ON
INTERPRETERS

GO TO SECTION
2.6 FOR MORE
INFORMATION
ON RECORDING
INFORMATION

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 aggrieved family members, victims, witnesses and offenders, and obtain an individual account of the incident
- Request and record the details of all persons present, including their full name, age, sex, address and relationship to the parties involved in the family violence incident
- Seek other police assistance as required.

2.5.2

Referral



GO TO SECTION
3 FOR MORE
INFORMATION
ON REFERRAL

Police must provide referral to all persons involved in family violence. This may be through a formal referral or informal referral, including at a local level. There are also specific requirements for the referral of children. Referral is detailed in section 3 of this Code of Practice.



2.0

2.5.3 The victim

2.5.3.1 When making the report

The manner in which police handle the report is crucial, particularly when the victim 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 aggrieved family members, including any children, are safe and whether medical assistance is required for any person.

If the victim attends at a police station to make the report, police must offer the victim an opportunity to speak in private where practical.

It is not appropriate for the Victoria Police telephone reporting of crime policy and procedure to be used to take reports of family violence incidents that may involve only property damage. Police must personally visit each scene.

2.5.3.2 Before leaving the scene



Before leaving the scene, police must complete a family violence risk assessment to 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 Family Violence Report.

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 risk.

2.5.3.3 During the investigation

Sections 4 and 5 of this Code of Practice detail how police will deal with the victim during the criminal and/or civil options, respectively.



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2.5.3.4 Rural and regional women and children

Rural and regional women and children who experience family violence are often highly vulnerable due to the following factors:

- Geographic isolation (especially for those with no access to private transport)
- Few, if any, family violence advice and support services
- Economic dependence (no access to funds or the family finances)
- The prevalence of firearms (especially for those living on farms and/or larger properties)
- Reduced access to legal services (absence of legal aid and community lawyers)
- Confidentiality and privacy (especially when the offender is a well-known member of a local community)
- Embarrassment about the violence becoming public knowledge among a small community
- A lack of alternative accommodation (often leaving the relationship means leaving the home and the community).

For rural and regional women and children, very often the only access they have to assistance for family violence matters are the police and hospital accident and emergency services. However, help in crises may be delayed because of travelling time.

Police should be aware of the specific needs of rural and regional women and should help the victim to develop a safety plan to minimise their vulnerability. Plans may include the following considerations: placing some money in a separate place, keeping a spare set of keys within reach and being able to access a mobile phone in emergencies.

In small rural communities there is usually only one police member, who may be known to the victim and the offender. Therefore, it is vital that police provide efficient, effective and impartial assistance to the victim. In this instance, it is important for police to maintain their professionalism and be clear about their roles and responsibilities.



2.0

2.5.4 Children

2.5.4.1 Acknowledgment of children

As acknowledged in the introduction to this Code of Practice, Victoria Police recognises the need to treat children involved in family violence with particular consideration. Children’s needs may be quite different from those of the parents, and therefore it is essential that police assess the interests of children independently to those of a parent seeking an intervention order. Children could be primary or secondary victims or witnesses. This consideration is repeated throughout this Code of Practice and in the specific sections that deal with the referral, criminal and civil options.

2.5.4.2 Special considerations regarding the safety and welfare of children



GO TO SECTION
3.5 FOR MORE
INFORMATION ON
DHS REPORTING
AND CHILD
REFERRALS

On arrival at any family violence incident where children may be involved, attending police must:

- Check if there are children involved
- Account for the whereabouts of all children from the family
- Check on the wellbeing of all children
- Acknowledge to the children that something has happened which may affect them
- Decide whether DHS should be notified immediately or whether other action is required, e.g. alternative referrals
- Consider contacting SOCAU re a VATE interview if children have witnessed physical violence.

2.5.5 The offender

2.5.5.1 Pro-arrest policy



GO TO SECTION
4 FOR MORE
INFORMATION
ON THE CRIMINAL
OPTIONS

As detailed in section 2.4.4, Victoria Police supports a pro-arrest policy regarding the offender in family violence. However, any arrest is based on the evidence available. This pro-arrest policy is further discussed in section 4, which details the criminal options.

2.5.5.2 During the investigation

Sections 4 and 5 of this Code of Practice detail how police deal with the offender during the criminal and civil options. For the purposes of this Code of Practice, reference to an offender also includes an alleged offender.



2.0

2.5.6 Diverse communities

2.5.6.1 Special consideration for people from diverse communities

Although all Victorians are subject to the same laws and regulations, some groups such as Indigenous communities, people with disabilities, culturally and linguistically diverse (CALD) communities, the elderly and people in same-sex relationships need additional consideration when faced with family violence.

When responding to people from diverse backgrounds, police must provide appropriate assistance and referral.

2.5.6.2 Indigenous communities

Family violence is not a part of the Indigenous Aboriginal cultures in Australia. However, Victoria Police research indicates that the Indigenous population is significantly over-represented as victims and offenders, when compared to the non-Indigenous population.

In its *Aboriginal Policy Statement*, Victoria Police acknowledges that the colonisation process, past government policies, the dispossession from land and the consequent loss of social structure and language has led to the breakdown of traditional culture and the displacement of Indigenous Victorians. This has contributed significantly to the over-representation of Indigenous victims and offenders of family violence. Issues such as the lack of trust and faith in the ability of mainstream organisations, including police, to assist Indigenous people have been highlighted in several reports. These include the *Royal Commission into Aboriginal Deaths in Custody* and the report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, *Bringing Them Home*. Other factors that compound these issues include low self-esteem, alcohol/drug abuse, shame and fear of being placed in custody.

The police response is mindful of these factors and provides to all Victorians a just service that is free from discrimination and culturally sensitive to the specific needs of Indigenous Victorians.

Consistent with the principles of the Victoria Police *Aboriginal Policy Statement* of partnerships, equity and diversity, participation, collaboration, early intervention and harm minimisation, police will, when appropriate, help provide a high standard response to Indigenous communities by:

- Gaining trust and respect by showing fairness, patience and listening to what the parties involved have to say
- Helping to facilitate an integrated holistic approach with other service stakeholders, which includes the choice of accessing either mainstream or local Indigenous support services



2.0

- Being forthright with both parties and taking time to explain why referrals, notifications or other action such as arrest are being undertaken
- Involving, at the earliest possible time, respected Aboriginal persons by contacting the local cooperatives, Elizabeth Hoffman House or the Aboriginal Family Violence Prevention and Legal Service - see section 7 of this Code of Practice for contact details
- Providing active and ongoing case management to all parties
- Following through when making arrangements, ensuring that all parties know in advance the times and places of court proceedings
- Involving, the services (where available) of Victoria Police Aboriginal Liaison Officers (ALO). If the ALOs are unavailable, police should consider contacting the local Regional Aboriginal Justice Advisory Committee.

2.5.6.3



People with disabilities

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

Cases involving a disabled victim may take extra time to investigate because of communication difficulties and victims may experience frustration and distress caused by these difficulties, as well as the trauma of the incident. To ensure they meet the victim's needs, police should engage the services of a support person as soon as possible.

If it is not possible to confidently establish the victim's disability from family or friends, then police should contact a health professional, by phone or in person, to help determine the type of disability.

Police must remain patient during their investigation and not make assumptions when assessing evidence and/or weighing up the credibility of parties involved. 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.

Police should be mindful of undiagnosed disabilities or a victim not accepting or wishing to disclose they have a disability. For instance, a victim may present with age appropriate socialisation skills but be struggling to understand what is going on. In these cases police must err on the side of caution and arrange for an independent third party to assist.

Where appropriate, police must consider taking a statement via VATE as detailed in section 4.3.1.2 of this Code of Practice.



2.0

2.5.6.4 The Elderly

The challenge of detecting elder abuse is similar to that of detecting child abuse. Elder abuse is insidious and easily concealed. Symptoms or indicators of what might present as elder abuse may in fact be due to other causes. A medical assessment is therefore highly relevant. Where limited evidence is apparent, police need to continue to search for other indicators that may confirm or refute suspicions. Symptoms or indicators to take into account may include:

- Assault – unexplained bruising, scratches or other injuries such as exposed patches on scalp due to hair being pulled out
- Unreasonable isolation or confinement – rope burns around wrists or ankles, ongoing issues with bed sores
- Failure to attend to health needs or signs of malnutrition
- Evidence of verbal abuse or bullying
- Evidence of sexual assault
- Maladministration of drugs – subject is dazed for excessive periods
- Continual withdrawal, depression and/or other signs of helplessness
- Financial abuse – standard of living not consistent with the person's financial situation or unexplained or sudden inability to pay bills
- Unreasonable demands
- Missing jewellery
- Person is very uncomfortable in the presence of the suspected offender.

People with Dementia or Parkinson's disease are particularly vulnerable.

2.5.6.5 Same-sex relationships

Some forms of abuse are unique to lesbian and gay relationships. Abusive same-sex partners often use these issues to control or manipulate their partner in a variety of ways, including:

- Threatening to or 'outing' their partner to friends, family, employer, police, church or others in the wider community
- Telling a partner that no-one will help because the police and the justice system are homophobic
- Telling a partner that they will not be believed because of a perception that homosexuals do not rape or abuse their lovers
- Telling a partner that they deserve it because they are homosexual – this type of abuse is indicative of internalised homophobia or self-hatred by an abuser
- Telling a partner that they are not a 'real' homosexual because they used to relate to men or women, have male or female friends, or prefer certain sexual practices or behaviours
- Relying on sexist stereotypes to hide abuse and increase power and control over their partner by portraying the violence as mutual or consensual combat



2.0

→ Telling a male partner that the behaviour is not domestic violence but an expression of masculinity.

Some of these issues may also apply to transgender persons in relationships.

All police are responsible for managing the elimination of violence between same-sex partners. Gay and Lesbian Liaison Officers located in each police region are trained to advise and support police who are dealing with gay and lesbian issues. These police members have a working knowledge of the gay, lesbian, bisexual, transgender and intersex communities and are sensitive to the issues each community faces.

2.5.6.6

Culturally and linguistically diverse (CALD) communities

The circumstances under which CALD communities report family violence are more complicated and therefore the police response needs to be sensitive to their diverse needs.

Considerations for police include:

- Clear and culturally sensitive communication with all parties
- Not making assumptions based on one's own belief system or standards
- Providing a victim with specific CALD service referrals as an alternative to mainstream services.

Some migrant women perceive police as agents for persecution, corruption and/or that they do not possess the skills or sensitivities to handle family matters. In this case, police will need to spend time establishing rapport and gaining the aggrieved family member's trust and cooperation.

Some issues that might be relevant include:

- Emphasising that women and child victims have access to financial and other support, such as housing, through the government
- Explaining to victims, prior to notification, the role of DHS Child Protection if relevant (i.e. the aim of this agency is to strengthen and support families, not break families up)
- Assisting women to gather important documents such as residential status papers, temporary protection visas and/or passports
- Reassuring victims residing on valid temporary protection visas or spousal visas that reporting family violence to police will not affect their current residency status
- Members should be cognisant of their obligations if victims reporting violence do not have legal residency status.

Interpreters should be used at the earliest opportunity and at every stage while providing assistance.



2.0

2.5.6.7

Obtaining an interpreter for CALD and the hearing impaired



VPM 112-2: VICTIMS
AND WITNESSES:
INTERVIEWS AND
STATEMENTS

Police will obtain an interpreter at the earliest opportunity and at every stage of the investigation. This includes during initial crisis intervention, evidence gathering and statement taking, and when explaining the conditions and purpose of an intervention order to the victim and the offender.

In emergency situations, police may seek immediate interpreter assistance from neighbours or persons present. However children, suspects or offenders of family violence should never be used to act as an interpreter.

If ongoing interpreting is required or the matter is likely to proceed to court, police must engage an interpreter service.

2.5.7

Police employees who are victims or offenders

2.5.7.1

The investigation



PROCEDURES
VPM 109-6

The police response to a family violence incident involving a police employee is the same as the response for any other family violence incident. Responding police must conduct a thorough investigation to identify any criminal offences and pursue, where appropriate, criminal and/or civil options and in all cases provide appropriate referral.

In addition to this, responding police must also notify a supervisor who must attend as detailed in the procedures. This action is to remove any perceived conflict of interest or feelings of guilt on behalf of the responding police and in order to maintain the integrity and ethical standards of Victoria Police. Where a criminal offence is involved, including breach of an intervention order, the Ethical Standards Department must be notified as required in the procedures.

Regardless of whatever action is taken, the safety and welfare of the aggrieved family member is paramount.

There are further reporting requirements for Victoria Police employees serving an intervention order on another employee. Likewise there are further requirements for an employee who is the recipient of an intervention order.



2.0

2.5.7.2

Referral



It is necessary that both the aggrieved family member and the offender receive appropriate referral according to section 3 of this Code of Practice. Referral agencies are not required to disclose any confidential information passed to them except with permission from a respective party.

Referral is distinct from the supervisor notification section of the procedures. Clinical Services, Human Resource Department, Victoria Police, may be contacted to provide advice regarding appropriate referrals for police employees and/or their families. See contact numbers in section 7 of this Code.

2.6

RECORDING INCIDENTS OF FAMILY VIOLENCE

2.6.1

Family Violence Report



Police will record all family violence incidents reported to them with a view to identifying recidivist offenders, monitoring trends and identifying persons at risk. This enables police to assess the operational and family violence risks and identify an appropriate response to assist in early intervention.

The main reporting mechanism is the Family Violence Report [Form L17] which police complete for every reported family violence incident. The information on the Report is stored on LEAP.

2.6.2

Information police may give to others



PROCEDURES:
VPM 112-2: VICTIMS
AND WITNESSES:
INTERVIEWS
AND STATEMENTS
VPM 112-5:
VIDEO AND AUDIO
TAPED EVIDENCE (VATE)
VPM 116-1:
BRIEFS OF EVIDENCE

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

- Referral – according to sections 3.1.4 and 3.3 of this Code of Practice
- Family law matters – according to section 5.9.2.4 of this Code of Practice
- Intervention order hearings – as requested by the court. However any information that may disclose the location of the aggrieved family member or defendant is not to be given to the other party or their representative unless directed otherwise by the court
- Statements and recorded interviews – copies of statements should be provided to the victim and witnesses as requested. A copy must be provided to the defendant as required by respective legislation. VATE statements can only be released according to legislation
- Copy of police reports – the victim will be given a copy of the police Incident Report (this is part of an informal referral)
- *Magistrates' Court Act 1989* – the defendant is entitled to receive documents as detailed in the Act.



3.0

REFERRAL

3.1 THE ROLE OF REFERRAL IN BREAKING THE CYCLE OF FAMILY VIOLENCE

3.1.1 Access to specialist services



GO TO SECTION
7 FOR A LIST OF
REFERRAL AGENCIES
AND THE SERVICES THEY
PROVIDE

Victoria Police recognises that the best way of providing a comprehensive service to victims of family violence is to develop effective partnerships with specialist service providers. The role of police is to contain violence and abuse by using their powers under criminal and civil legislation. However, victims of family violence often have other ongoing needs and therefore police must facilitate access for them to specialist services.

Referral is in addition to any other action taken and does not replace pursuing criminal charges or the seeking of an appropriate order under the *Crimes (Family Violence) Act 1987*.

3.1.2 What if a person does not want assistance?



Police will refer all persons involved in family violence to appropriate agencies. It is acknowledged that, at the time of the police response, the persons involved may not follow up the referral due to their present state of mind. However they may later change their mind.

Police are not responsible for ensuring a person follows up with any referral. However, the FVLO may follow up ongoing cases to ensure that the parties concerned are provided with the appropriate support services.

3.1.3 What types of referral are there?

There are three types of referral:

- Formal – when police give information concerning the aggrieved family member to appropriate agencies (section 3.2 of this Code of Practice)
- Informal – when police give the parties involved the contact details of appropriate agencies (section 3.3 of this Code of Practice)
- Child – when police give information to DHS concerning a child in particular circumstances (section 3.5 of this Code of Practice).



3.0

3.1.4 Does referral breach any privacy legislation?

To comply with privacy legislation, Victoria Police may only make a formal referral in circumstances where there are serious concerns for the physical, mental or psychological health or welfare of the aggrieved family member. The only information that police can disclose to external agencies in these circumstances is the name of the aggrieved family member and the nature of the relationship between the aggrieved family member and the offender. The offender's name cannot be given. In all other cases, e.g. where there is only property damage, an informal referral is made.

3.1.5 Further support for serious incidents

If the family violence incident has been very serious, e.g. resulting in death or serious injury, investigating police must notify the Victoria Police Victim Advisory Unit who can assist with providing advice and appropriate referrals. This is in addition to any other referral required by this Code of Practice.

3.2 FORMAL REFERRAL

3.2.1 What is a formal referral?



A formal referral occurs when police attend a family violence incident and then relay information about the incident to an external service funded to assist people who experience family violence. This information is limited to the name and contact details of the aggrieved family member, and is subject to a protocol between police and the agency.

3.2.2 When would police make a formal referral?

Police will make a formal referral whenever:

- They seek an intervention order and/or lay criminal charges related to the family violence incident
- There are concerns for the physical, mental or psychological health or welfare of the aggrieved family member.

3.2.3 What if the aggrieved family member is reluctant to seek help?

Sometimes the aggrieved family member may be reluctant to seek any urgent help, such as emergency accommodation. On these occasions the attending police or their supervisor must still advise the aggrieved family member of the referral options and make contact on their behalf.



3.0

3.2.4 What if more contact is needed between police and other external agencies?

Police may wish to confer with other agencies regarding the particulars of the family violence incident, e.g. during case conferencing. To prevent the aggrieved family member from having to repeat information, police should consider obtaining written consent to provide further information on their behalf.

3.3 INFORMAL REFERRAL



Informal referral occurs when police give the parties involved in a family violence incident the contact details of appropriate external agencies. The giving of this information in these circumstances does not violate the *Information Privacy Act 2000* or the *Health Records Act 2001*.

An informal referral occurs in all family violence incidents responded to by police.

3.4 LOCAL REFERRAL

Local areas may have their own referral arrangements in place, based on local community partnerships and adapted for local needs. Local referral arrangements can be used in place of other referral, provided they are consistent with the spirit of this Code of Practice and they are subject to the same policy and procedure.

3.5 CHILD REFERRAL

3.5.1 Why have child-specific referral?

Research indicates that family violence has implications not only for the immediate and short-term safety and wellbeing of family members, it also has long-lasting effects. Family violence is implicated in child abuse (physical and sexual), neglect and drug-related and juvenile crime. Further, family violence has an adverse effect on children's emotional and intellectual development and there are strong links between family violence and truancy, bullying, learning difficulties, anti-social behaviour and homelessness.

When responding to a family violence incident where a child or children are concerned, police must independently assess the level of risk to the children.



3.0

3.5.2



What types of child referral are there?

There are three types of child referral:

- Legislated mandatory reporting under Part 3, Division Two, *Children and Young Person's Act 1989* (section 3.5.4 of this Code of Practice)
- DHS referral where there is a concern for a child's emotional or intellectual development (section 3.5.5 of this Code of Practice)
- Formal referral to child-specific services, where the subject child and family have identified needs and they do not meet the criteria for mandatory or DHS referral.

Further obligations regarding the protection of children and responsibilities of police and DHS are in the protocol between Victoria Police and DHS: *Protecting Children*.

3.5.3



What police must tell the parents when making a child referral

Police must advise the parent/s or guardian/s of any child whenever a referral is going to be made and the circumstances of the referral. However, this does not apply if the notification could be to the detriment of either a criminal investigation or a protective investigation under the *Children and Young Person's Act 1989*, e.g. where there is a possibility that evidence might be destroyed.

Police and the DHS Child Protection Services must each take care not to make commitments, agreements or arrangements about the likely actions or role of the other agency.

3.5.4

Mandatory report for physical or sexual abuse

3.5.4.1



Legislation

If a child has suffered or is likely to suffer significant harm as a result of physical or sexual abuse, and the parents have not or are unlikely to protect the child from harm of that type, a mandated person must notify DHS as soon as practicable. Police are mandated persons and in these cases will notify DHS and SOCAU.



3.0

3.5.4.2 The roles of police and DHS in mandatory reporting



Once a mandatory report for physical or sexual abuse is made the DHS and SOCAU, or other police, will conduct a joint investigation. Police are responsible for the investigation of criminal offences and DHS are responsible for the safety and protection of the child.

Where DHS are actively involved, they take responsibility for the overall case management of the protective issues. DHS may protect the child by taking action according to the *Children and Young Person's Act 1989*. An option that might assist in some cases is to make application for an intervention order. This is decided by DHS who may assist the aggrieved family member to make the application or, in some cases, may make the application on behalf of the child.

3.5.5 DHS notification for the emotional or intellectual development of a child



PROCEDURES:
VPM 109-2



Police must notify DHS where a child or young person has suffered, or is likely to suffer, significant harm to their emotional or intellectual development.

DHS are responsible for assessing the appropriate action concerning a child's intellectual and emotional development. In general, DHS only intervene in cases where the non-offending parent is not protecting or is unable to protect the child and there is an unacceptable risk to the child.

3.5.6 What happens when DHS does not take any action?

The threshold for DHS intervention is greater than the standard required to make an application for an intervention order. If DHS deems that the incident under investigation does not meet their threshold criteria, police must reassess the circumstances to determine whether they need to apply for an intervention order on behalf of the child or children to ensure their future protection.



4.0

CRIMINAL OPTIONS

4.1 ABOUT THE CRIMINAL OPTIONS

4.1.1 What are the criminal options?



GO TO SECTION
5 FOR MORE
INFORMATION ON
THE CIVIL OPTIONS

The primary response of police in reports of family violence is the pursuit of criminal charges where appropriate. If criminal charges are considered, police have five options:

- Charge and remand
- Charge and bail
- Charge and summons
- Intent to summons
- No further police action.

Criminal options do not replace the need to pursue the civil options. If there are sufficient grounds to make application for an intervention order, then police must pursue that course of action in conjunction with the criminal options.

4.1.2 How police decide which criminal option to pursue



VPM 113-4:
DISPOSITION
OF PERSONS
IN CUSTODY

Any pursuit of criminal action requires police to consider:

- Offender/s
- Victim/s, including children
- Witnesses.

After the initial investigation and consistent with Victoria Police policy, a supervisor will decide on which criminal option to pursue based on the prevention of further offences, the risk and threat assessment, and the safety and welfare of victims and others. Where appropriate, the preferred action will be charge and remand or charge and bail with conditions, as these offer victims the most protection.



4.0

4.2

WHAT POLICE DO WITH THE OFFENDER

4.2.1

Pro-arrest policy



Police will investigate all family violence incidents reported to them, ensuring that appropriate use is made of their powers of arrest. If a power of arrest exists and police do not arrest the offender, they must be able to justify why they took alternative action and record the reasons on LEAP. Where any doubt exists, attending police must seek advice from their supervisor.

Arrest of an offender is based on the evidence available. The decision to arrest is the responsibility of the police, not the victim.

4.2.2

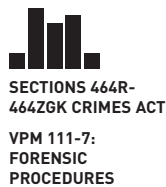
Interview



Interviews with the offender are in accordance with the *Crimes Act 1958* and *Victoria Police Manual*. Interviews for an indictable offence must be recorded on tape.

4.2.3

Gathering forensic evidence



Depending on the circumstances of the investigation, police may seize clothing or obtain other forensic evidence from the offender according to the *Crimes Act 1958*.

If there are any allegations of assault committed on or by the offender, investigating police may take photographs and notes to prove or rebut these allegations.

4.2.4

Charge and bail as a criminal option



Bail does not replace the need to seek an intervention order, if required in the circumstances. In any situations where the offender is to be charged and bailed and an intervention order is also to be sought, bail conditions should seek to protect victims and witnesses like any other serious criminal offence. Bail conditions should not necessarily mirror the conditions sought in the intervention order.

Police must advise the victim if the offender is bailed or dealt with by one of the other criminal options.



4.0

4.2.5 Brief of evidence

4.2.5.1 When police prepare a brief of evidence



GO TO SECTION
4.6 FOR MORE
INFORMATION ON
PROSECUTIONS FOR
BREACH OF AN
INTERVENTION ORDER

Where a criminal offence is identified, police will pursue criminal options and prepare a brief of evidence. A supervisor will authorise any charges based on the available evidence.

4.2.5.2 What if there is insufficient evidence?

Only a police prosecutor or supervisor has the authority not to proceed with the prosecution of criminal offences. If there is insufficient evidence to support criminal charges and there are future safety risks, police must still pursue the civil options.

4.3 ROLE OF THE AGGRIEVED FAMILY MEMBER IN THE PURSUIT OF CRIMINAL OPTIONS

4.3.1 Obtaining evidence

4.3.1.1 Forensic and clinical evidence



VPM 108-7:
ASSAULT
INVESTIGATIONS

VPM 108-8:
SEXUAL OFFENCE
INVESTIGATIONS

CODE OF PRACTICE
FOR THE INVESTIGATION
OF SEXUAL ASSAULT

A victim may require medical treatment or police may request this in order to obtain forensic evidence. If medical treatment is not urgent and forensic or criminal evidence is or may be required, police will obtain the services of a 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, any action must comply with the *Code of Practice for the Investigation 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 and notes of any injuries.



4.0

4.3.1.2



VPM 112-2: VICTIMS
AND WITNESSES:
INTERVIEWS AND
STATEMENTS

Statements

Police will obtain statements from victims as soon as possible. When taking a statement from a child, a parent/guardian or independent person should be present. This person must not be the offender or predominant aggressor. Police will obtain an interpreter if needed.

VATE statements may be taken according to section 37B of the *Evidence Act* 1958. This applies to victims or witnesses of a sexual offence or an indictable offence that involves an assault or injury or threat of injury. The person making the statement must be under 18 years of age or have impaired mental functioning. Only qualified police, generally SOCAU members, can take a VATE statement.

4.3.2



VPM 112-2: VICTIMS
AND WITNESSES:
INTERVIEWS AND
STATEMENTS

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

Where a criminal offence is involved, police will pursue criminal options and prepare a brief of evidence, even if the victim is reluctant for charges to be pursued. A supervisor will authorise any charges based on the available evidence and the likelihood of obtaining a conviction. It is the duty of the court to decide the guilt or otherwise of the offender.

Should a victim desire no further police action or want to make a statement of no complaint, police will follow the current policy and procedure. In summary:

- 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
- Under no circumstances can police use indemnity forms for statements of no further police action or no complaint.

4.3.3

Case reviews

4.3.3.1



About case reviews

A case review is an assessment of a decision by police not to proceed with a prosecution after a brief of evidence has been prepared as the result of a family violence incident.



4.0

4.3.3.2 How a case review is initiated

After a police supervisor has decided not to authorise a family violence related brief of evidence for prosecution, the police member who prepared the brief (the informant) must contact the victim and advise them of this outcome. Initial notification is verbal, confirmed later in writing. The written notification must contain the reasons for the non-authorisation and advice that the victim can request a case review.

The victim and/or their representative can initiate a case review by writing to the officer in charge of the informant, detailing their reasons for requesting a review. Within one month, the officer in charge and the FVLO must conduct the review at a time convenient for the victim.

4.3.4 Case conferencing

4.3.4.1 About case conferencing

The case conference provides a means by which a victim can be further supported and involved in decision-making on whether or not to continue with criminal proceedings when they are unsure, reluctant or do not want to proceed. Its purpose is to identify reasons for the victim's concerns, discuss the prosecution and court process and seek to relieve any concerns or fears the victim may have so the legal proceedings can continue.

4.3.4.2 How a case conference is initiated

A case conference is generally convened by the police investigator's officer in charge and may be requested by the victim or their support worker, the investigating police member or their supervisor, or a police prosecutor.

A case conference should be convened if a victim requests no further action in either of the following circumstances:

- There is sufficient evidence to proceed but criminal charges have not been laid
- Criminal charges have been laid.



4.0

4.3.4.3 Where charges have not been laid

The case conference may consist of but not be limited to the following:

- Police informant
- Aggrieved family member
- Domestic violence worker or advocate
- Support person for the aggrieved family member
- FVLO/Family Violence Advisor
- Police supervisor

Outcomes from the case conference may be any of the following:

- Agreement by the victim to proceed and provide the required evidence
- A decision to prosecute, regardless of the victim's wishes, due to the seriousness of the offence/s
- Agreement by police not to proceed with prosecution.

4.3.4.4 Where charges have been laid

If the brief of evidence has been authorised and charges laid, in addition to the parties mentioned in section 4.3.4.3 above, the following may also participate in the case conference:

- Police prosecutor
- Court support service, whether they have prior knowledge of the case or not
- Any other person who can assist.

If there is a Family Violence Division at the Magistrates' Court where the matter is listed for hearing, then its case management guidelines should be followed.

Outcomes from the case conference include:

- Agreement by the victim to proceed and provide the required evidence
- A decision to prosecute, regardless of the victim's wishes, due to the seriousness of the offence/s
- Agreement by police to withdraw the charges against the defendant.



4.0

4.4 ROLE OF WITNESSES TO FAMILY VIOLENCE IN THE PURSUIT OF CRIMINAL OPTIONS

4.4.1 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. For example, 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.

4.4.2 Taking a witness statement



GO TO SECTION
4.3.1.2 FOR MORE
INFORMATION ON
TAKING STATEMENTS

Police must obtain statements as soon as possible where necessary, even if the witness is unable to provide corroborating information for the offences identified.

4.5 WHAT HAPPENS AT COURT

Court attendance and procedures follow the requirements of the *Magistrates' Court Act 1989* and the *Children and Young Person's Act 1989*.

The police informant must keep the victim and witnesses advised of the procedures and all relevant information in relation to their case. This includes, but is not limited to, updates on the progress of the police investigation, in particular where there are significant developments such as outcomes of a court hearing, adjournments, updates and/or outcomes of an investigation.

4.6 BREACH OF AN INTERVENTION ORDER

4.6.1 Criminal offence



PROCEDURES:
VPM 109-3

An intervention order is an order of a Magistrate and a breach is any behaviour that contravenes the Magistrate's order.

A breach of an intervention order (including an interstate or New Zealand order registered in Victoria) is a criminal offence.

Intervention orders must be 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 aggrieved family member 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.



4.0

4.6.2 What police do if they detect a breach

4.6.2.1 If the alleged offender is at the scene



Police have a responsibility to ensure the safety and wellbeing of all persons. The *Crimes (Family Violence) Act 1987* provides a power of arrest for a breach of an intervention order and, where it is appropriate, police will use this power. Appropriate circumstances might include where other criminal charges are involved or where police have assessed that immediate action is required to ensure the safety of the aggrieved family member or to protect property.

If there are no other apparent criminal charges involved and no immediate action is necessary to ensure the safety of the aggrieved family member or to protect property, police must still take appropriate action. This may mean pursuing charges for the breach by charge and summons.

In all cases, the safety and welfare of the victim and children are paramount.

Regardless of what action is taken, police must provide appropriate referral.

4.6.2.2 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. Police must then pursue one of the criminal options.

4.6.2.3 Interview with the offender

Where there are other indictable offences involved, police will tape record any interview with the offender according to the *Crimes Act 1958*. In other cases, interviews may be recorded on tape (the preferred option) or in writing.

4.6.3 The decision to prosecute

4.6.3.1 Evidence based

Decisions to prosecute are based on the evidence gathered and not a subjective assessment by the responding police as to the seriousness of the breach.



4.0

4.6.3.2 If there is sufficient evidence to justify prosecution

A police supervisor will decide if there is sufficient evidence to warrant prosecution and recommend which of the criminal options should be followed based on the individual circumstances of the incident.

If the disposition is by charge and bail, the date of hearing should be as soon as possible after the alleged breach.

If the disposition is by charge and summons, the date of hearing should be set within three months of the alleged breach.

4.6.3.3 If there is insufficient evidence to justify prosecution



GO TO SECTION 3 FOR
MORE INFORMATION
ON REFERRAL

GO TO SECTION 5.8 FOR
MORE INFORMATION
ON VARYING AN
INTERVENTION ORDER

GO TO SECTION 4.3.3
FOR MORE INFORMATION
ON CASE CONFERENCING

The decision regarding the outcome of an investigation of an alleged breach must not be pre-empted. In all cases the matter must be investigated and a brief of evidence submitted. An assessment of the evidence by a supervisor will determine whether there is sufficient evidence to warrant prosecution. If there is insufficient evidence to proceed with charges or an offence cannot clearly be established, the police must again refer parties to appropriate agencies. Conditions in the order may need to be varied to afford protection that is more appropriate. A case conference may also be called to review the decision.

Responding police must record adequate details to enable other police to refer to the circumstances of the alleged breach if needed later.

4.6.3.4 Consent is not a defence

Consent is never a defence to a breach of an intervention order. However defendants often raise this to counter their alleged actions in breaching the order. No person protected by an order can authorise a breach of the Magistrate's order. Any claim the defendant makes of having consent from the aggrieved family member to breach the order is not a valid reason by itself to authorise non-prosecution. Where a breach of an intervention order 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 aim of this Code of Practice is to ensure that the victim is not re-victimised through the justice system. To this end, police should be cautious in pursuing any offence of aid and abet in relation to breaches and not alienating the aggrieved family member. Any charge of aid and abet of a breach of an intervention order must be authorised by the FVLO in consultation with the Victoria Police Family Violence Unit.



5.0

CIVIL OPTIONS

5.1 WHAT ARE THE CIVIL OPTIONS?



Civil options involve seeking an intervention order under the *Crimes (Family Violence) Act 1987* or other action under the *Family Law Act 1975* (Cwlth). This may be through making application for an interim intervention order or proceeding by way of complaint and warrant or complaint and summons. An assessment of the present and future risks and threats will determine the most appropriate action.

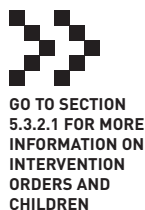
Before taking any action, police must ask if there are any existing orders, including those made under the *Family Law Act 1975* (Cwlth).

5.2 WHEN MAY THE COURT GRANT AN INTERVENTION ORDER?

On the balance of probabilities, the court may grant an intervention order for any of the reasons as listed in section 4 of the *Crimes (Family Violence) Act 1987*. This includes assaults, threats of assault, damage to or threats of damage to property, harassment, molestation or behaving in an offensive manner towards a family member. Family violence can be psychological as well as physical in nature.

5.3 WHO MAY PURSUE CIVIL OPTIONS UNDER THE CRIMES (FAMILY VIOLENCE) ACT?

5.3.1 Legislation



Persons who may make application for an intervention order are listed in section 7 of the *Crimes (Family Violence) Act 1987*. These include the aggrieved family member, a member of the police force, or other persons if the aggrieved family member is a child.

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 aggrieved family member/s.



5.0

5.3.2 When police must make application for an intervention order

Police must make and sign an application (complaint) for an intervention order wherever the safety, welfare or property of a family member appears to be endangered by another.

This may mean making an application without the agreement of the aggrieved family member who may be fearful of the consequences of initiating such action.

5.3.2.1 Considerations when a child is involved

Children's needs may be quite different from those of the parent. Therefore, police will assess the interests of children independently to those of a parent seeking an intervention order.

Where there is no DHS involvement and police are proceeding as complainant in an application for an intervention order, they should consider including the child on the application for the aggrieved family member, where appropriate. Alternatively, where unique conditions apply and they are not able to be covered in the parent's application, a separate application on behalf of the child can be made in the Children's Court.

5.3.3 What happens if police do not make application for an intervention order?



GO TO SECTION
3 FOR MORE
INFORMATION
ON REFERRAL

Where police do not make application for an intervention order (e.g. there is no apparent threat to the safety, welfare or property of a family member) they must explain the civil options available and refer the aggrieved family member to appropriate referral agencies or the court registrar. It will be the responsibility of the referral agencies to provide additional advice and assistance to the aggrieved family member.

If referring to the court registrar, police must contact the registrar and make an appointment for the aggrieved family member.

Police must record on LEAP their reasons for not making application for an intervention order.



5.0

5.4 WHAT POLICE DO WHEN PURSUING
THE CIVIL OPTIONS

5.4.1 Interim intervention order



PROCEDURES:
VPM 109-4

An interim intervention order may be sought in accordance with the *Crimes (Family Violence) Act 1987* where police are required to take immediate action. Police generally seek an interim intervention order where the defendant is not present and a complaint and warrant is inappropriate in the circumstances or where the court has not granted an application for a complaint and warrant.

If police are making the application during court hours, they must first contact the registrar to identify what documents are needed and the most appropriate time to make the application.

Police may make an application for an interim intervention order after hours by contacting the after-hours registrar.

5.4.2 Complaint and warrant

5.4.2.1 When police would seek a complaint and warrant



PROCEDURES:
VPM 109-4

A complaint and warrant may be sought in accordance with the *Crimes (Family Violence) Act 1987* where police are required to take immediate action. It is the preferred course of action where it is necessary for police to take the defendant into custody because the personal safety of the aggrieved family member is seriously threatened or damage to property is likely.

5.4.2.2 How police seek a complaint and warrant



During business hours, police must contact the registrar to determine the most practical way of initiating the process. This could be by bringing the aggrieved family member straight to the court without the need to complete any documents or by faxing required documents to the registrar.

After hours, police must contact the after-hours court registrar.



5.0

5.4.2.3



GO TO SECTION
5.5 FOR MORE
INFORMATION
ON WHO HAS
TO GO TO COURT

How the complaint and warrant is executed

If the court grants an application for a complaint and issues a warrant, the registrar gives or faxes to police the 'execution copy' of the warrant. Police will take immediate steps to have it executed as soon as possible. Police may execute the warrant even if it is not in their possession as they only need to be aware of its existence.

If police arrest the defendant, they will:

- Bring the defendant directly before the court or bail them to appear at the relevant Magistrates' Court within five working days to hear the application for the intervention order
- If bailed, set conditions that ensure the safety of the aggrieved family member
- Notify the aggrieved family member as soon as possible that the warrant has been executed and that they must attend the hearing for the intervention order unless they are physically incapable
- Forward the warrant, endorsed with execution details, and other documents to the court as soon as possible.

5.4.2.4



What happens if the warrant cannot be executed?

Police will make every effort to have the warrant executed.

If it cannot be executed within 24 hours or police become aware that the defendant is actively avoiding apprehension, the police member who has taken out the warrant must record its existence on LEAP.

If it cannot be executed within seven days, police must return it to the court where it was listed for return or seek an extension from the court of issue.

Both the registrar and the police must notify the aggrieved family member. The registrar will coordinate any further action. Police should discuss with the aggrieved family member alternative safety strategies and give advice on making an application for an interim intervention order with the assistance of the court. Any referral direct to the court should be booked in with the registrar. Police must also provide appropriate referral to enable the aggrieved family member to gain assistance in making the application.



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5.4.3 Complaint and summons

5.4.3.1 When police would seek a complaint and summons



Where the aggrieved family member is in no immediate danger or urgent action is not required and there is no immediate threat to property, a complaint and summons will generally be sought in accordance with the *Crimes (Family Violence) Act 1987*.

The court usually lists the complaint for hearing within seven to fourteen days.

5.4.3.2 How police seek a complaint and summons



In making application for a complaint and summons, police will:

- Arrange for the summons to be issued by a registrar
- Give a copy to the aggrieved family member and advise them that they must attend court
- Arrange for service of the summons
- Gather all available evidence before the court hearing
- If police have made the application, ensure that the prosecutor is aware of the hearing.

5.4.3.3 How the complaint and summons is served



The court will forward to police a complaint and summons for service on the defendant.

Police will record any summons served and take steps to have it served in accordance with the *Crimes (Family Violence) Act 1987*. Police will ensure the summons is served as soon as possible after it is issued.

When executed, police will return the summons, endorsed with details of service, to the relevant court. If the summons cannot be served, go to section 5.4.3.4.

If the defendant is an involuntary patient at a mental health service or the subject of a community treatment order under the *Mental Health Act 1986*, police must contact the court of issue and seek advice on service of the summons. An application for substituted service might need to be sought – see section 5.4.3.4.



5.0

5.4.3.4 What happens if the complaint and summons cannot be served?



Police will make every effort to have the summons executed. If, after all reasonable inquiries police cannot serve the summons, they may apply to the court for substituted service. Police must be able to substantiate the efforts they have made in attempting to serve the summons before the court will grant an application for substituted service.

5.5 WHO HAS TO GO TO COURT?

5.5.1 If police make the application

The following people should attend court for any police-initiated complaint:

- Police prosecutor
- Police court orderly or Protective Services Officer – as required by the court
- Police member initiating complaint (i.e. police named as complainant) – only if required by the court or prosecutor
- Aggrieved family member – it is essential that they attend court unless physically incapable. If they do not, it is unlikely that an order will be made, even when police have initiated the application (see section 5.5.1.1 for police procedures if the aggrieved family member does not attend court). If police attend court with the aggrieved family member, they must notify the registrar of their arrival
- Witness – should be available on stand-by if required by the court or some other party. Police and the court may consider witness attendance by remote court
- Defendant – must attend in accordance with the *Crimes (Family Violence) Act 1987*. If the defendant does not attend, the hearing may proceed in their absence according to section 12 of the Act.

If police are making the application, they must also ensure any welfare support services and safety planning needs have been assessed.

5.5.1.1 What happens if the aggrieved family member does not go to court?

If the aggrieved family member does not attend court where police are named as the complainant in the intervention order application:

- The police prosecutor must ask for an adjournment to allow for sufficient time to enable inquiries to be made with the aggrieved family member and notify the police member who initiated the application to make the inquiries



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→ The notified police member must inquire with the aggrieved family member and make suitable arrangements for them to attend the court at the next hearing of the application. If it is established that the aggrieved family member cannot attend court, the police member must consult with the prosecutor. The police member may be able to give evidence for an interim intervention order or intervention order application.

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

5.5.2.1 Police attendance



Usually police do not attend court for non-police-initiated complaints unless they have specific evidence to present. The registrar will coordinate applications and will advise if police presence is necessary.

If required, a police court orderly or Protective Services Officer may be requested to attend the hearing. Otherwise, police involvement should be necessary only where criminal charges are involved.

5.5.2.2 Prosecution of hearings

A police prosecutor can only prosecute hearings where police are named as the complainant in the intervention order application. In other cases, the aggrieved family member prosecutes the application, or may engage the assistance of the court duty lawyer or other legal practitioner.

5.5.3 Role of the police prosecutor in the civil options



SECTIONS 7A CFVA



GO TO SECTION
4.3.3 FOR MORE
INFORMATION
ON CASE
CONFERCING

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 intervention order applications initiated by police (see section 5.5.2.2 for prosecution of other applications).

The prosecutor must ensure that all relevant evidence is led to help inform the court in the determination of the application.

The police member initiating an intervention order 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 aggrieved family member) court support, including a tour of the court, if this would be of benefit to the aggrieved family member. This is helpful in making the aggrieved family member feel at ease at court and explaining the court process. Court Network or another appropriate agency should be consulted to assist with this action.



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Where a police member is not required to attend court or is unavailable, before the hearing of the application, the police prosecutor should:

- Explain their role to the aggrieved family member
- Advise the aggrieved family member of the court process and procedures
- Ensure the aggrieved family member is aware of available services and told how to access the services
- Discuss with the aggrieved family member their particular circumstances and needs to ensure any conditions requested in an intervention order are tailored to suit the individual circumstances
- Identify if there are any safety concerns or support services requirements for the aggrieved family member 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 intervention order without the consent of the aggrieved family member.

Prosecutors may also be asked to assist in a case conference.

5.6

WHAT HAPPENS TO FIREARMS?

5.6.1

Police will seize any firearms



GO TO SECTION
2.4.8 FOR MORE
INFORMATION ON
SEIZING FIREARMS

Police are empowered to seize firearms before or after an intervention order is granted. They will do this as detailed in section 2.4.8.

Police will tell the court about any firearms they have seized and if the defendant is the holder of a firearms licence or permit or is otherwise authorised to possess or carry a firearm. The court must take appropriate action according to the *Crimes (Family Violence) Act 1987* – see section 5.6.2.

5.6.2

The court process

5.6.2.1

At the hearing of an interim intervention order



SECTIONS 5 AND
18A CFVA

At the granting of an interim intervention order, the court may suspend any applicable licence, permit or authority held by the defendant. Police must hold any seized firearms or act to seize any firearms according to the *Crimes (Family Violence) Act 1987*, pending the final hearing of the intervention order.

If the court does not grant the intervention order, the defendant is responsible for making application to the court to have the licence restored. Police may take alternative action under the *Firearms Act 1996* to have the person's licence revoked.



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5.6.2.2



SECTION 8 CFVA

SECTION 47
FIREARMS ACT

VPM 120-2: FIREARMS
AND EXPLOSIVES

At the hearing of an intervention order

At the granting of a final intervention order the court may revoke any licence, permit or authority and direct what is to occur to any seized firearms. Police may act to seize any firearms not previously seized.

Police will dispose of any seized firearms as directed by the court.

The defendant will be declared a prohibited person according to the *Firearms Act 1996* for the duration of the intervention order and five years after its cessation. The defendant is responsible for taking any action to be declared a non-prohibited person.

5.6.2.3

Further requirements if a person is not the holder of a firearms licence, permit or other authority

If a person from whom firearms are seized is not the holder of an appropriate licence, permit or other authority, police must lay relevant charges under the *Firearms Act 1996* in addition to any action taken under the *Crimes (Family Violence) Act 1987*.

5.7

SERVICE OF AN INTERVENTION ORDER

5.7.1

What the court does



PROCEDURES:
VPM 109-4

If the defendant is present in court, the registrar will serve the order. If the aggrieved family member is present, the registrar will also give them a copy.

If the defendant is not present, the registrar will notify the CDEB of the existence of the order and fax to police for service by close of business the day the order is made:

- Copy of request for service letter
- Copy of the order
- Notice of intention to defend
- An affidavit of service
- Defendant's information sheet/s
- Any other relevant information to assist with service.



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5.7.2 What the police do

5.7.2.1 Priority of service



GO TO SECTION
4.6 FOR MORE
INFORMATION
ON BREACH OF
AN INTERVENTION
ORDER

If the defendant is not in court, police will give priority to the serving of an intervention order. If the intervention order is breached, police must be able to prove that the defendant was aware of the conditions of the order.

5.7.2.2 Recording existence of the intervention order

To record the existence of an intervention order, on the day it is issued the court will fax a copy to the CDEB for recording. Police have local instructions for the handling of orders, which must include procedures for:

- Recording
- Allocating to a police member for service
- Monitoring of service by supervisors.

5.7.2.3 What police do when they serve the intervention order

Police must record each action taken and update LEAP as required.

Sometimes they need to plan service of the order, for example where:

- An interpreter is required to explain the conditions of the order
- The defendant is an involuntary patient at a mental health service or subject of a community treatment order under the *Mental Health Act 1986* and the court of issue needs to be advised.

After serving the order, police will:

- Complete the affidavit of service and return it to the court of issue on the same day as service
- Notify the aggrieved family member.



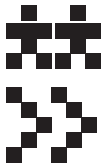
5.0

5.7.2.4 What police do if they cannot serve the intervention order

If police cannot serve the intervention order, they will forward to the court of issue:

- Interim intervention orders (at least two days before the return date) or
- Final intervention orders (after five days from the date of issue) and
- Sworn affidavit or declaration of non-service
- Action Advice Cover Sheet
- Copy of LEAP case narrative
- Any application for substituted service.

5.7.3 What happens if the intervention order cannot be served on the defendant?



GO TO SECTION
3 FOR MORE
INFORMATION
ON REFERRAL

If the intervention order cannot be served on the defendant, both the registrar and the police will notify the aggrieved family member and the registrar will coordinate any further action.

Police must assess the risks of the order not being served and what alternative action can be taken in order to protect the safety and welfare of persons concerned. This may require police to refer the aggrieved family member to appropriate agencies.

The court may issue an order for substituted service, which, if granted, will be forwarded to police for service.

5.8 REVOKING, VARYING, EXTENDING OR APPEALING AN INTERVENTION ORDER

5.8.1 Need for clear and appropriate conditions



Before seeking any conditions of an intervention order, 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 intervention order, police should review any original conditions and refer the aggrieved family member to appropriate agencies who can assist in seeking comprehensive and workable conditions appropriate to individual circumstances.

Any order should be clear to all and in particular to the defendant who has to abide by the conditions.



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5.8.2 Appealing an intervention order

A defendant may appeal against the making of an order and a complainant may appeal against the refusal to make an order (sections 20-21 of the *Crimes (Family Violence) Act 1987*). Police will refer parties to appropriate agencies who can provide assistance and advice on making the respective appeal. Where police are a party to an application they are also a party to the appeal and will be required to attend the County Court for the hearing of the appeal.

5.8.3 Extending, varying or revoking an intervention order

5.8.3.1 Legislation



Any party to an intervention order may apply to have an intervention order or its conditions extended, varied or revoked (section 16 of the *Crimes (Family Violence) Act 1987*). This process is not to be used to replace the making of an appeal. Notice must be served on the other party and any police complainant before the hearing.

5.8.3.2 What police do

Where police are the complainant and notice has been served on them, they must contact the aggrieved family member. Police and the aggrieved family member must attend court. Any agreement to extend, vary or revoke the intervention order must be appropriate in the circumstances, based on an assessment of the present and future risks. This must then be accepted by the Magistrate as appropriate in all the circumstances. Where necessary, police will refer the aggrieved family member to appropriate agencies.

5.8.3.3 Protecting children

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



5.0

5.9 FAMILY LAW ACT AND INTERSTATE ORDERS

5.9.1 Interstate order



Interstate or New Zealand protection orders are enforceable in Victoria if they have been registered with the principal registrar of the Magistrates' Court in Victoria (sections 18AA-18AAB of the *Crimes (Family Violence) Act 1987*). Police will refer any inquiries about registering an order to the Melbourne Magistrates' Court.

5.9.2 **Family Law Act orders**

5.9.2.1 **If there is a *Family Law Act* contact order**



An order allowing child access under the *Family Law Act 1975* (Cwlth) does not prevent an intervention order being granted and it may be possible for two orders to operate at the same time. However, the intervention order, while allowing a child contact visit, must also maintain a level of protection against family violence.

A Magistrate may do any of the following:

- Suspend, vary or revoke the *Family Law Act 1975* (Cwlth) order for up to 21 days if a child has been exposed or is likely to be exposed to family violence during a contact visit
- Grant an interim intervention order, irrespective of the parties' wishes
- On making the final intervention order, revoke the *Family Law Act 1975* (Cwlth) order.

5.9.2.2 **Use of *Family Law Act* injunction or restraining orders**



VPM 108-14:
COMMONWEALTH
OFFENCE
INVESTIGATIONS

If there are proceedings under way in the Family Court, police may advise the aggrieved family member to seek an injunction or restraining order under sections 68B or 114 of the *Family Law Act 1975* (Cwlth). 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 (Family Violence) Act 1987*.



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5.9.2.3



What police can do if there is a breach of a *Family Law Act* order

Victorian police can only investigate Commonwealth offences that are incidental to State offences - see reference at section 5.9.2.2. Therefore, when any breaches of a *Family Law Act* 1975 (Cwlth) order occur, Victorian police will refer the aggrieved family member to the Australian Federal Police.

There is a power of arrest for breach of a Family Law Court injunction but only where the injunction is for personal protection and injury or threats of injury have occurred.

The Family Court may also send police a warrant for arrest.

Any persons arrested must be dealt with according to any respective warrant or brought before a judge of the Family Law Court.

When an arrest has been made, police will notify other parties to the injunction of that arrest.

5.9.2.4



GO TO SECTION
3 FOR MORE
INFORMATION
ON REFERRAL

Disclosure of information

To comply with respective privacy and family law legislation, police will disclose information in the following circumstances only:

- Information regarding the aggrieved family member – as part of a formal referral - see section 3.2 of this Code of Practice
- Information regarding the whereabouts of a child subject of a *Family Law Act* 1975 (Cwlth) order – in accordance with an appropriate order.



6.0

MONITORING THE POLICE RESPONSE AND INVESTIGATION

6.1 HOW THE POLICE RESPONSE AND INVESTIGATION WILL BE MONITORED

6.1.1 Role and responsibilities of the police supervisor



GO TO SECTION
1.4 FOR MORE
INFORMATION ON
THE ROLE OF THE
POLICE SUPERVISOR



PROCEDURES:
VPM 109-7

Police supervisors have a critical and continuing role in checking the appropriateness of the police response and investigation of family violence.

A critical role in supervision is that of case management. Supervisors must actively monitor family violence incidents via LEAP case management. The purpose is to ensure:

- Processes in this Code of Practice and the relevant procedures are followed
- The particular needs of persons from diverse communities are considered
- Appropriate action and investigation has been or is being taken
- The family violence incident and investigation remains 'active' until decided otherwise (e.g. a brief of evidence has been submitted or all possible inquiries and actions have been exhausted)
- Ongoing investigation is taken, including nominating an investigating member
- Briefs of evidence are submitted in a timely fashion
- Aggrieved family members are updated of the case progress.

6.1.2 Family Violence Unit

The Family Violence Unit, Operations Coordination, has a principal role to provide support, advice and training to all police employees regarding family violence.

The Unit is responsible for:

- Developing and maintaining best practice and procedures for police response to family violence, including this Code of Practice
- Monitoring and reporting on the police response to family violence
- Coordinating police involvement with government and community agencies in relation to family violence issues affecting the community
- Overseeing, developing, preparing and delivering training for police who provide a response to family violence and specialist training where appropriate.



6.0

6.1.3 Family Violence Manager

The Local Priority Policing Inspector for each police region is the Family Violence Manager. Their duties in this role are to:

- Provide a regional contact point for external and non-government agencies
- Manage and support the Family Violence Advisors and the Family Violence Liaison Officers within their region
- Ensure that family violence matters are addressed by relevant regional committees
- Represent Victoria Police in local governance forums that establish and maintain an integrated response to family violence
- Coordinate consistent family violence program development for the region in line with this Code of Practice
- Provide advice to regional management on family violence matters.

6.1.4 Family Violence Liaison Officer

There is a Family Violence Liaison Officer (FVLO) at every 24-hour police station in Victoria. The FVLO is a sergeant and is responsible for the following activities within the station or cluster:

- Provide a consistent and coordinated approach to family violence
- Monitor and report on family violence
- Provide a station contact point for local referral agencies
- Establish relationships between police and other agencies
- Coordinate further response to victims where issues of re-attendance or multiple attendance exist.

6.1.5 Family Violence Advisor

Victoria Police has established 10 full-time Family Violence Advisors within the five police regions. Their role is to:

- Provide a focal point for the interface between operational police, FVLOs and local agencies
- Ensure operational police are aware of the issues and impact of family violence and violence against women upon the victims and the general community
- Establish and maintain formal consultative community networks and represent Victoria Police at appropriate forums relating to family violence
- Coordinate, develop and conduct training workshops for operational police in consultation with the Family Violence Unit and Regional Training Officers



6.0

- Research and identify local issues, trends and incidents of family violence in the community and develop initiatives and strategies to break the cycle of family violence
- Provide a contact point between local agencies, the Family Violence Manager and the Crime Tasking Unit relating to identified trends or strategic family violence issues.

6.1.6 Role of external agencies and the community

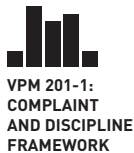
6.1.6.1 What people can do about the police response



In the first instance, issues concerning police action should be dealt with at the local level with a police supervisor and local management. Issues may also be dealt with through either existing complaint procedures (see section 6.1.6.2) or by raising the issue with the local Family Violence Advisor.

Any unresolved issues are referred to the Family Violence Manager and may require involvement from the Family Violence Unit.

6.1.6.2 Complaints against police



VPM 201-1:
COMPLAINT
AND DISCIPLINE
FRAMEWORK

Issues concerning inappropriate or unethical police behaviour should be reported to a police supervisor, the Ethical Standards Department or the Deputy Ombudsman (Police Complaints). Any investigation and action will be pursued as required by police or Ombudsman internal procedures.

6.1.6.3 What police can do about the response from external agencies

Any concerns police have regarding the manner in which another agency has acted in accordance with this Code of Practice will be raised initially with the respective FVLO and/or the Family Violence Advisor.

Action will be taken to address the issue at a local level. However, unresolved issues will be referred to the Family Violence Manager and may require involvement from the Family Violence Unit.



7.0

REFERRAL INFORMATION

The following list of referral agencies and other services may assist in the police response to and investigation of family violence. The 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 this Code of Practice, specifically section 3, and the respective police procedures.

For agencies listed in this section, please send any amendments to the Manager, Family Violence Unit, Victoria Police Centre, PO Box 415, Melbourne 3005.

STATEWIDE SERVICES

Women's Domestic Violence Crisis Service of Victoria (WDVCS)

Crisis support, information, referral to safe accommodation (refuge) for women.

- **9373 0123** (24-hrs)
- 1800 015 188 (toll free for country callers only)
- 9377 9600 (administration)
- 9377 9601 (fax)

Immigrant Women's Domestic Violence Service (IWDVS)

For immigrant women who are victims of family violence.

- **9898 3145** (9am–5pm, Mon–Fri)
- 8415 1712 (administration)
- 9898 1049 (fax)
- iweof@infoxchange.net.au

Men's Referral Service

Telephone counselling and referral for men who use violence towards family members.

Provides initial counselling and referral for partners and advice to agencies requiring assistance.

- **9428 2899** (12noon–9pm, Mon–Fri)
- 1800 065 973 (toll free)
- 13 6169 (after-hours, facilitated through Care Ring)

Elizabeth Hoffman House Aboriginal Women's Family Violence Services

Crisis accommodation and support for Aboriginal women and spouses of Aboriginal men.

- **1800 015 188** (24-hrs)
- 0438 528 525 (9am–5pm, Mon–Fri)
- 9482 6005 (10am–4pm, Mon–Fri)
- 9482 4414
- ehh@infoxchange.net.au



7.0

DOMESTIC VIOLENCE OUTREACH SERVICES

Melbourne Metropolitan Outreach Services

Offer women and children who are enduring or escaping from a violent partner practical support and information about safe accommodation options, obtaining legal advice, accessing financial entitlements, referrals to counselling and other services.

Eastern Metropolitan

Ringwood

→ **9870 5939**

Northern Metropolitan

Heidelberg

→ **9457 5087** (10am-4pm)

Southern Metropolitan

Frankston, Mentone, Cranbourne and Peninsula

→ **9791 6111** (8am-5pm)

→ 0400 503 338 (5pm-10pm)

Western Metropolitan

Footscray

→ **9689 9588**

Rural Outreach Services

Barwon South West

Geelong

→ **5224 2903**

Warrnambool

→ **5561 1934**

Hamilton

→ **5571 1778** (Mon-Thurs)

Camperdown

→ **5593 1370** (Tues & Thurs)

Portland

→ **5521 7937** (Tues)

Gippsland

Warragul

→ **5623 4168**

Morwell

→ **5134 1588**

Leongatha

→ **5662 4502**

Grampians

Horsham

→ **5382 6669**

Ballarat

→ **5333 3666**

Ararat/Stawell

→ **5358 3700**

Hume

Wodonga

→ **(02) 6056 1550**

Shepparton

→ **5831 2012**

Broadford

→ **5784 1306**

Wangaratta

→ **5721 8277**

Loddon Mallee

Mildura

→ **5021 2130**

Bendigo

→ **5443 4945**

Swan Hill

→ **5033 1899**



7.0

OTHER SERVICES

Aboriginal Family Violence Prevention and Legal Service

→ **1800 105 303** (toll free, 9am–5pm, Mon–Fri)
9654 3111 (Administration)
9654 1076 (fax)
www.fvpls.org
information@fvpls.org

Child Protection Crisis Line

To report concerns of child physical and/or sexual abuse.

→ **131 278** (24 hrs toll free)

Domestic Violence and Incest Resource Centre (DVIRC)

Publications, training, resources and referral to local and national services, and to Victorian Family Violence Networks. Information covers violence and women with disabilities, and older women and domestic violence.

→ **9486 9866** (9am–5pm, Mon–Fri)
9417 1255 (TTY for hearing impaired)
9486 9744 (fax)
www.dvirc.org.au (central information point)
www.dvirc.org.au/whenlove ('When Love Hurts' for young people in abusive relationships)
www.burstingthebubble.com ('Bursting the Bubble' for teenagers living with family violence or abuse)
dvirc@dvirc.org.au

Federation of Community Legal Centres

Will refer to local Community Legal Centres who can provide legal assistance on family violence, family law and support in applying for intervention orders.

→ **9654 2204** (9am–5pm, Mon–Fri)
9654 5204 (fax)
www.communitylaw.org.au
fedclc@vicnet.net.au



Gay and Lesbian Switchboard

Telephone counselling for lesbians and gay men, referral to face-to-face counselling and other services.

→ **9827 8544** (6–10pm each day, 2–10pm Wed)
1800 184 527 (toll free for country callers)

Kids Help Line

Telephone counselling for children and young people.

→ **1800 551 800** (toll free)
www.kidshelp.com.au

LifeLine

Telephone counselling (general).

→ **131 114**
www.lifeline.org.au

Telephone Interpreter Service

→ **131 450**

Victims Support Agency (VSA)

→ **9603 9797** (10am–4pm, Mon–Fri)
1800 133 302

Women's Information and Referral Exchange (WIRE)

Telephone information, support and referral for women.

→ **1300 134 130** (toll free 9am–5pm, Mon–Fri)
9206 0870 (administration)
www.wire.org.au

Women's Information Centre (WIC)

247 Flinders Lane, Melbourne (10.30am–5pm, Mon–Fri)
Mildura
→ **5021 2130**

Women's Legal Service Victoria

Legal phone advice line concerning family violence and family law.

→ **9642 0877** (legal advice)
1800 133 302 (toll free)
9642 0232 (fax)
justice@vicnet.net.au (10am–1pm, Mon–Fri
6.30am–8.30pm, Tues & Thur
2pm–5pm, Wed)



7.0

CENTRES AGAINST SEXUAL ASSAULT (CASAs)

Metropolitan CASA crisis line numbers

Crisis support, counselling, information for people who have been sexually assaulted

CASA House – Carlton

- **9344 2210** (daytime)
- 9349 1766 (after-hours crisis)
- 1800 806 292 (toll free for country callers only)
- 9349 2466 (TTY for hearing impaired)

Gatehouse Centre – Flemington

(Royal Children's Hospital)

- **9345 6391**
- Western CASA – Footscray
- **9687 5811**
- Northern CASA – Heidelberg
- **9496 5770**
- Eastern CASA – East Ringwood
- **9870 7330**
- South East CASA (Moorabbin)
- **9594 2289**

Rural CASA crisis line numbers

- Ballarat CASA
- **5320 3933**
- Geelong CASA
- **5222 4802**
- Gippsland CASA – Morwell
- **5134 3922**
- Goulburn Valley CASA – Shepparton
- **5831 2343**
- Loddon Campaspe CASA
- **5441 0430**
- Wimmera CASA – Horsham
- **5381 9272**
- Upper Murray CASA – Wangaratta
- **5722 2203**
- South Western CASA – Warrnambool
- **5564 4144**
- Mallee CASA (Mildura)
- **5025 5400**



7.0

VICTORIA POLICE

Victoria Police employees and family

The Police Association (welfare officer)

Counselling and referral advice for members of the The Police Association only.

→ **9495 6899** (office hours)
0408 943 254 (24-hrs)

Victoria Police

Employee Support and Welfare Clinical Services or Clinical Services Counselling and referral advice for police employees and their family.

→ **9340 5444** (24-hrs)

Victoria Police Victim Advisory Unit

Assists victims of crime and families bereaved by homicide and culpable driving.

→ **9628 8381** or **9628 8554** (24-hrs)



