

Introduction

Departmental policies and protocols

In response to the 1991 NSW Domestic Violence Strategic Plan, state government departments developed policy and protocol guidelines. These documents outline the responsibility of the agency and its employees when responding and providing service to women and children who may be experiencing domestic violence.

The policies are based upon the Statement on Domestic Violence endorsed by the NSW Premier in 1991. The principles of this Statement are reprinted on page 154.

The domestic violence legislation reflects the position that violence is unacceptable under any circumstances and that the perpetrator is responsible for his behaviour.

Policies developed by federal government departments and agencies such as Centrelink, are based on the understanding of domestic violence outlined in the National Committee on Violence Against Women *Position Paper* first released in 1991.

The response outlined in all policy documents treats domestic violence as a crime and gives first priority to the safety of women and children.

Victims Rights

In New South Wales, victims have rights in accordance with the *Charter of Victims Rights*. The *Charter* establishes standards for the appropriate treatment of victims, and government departments have a statutory obligation to respond to victims of crime in accordance with the *Charter*.

When women and children who experience domestic violence are victims of a criminal offence, they have rights and recourse under this *Charter*.

Information about the *Charter* and its administration by the Victims of Crime Bureau is included on page 155.

Why include policies and protocols?

Summaries of each departmental policy and protocol guidelines have been included as an introduction to and overview of, the service commitments of each department in matters of domestic violence. They provide general information for use by those who are not employed by the agency, and thus not necessarily familiar with the specific agency and job descriptions.

Using this section as a guide, other services may gain some idea of what a government agency is supposed to be doing, and whether it is fulfilling its role.

It provides a basis for cross-agency accountability. If a woman reports to a Local Domestic Violence Committee member, a particular level of service from an agency, the Committee can review whether this service is in accordance with the relevant department's protocols. If it is not, the Committee may discuss this with the agency at a local level, or make a more formal complaint.

Are these policies up-to-date?

Every effort has been made to provide the most up to date information, and each summary has been reviewed by policy officers within the relevant department to ensure accuracy. The general nature of the content is deliberate, to avoid constant outdating of specific policies, for example, social security benefits.

However, because departments' policies and protocols do change constantly, we suggest the following summaries be used as guides only. Contact the policy sections of each department for the most up-to-date changes.

Complaints procedures

The procedures for making a complaint about the government agency or other service in the same area, are included with each policy summary. These are as follows:

Breaches of the Charter of Victims Rights – see page 156;

Complaints about Police – see page 162;

Complaints about Chamber Magistrates, court staff, Magistrates, Director of Public Prosecutors, solicitors or barristers – see page 164;

Complaints about any health service – see page 166;

Complaints about Department of Community Services – see page 168;

Complaints about Department of Housing – see page 170; and

Complaints about Centrelink – see page 173.

Statement on Domestic Violence

In April 1991, the Premier of NSW endorsed and distributed to Ministerial colleagues a Statement on Domestic Violence with the intention that all policies, programs or procedures relating to domestic violence should be in line with the principles it contained.

This endorsement of the statement has been taken as an indication of the government's commitment to tackling domestic violence issues. The facts and principles expressed in the statement are essential for both for an understanding of domestic violence, and for development of a coordinated response to the problem.

The statement affirms that:

- Women and children have a right to live in safety and free of fear within their own homes.
- Domestic violence is a range of abusive behaviours, perpetrated by one partner upon the other to gain and maintain control.
- Domestic violence damages the well-being and future life chances of women and children.
- Domestic violence occurs across all cultural and socio-economic groups.
- Domestic violence is a phenomenon based on and perpetrated by existing societal conditions and social relations that reflect gender inequality and promote male power
- Domestic violence is perpetrated by men in the overwhelming majority of cases (95% of reported cases).
- Acts of domestic violence and its consequences are the sole responsibility of the perpetrator.

- Domestic assault is a crime.
- The safety and ongoing protection of women and children who have experienced, or are experiencing, domestic violence are paramount considerations in any response.
- Essential to any response are the early identification, appropriate intervention and long-term solutions to provide for the well-being and life chances of women and children who have experienced domestic violence.
- Language and cultural needs of women from non-English speaking background and Aboriginal women must be considered in any response.
- Prevention of domestic violence is the ultimate objective.
- Education and programs to promote gender equality are required to redress community apathy towards and tolerance of domestic violence.
- Any response to domestic violence requires a consistent planned approach across all sectors of the community and at all levels of government.
- All services which respond to domestic violence will adopt policies, procedures, programs and training in accordance with the above principles.

Victims Rights

The Victims of Crime Bureau

The Victims of Crime Bureau (VCB) was established within the Attorney General's Department of New South Wales under the *Victims Rights Act 1996*. The primary goal of the VCB is to coordinate the delivery of appropriate services to meet the needs of victims of crime.

The VCB is responsible for:

- providing information, support and referral services to victims of crime;
- linking the delivery of victim support and counselling services by government and community agencies; and
- overseeing the implementation of the statutory *Charter of Victims Rights*.

The VCB also gives victims access to information that will help them to understand, and participate in, the criminal justice system.

The VCB, in partnership with Mission Australia, provides a 24 hour Victim Support Line. This service is available to anyone who has experienced harm as a result of crime. It provides information, support and referral.

The VCB will offer advice and assistance about matters relating to the victim, including:

- making sure the victim is aware of their right to claim compensation for injuries suffered;
- helping to complete a victim compensation application;
- providing information about preparing a victim impact statement;
- helping victims to record their details with the Victim's Register so they can be

informed by the Department of Corrective Services of an offender's impending release or escape from custody;

- overseeing the Approved Counselling Scheme as amended under the *Victims Support and Rehabilitation Act 1996*.

What is the *Charter of Victims Rights*?

The *Charter of Victims Rights*, set out in the *Victims Rights Act 1996*, establishes standards for the appropriate treatment of victims of crime. The Charter is overseen by the Victims of Crime Bureau.

Who is a victim?

Under the *Charter*, a victim includes a person who, as a direct result of a criminal offence, suffers physical or emotional harm, or loss or damage to property.

What does the *Charter* do?

The *Charter* places a statutory obligation upon the government agencies to ensure that a victim is treated with courtesy and compassion at all times, and that their rights and dignity are respected.

contact

For more information

or to make a complaint about a breach of the *Charter*, or to contact the Victim Support Line
(available 24 hours), phone:

(02) 9374 3005

**Freecall
1800 63 30 63**

What happens if there is a breach of the *Charter*?

If a victim considers that a Government agency has not abided by its statutory obligations under the *Charter*, a victim can complain to the Victims of Crime Bureau.

The *Charter of Victims Rights*

The *Charter of Victims Rights* as published by the Government of New South Wales, recognises the right of victims of crime:

- to be treated with courtesy and compassion;
- to be informed by relevant agencies and officials of the remedies available to them;
- to have access to welfare, health, counselling and legal assistance;
- to be informed, upon request, of the progress of investigation of the crime, unless the disclosure might jeopardise the investigation;
- to be advised of charges laid against the accused, or the reasons for not laying charges;
- to be advised, upon request, of variations to the charges laid, or the justification for the accepting of a guilty plea to a lesser charge or the justification for accepting a guilty plea in return for leniency in sentence;
- to be advised of the withdrawal of a charge;
- to be advised of the date and place of hearing of the charge;
- to be advised, upon request, of the final outcome of the criminal proceedings and of the sentence imposed;
- to be informed about the trial process and the role of a victim as a witness in the prosecution of the accused (where relevant);
- in most cases, to have residential addresses and telephone numbers withheld;
- to be protected from unnecessary contact with the accused and defence witnesses during the course of court proceedings;

- to not be required to attend committal hearings unless necessary;
- to have property held by the State for the purpose of investigation or evidence, returned promptly, or to be advised of the reason of continued detention;
- to have their need for protection placed before any bail authority;
- to be advised of any special bail conditions imposed on the accused that are designed to protect the victim or their family;
- to be informed of the outcome of a bail application if the accused has been charged with sexual assault or other serious personal violence;
- to have access to information and assistance so a victim can prepare a victim impact statement authorised by law to ensure the full effect of the crime on the victim is placed before the court;
- to be able to request notification of the offender's impending release, or escape from custody or if there is any change in security classification that results in the offender being eligible for unescorted absence from custody;
- to be provided with the opportunity (on request) to make submissions about the granting of parole to a serious offender or any change in security classification that would result in a serious offender being eligible for unescorted absence from custody;
- victims of a crime involving sexual or other serious personal violence should be entitled to make a claim under a statutory scheme for victims compensation.

Source: Charter of Victims Rights Victims Rights Act 1996

Police powers and responsibilities

The NSW Police Service states that they have a strong commitment and a clear responsibility to develop and implement strategies for detecting, investigating and preventing domestic violence. It aims to develop strategies that will:

- Maximise the safety of victims and children and ensure victims are informed of their choices, rights and responsibilities
- Give perpetrators a clear message that abuse and violence is not acceptable, place the responsibility for the behaviour firmly with the perpetrator, and to ensure that there are consequences for perpetrators of domestic violence.

The approach advocated in domestic violence offences is pro-active.

Responding to a call

When police are called to a domestic violence incident they are instructed to respond promptly and efficiently.

When they attend the scene, police are instructed to check to determine any

In an emergency

Victims of domestic violence should be encouraged to contact police via the 000 emergency number rather than the local police station.

Victims also need to be encouraged to tell police when they arrive, that they have been assaulted. If the woman has been assaulted in the past, no matter how minor the assault, they should also let police know.

previous domestic violence history. They should be on alert for potential danger and existence of weapons. Officers are instructed to avoid conflict, where possible, separate the persons and maintain constant surveillance of each other and the offender.

Persons who are deaf

The NSW Police Service policy on interpreters states that an accredited interpreter must be arranged when one is requested by the person in question, and in cases where communication is impeded.

TTY – Telephone Interpreter Service
Phone: 02 9211 3776

Non-English speaking victims

Where there are communication or language difficulties, police are instructed to use only an accredited interpreter and never to use a family member to interpret (procedure 3.2). Police can contact the Telephone Interpreter Service 7 days a week, 24 hours a day. If a statement is required, they should arrange for an accredited interpreter either locally or through the Ethnic Affairs Commission.

TIS – Translating Interpreter Service
Phone: 131450

If an offence has been committed

Once satisfied that a domestic violence offence has been committed (see page 83 for a definition of a domestic violence offence), the primary responsibility of police is to ensure the safety and protection of all persons who experience domestic violence, stop the conflict and provide protection to victims.

Police should thoroughly investigate what has happened, get statements from witnesses/victims (witnesses/victims may include children), look for physical evidence, arrange for photographs of the victim and scene to be taken, make comprehensive notes and give strongest consideration to

arresting the alleged offenders. Procedure 3.2 of the New South Wales Police Service Domestic Violence Policy and Standing Operating Procedures states:

If an offence has occurred, as your first option, your strongest consideration should be given to exercising your power in favour of arresting alleged offenders. The decision to charge is not the responsibility of the victim.

In a crisis situation, police are the only service with the legislative power to ensure the safety of women and children. It is thus crucial that police respond appropriately and provide the immediate and ongoing protection required to make women and children safe.

Ongoing protection can be provided through appropriate charging, Apprehended Domestic Violence Orders (including Telephone Interim Orders (TIOs)) and bail conditions.

Telephone Interim Orders (TIO)

A police officer must apply for a TIO if:

- a) they suspect or believe that a domestic violence offence or an act of child abuse has been committed, is being committed or is likely to be committed; and
- b) the time or location of the incident means that it is not possible to make an immediate complaint at a court for an interim AVO; and
- c) they believe that a TIO is necessary to ensure the safety of the person or to prevent substantial damage to any property of that person.

See Apprehended Violence Orders on page 87 for details of the possible terms and conditions of a TIO.

Bail

When an offender is arrested, police are instructed to discuss with the victim their fears for safety, and appropriate bail conditions.

There is an exemption from presumption in favour of bail in respect of a domestic violence offence if:

- the accused has a history of violence against any person
- the accused has been previously violent towards the victim
- the accused has failed to comply with a bail condition imposed for the protection and welfare of the victim.

If the offender is released on conditions of bail which restrict his behaviour, a breach of these conditions is not in itself an offence, and has few consequences. To make sure the victim is protected, police must apply for an ADVO on behalf of the victim if the defendant has been charged with a domestic violence offence.

AVOs for ongoing protection

Police must apply for an Apprehended Violence Order on behalf of the victim when they suspect or believe that:

- a domestic violence offence (including harassment or molestation or threats or assault); or
- a stalking or intimidation offence (whether or not it occurred in the context of a domestic relationship); or
- an offence under section 227 (Child and young person abuse) of the *Children and Young Persons (Care & Protection) Act 1998* (but only if the person is a child under the age of 16 years);

has been committed or is being committed or is imminent or is likely to be committed.

The advantages of police action

There are great advantages in the police applying for an AVO on behalf of the victim/s.

Many women find accessing the law and legal processes difficult and intimidating. If police apply on behalf of the woman and follow-up the application appropriately and adequately, they will greatly assist her in gaining access to necessary protection.

A woman should be informed about police responsibilities to make an application for an AVO (in certain circumstances) on her behalf when they attend a domestic violence call. Informing women of their rights in these instances and working with police to protect the victim of domestic violence, may be areas for your LDV committee to work on.

The AVO provides for the ongoing protection for the victim/s. Police may apply on behalf of more than one person. In addition they may include on the application of the person in need of protection, other persons who are in a domestic relationship with them, for example children, de facto partner, parents etc.

There are certain instances where police may exercise discretion in applying for an AVO. If the person is over 16, and they say they intend to make an application themselves, or if the police believe there is good reason not to make the complaint.

Removing the perpetrator

In a domestic violence situation, there are two ways the offender may be removed from the scene. These include:

- 1) By arresting the offender if an offence has been committed
- 2) By Telephone Interim Order. If it is after hours, police must make an application for a

TIO. They can request that this TIO exclude the offender from the premises.

If there is insufficient evidence that an offence has been committed, police do not have the power to remove the perpetrator. In these circumstances, the woman may want to go somewhere safe. It would be helpful for police to contact the DV Line and find out where the woman and her children can go.

Safety of children

When police are called to a domestic violence incident, they are required to ask about the presence of children and personally check on their welfare by sighting or talking to them.

Police are mandatory reporters and are legally required to report concerns they have about the safety, welfare or wellbeing of a child. When a child has been present at a domestic violence incident as a victim or a witness or just present at the time of the domestic violence, then police must report to the Department of Community Services.

Protection of children

Only Police Officers can apply for an AVO for the protection of a child under 16 years at the time of the complaint.

A child under the age of 16 years may be included on an AVO made for the protection of someone with whom she or he has a domestic relationship (this does not happen automatically and must be specifically sought if necessary). Police are instructed to make sure the application suits the circumstances of both the children and the adult. Police must also seek details of any Family Court contact orders when applying for an AVO for children.

What if the AVO is breached?

This is a criminal offence. Police are instructed to investigate an alleged breach

of an AVO, and arrest where sufficient evidence exists that a breach has occurred.

The decision to arrest and charge does not require the consent of the victim.

If a breach of an AVO is reported to police and police take no action in respect to that report, the police officer must make a written record of the reasons for taking no action.

Firearms

Upon entry, police must inquire as to the presence of a firearm. If informed that there is one, they must take reasonable steps to search for and seize it (S.357H).

If informed that there is no firearm in the house, but police have reasonable cause to believe there is one, they must apply for a search warrant. A telephone warrant may be applied for.

For laws around firearms and domestic violence, see page 89 of this kit.

Interagency protocols

It is part of the Domestic Violence Liaison Officers role to actively participate in the Local Domestic Violence Committee.

Volunteers in policing

Over half the patrols in NSW have a program involving members of the community called Volunteers in Policing (VIP). Local Area Commanders are responsible and accountable for all functions performed by VIP's.

Volunteers undergo a criminal record check and an AVO check before they are accepted into the Volunteers in Policing Program.

Duty Statement of Domestic Violence Liaison Officer

Roles and responsibilities

1. Checking CIDS/Telephone Message Pad for all domestic violence incidents.
2. Checking COPS entries of domestic violence incidents to ensure appropriate action has been considered, and verify checklists where appropriate.
3. Checking there are corresponding COPS Events for each domestic violence related CIDS or Telephone Message entry. If there is no COPS entry, check the reason on the CIDS.
4. Ensuring checks for firearms have been made.
5. Ensuring consideration for a complaint for an ADVO has been made.
6. If there is no ADVO being considered, checking the COPS narrative gives reasons.
7. Monitoring all COPS Events and follow-up if verified entries are unsatisfactory or incomplete. Follow-up might include consultation with the Shift Supervisor, Crime Manager, Local Area Commander.
8. Ensuring service of ADVO summonses, warrants, interim ADVOs and final ADVOs is being done quickly and effectively.
9. Making the court aware and assisting with appropriate warrant applications, where service cannot be effected.
10. Ensuring the following is either returned or faxed (as necessary)
 - to the court – sworn affidavits of service of summons/complaints and/or orders,
 - to the Domestic Violence Databank – affidavits indicating service of the orders (interim and/or final with corresponding orders attached).
11. Ensuring that a copy of the affidavit of service is retained at the LAC.
12. Checking that any ADVO summons is returnable on the same day as the associated charge matter/s, where the defendant has been charged.
13. Ensuring the victim is advised to be at court and understands the ADVO and the court processes, where an application ADVO (interim or final) is being made.
14. Ensuring the court process officer/Police Prosecutor has a copy of the relevant documents and any Family Law Contact Orders.
15. Filing the index copy of all ADVOs, complaints/summons and interim ADVOs, affidavits of service and other relevant documentation. Note the COPS Event number.
16. Liaising with the Police Prosecutor regarding domestic violence matters to be listed and assist where appropriate.
17. Providing victim follow-up and ensure the victim has access to information and referral to agencies working in the area of domestic violence.
18. Monitoring victim follow-up in preparation for court appearances.
19. When children are at risk or have witnessed domestic violence:
 - Ensuring a report has been sent to the Department of Community Services
 - Ensuring the children are included on the ADVO application.
20. Establishing links with court assistance schemes to work collaboratively in assisting victims on list days. DVLOs should refer all victims to the court assistance scheme for further support, advice and information.
21. Swearing complaints on behalf of victims of domestic violence, including children and act as the common informant, where necessary.

22. Actively liaising with local domestic violence committees and culturally specific community based organisations and participating in local projects. This will assist in the development and maintenance of a practical referral guide to appropriate agencies for local police, as well as establishing effective partnerships for working collaboratively.
23. Providing in service training on domestic violence in collaboration with the Education Development Officer (EDO).

The NSW Police Service has been consulted in preparing this publication. The NSW Police Service does not necessarily endorse the content of the publication.

complaints procedure

Police

Complaints can be directed to:

- the police shift supervisor or the Patrol Commander, or write to the Commissioner of Police. All written complaints to the Police Service will automatically go to the Ombudsman.
- NSW Police Customer Assistance Unit
Freecall 1800 622 571 or

If the outcome is unsatisfactory, complaints can be directed to;

NSW Ombudsman
580 George Street
Sydney
Ph: (02) 9286 1000
or Freecall 1800 451 524

Local Court staff

Local courts' policies and procedures aim to maximise the safety of victims at court and ensure that domestic violence applications are dealt with quickly. Local courts' policy is informed by the *NSW Statement on Domestic Violence* and by the objectives of the domestic violence division of the Crimes Act. The policy is divided into main areas of safety; court processes; information and referral; client needs; coordination of services; and education and prevention.

Key points from the policy include:

- The first priority of the local court is the safety of women and children.
- Court processes are to be easy, quick and helpful to applicants throughout the court process.
- Local court staff will provide an information and referral service that is culturally appropriate and considers language needs of clients.
- Local court staff will respond to the specific individual needs of victims of domestic violence.
- Local court staff will work in collaboration with other services and promote a coordinated and responsive service delivery.
- Local court staff will consult with other service providers and promote its services to victims of domestic violence and help to educate the community and prevent violence.

All local court staff also have responsibilities to provide information about court processes and Apprehended Violence Orders and to ensure that standards and guidelines are complied with.

To apply for an AVO

To apply for an AVO, a woman can go to a local court and make an application (called a complaint) to a justice of the peace (called an authorised justice).

In the majority of cases, the authorised justice who takes complaints is a Chamber Magistrate. A Chamber Magistrate is a senior person working in the court office. They provide advice and referral and help prepare court documents. A Chamber Magistrate is not a Magistrate. A Magistrate is the person who hears the application in the court.

To apply for an AVO, a woman should contact her nearest local court and ask for an appointment with the Chamber Magistrate.

Local courts' Client Service Standards

A woman can expect the following service from local courts staff.

- An authorised justice/Chamber Magistrate should be available to take her complaint during business hours and at any court.
- Appointments to see an authorised justice/Chamber Magistrate can be made on the same day as requested. The maximum waiting time is 3 days.
- The authorised justice/Chamber Magistrate will respect privacy and ensure interview is conducted in private interview room.
- An interpreter can be arranged (free of charge) if requested.

At the interview

At the interview, the Chamber Magistrate will:

- Discuss safety strategies.

- Provide information about court processes and procedures for getting an Apprehended Violence Order.
- Prepare the complaint from information provided by the person making a complaint (the complainant).
- Discuss the conditions/orders sought at court with the complainant, and ensure that these conditions are included in complaint.
- List the complaint for the next available court date (within 3 weeks). Or, if requested, place the complaint immediately before a court for an immediate interim order.
- Advise on arranging legal representation.
- Arrange an interpreter for court, if requested.
- Provide referral to other appropriate services, for example the Women's Domestic Violence Court Assistance Scheme and the Domestic Violence Advocacy Service.

Inter-agency protocols

Local courts' policy on coordination states that courts will work in collaboration with other government and non government agencies to promote a coordinated response. The Registrar is responsible for coordinating this response.

Courts with four staff or more should hold regular court user forums and invite representatives from the local WDVCAS, local domestic Violence Committee, police and other relevant groups to participate.

Courts with under four staff should participate in local networks and/or consult with Regional Violence Against Women Specialist.

This summary has been approved by a policy officer of Local Courts in January 2001.

complaints procedure

Courts

Chamber Magistrates or court staff

Complaints about the Chamber Magistrate or other local court staff should in the first instance be made to the Clerk of the Court at the Courthouse. If this does not resolve the complaint you should contact the Community Relations Division of the Attorney General's Department at
Level, 9 Goodsell Building
Chifley Square
Sydney 2000

Free call: 1800 684 449

Magistrates

If a woman is dissatisfied with the decision of a Magistrate to make an Apprehended Violence Order, a further application can be made to the District Court. Local court staff can advise her on how to do this.

Complaints about Magistrates can be made to:

The Chief Executive
Judicial Commission of New South Wales
Level 5, 301 George Street
Sydney 2001
Ph: (02) 9299 4421

Director of Public Prosecutions (DPP)

Complaints about any staff of the DPP's office can be made to:

Director of Public Prosecutions
Locked Bag 8
South Sydney 2000
Ph: (02) 9285 8611 and ask for the
Service Relations Officer

Solicitors

Complaints about solicitors can be made to:

The Law Society
Ph: (02) 9220 0333

*or (particularly in relation to fees
and cost agreements)*

The Legal Services Commission
Ph: (02) 9377 1800

Barristers

Complaints about Barristers can be made to:

The Bar Association
Ph: (02) 9232 4055

NSW Department of Health

The NSW Department of Health policy on domestic violence is informed by the 1991 *NSW Government Statement on Domestic Violence*.

The NSW Department of Health is committed to training staff in all health facilities to respond appropriately to women and children presenting as victims of domestic violence assault. Some Area Health Service Policy documents have expanded this to include 'confirmed and suspected' victims.

Health facilities include emergency departments, community health services, ambulance (and interpreters, bilingual counsellors where relevant).

Responding appropriately includes providing the appropriate medical intervention and information and referral as required for the safety of women and children involved.

What response should a client expect?

Clients accessing health facilities for matters relating to domestic violence should expect the following:

- Appropriate medical attention.
- An empathetic, non-judgemental response that understands the issues involved in domestic violence and acknowledges it as a criminal offence.
- A response that is sensitive to the diverse backgrounds and experiences of women and children, including an understanding of the diversity of ways in which women may experience domestic violence, and the ways they may access services.

- An interview conducted in private (and away from the perpetrator).
- An interview with a female if possible and requested.
- Arrangements made for an accredited interpreter if possible and appropriate (telephone service if necessary) so that clients can be informed of their rights in their preferred language.
- Information about the standard procedures to be followed in the event of domestic violence.
- Information about the services and resources available to provide for the safety and on-going protection of themselves and their children – taking into account medical, legal, social, cultural and emotional considerations.
- Referrals to appropriate services that can help women and children to access on-going safety.

Keeping records

Hospitals or other public health facilities are obliged to carefully record and document all injuries where it is known or suspected that domestic violence has occurred.

Confidentiality

These medical records are confidential, but they may provide medico-legal evidence for court and they can be released under law for example, with subpoena.

Referral to police

Where a serious criminal offence has taken place, there is a presumption in law that information will be reported to the police for further action. Health Department Domestic Violence Policy instructs workers that:

where the concern is the serious risk to the victim or others involved, for example gun

It's not love – it's violence

shot wounds, stabbings or other serious physical injuries or where the perpetrator is armed and has made threats, the police should be notified regardless of victim's wishes.

Health staff can use their discretion and involve the police even against the wishes of the victim, if they believe a serious crime has been committed. If this discretion is exercised, the victim should be informed.

In regards to the victim's rights to pursue the crime with police and report the offence, staff need to consult with the victim about her wishes and respect her right. Any request by the victim to talk to or inform the police should be complied with immediately.

Children

Under the *Children and Young Persons (Care and Protection Act) 1998*, employees of the Health Department and Areas are required by law to report a child (or children) 'at risk of harm' to the Department of Community Services (DoCS). All health workers must report to DoCS if they suspect a child is experiencing (or is at risk of experiencing), physical, sexual, emotional abuse or neglect. They must also report if they suspect a child is at risk of serious psychological harm as a result of living in a household where there has been or is, domestic violence.

Social admission

In many towns without a safe house, a social admission to hospital is possible if required for a woman escaping domestic violence.

Discharge to a safe place

The Domestic Violence Policy states that a victim of domestic violence should not be discharged against her will into a situation where violence will or may continue and that every effort should be made to discharge the victim into a safe environment.

Interagency protocol

The NSW Health Department Domestic Violence Policy states that the Health Department will liaise with other service providers and government agencies regularly to ensure a coordinated response to domestic violence.

This information is accurate as at January 2001. The NSW Department of Health is reviewing its domestic violence policy at present. It expects this process to be completed during 2001.

complaints procedure

About any health service

Complaints about any health service should be directed to:

Health Care Complaints Commission
Locked Mail Bag 18
Strawberry Hills 2012

Ph: (02) 9219 7444
Freecall 1800 043 159

Department of Community Services

The NSW Department of Community Services policy on domestic violence is informed by the *NSW Government Statement on Domestic Violence 1991*.

The Department is mandated to intervene in domestic violence situations under the *Community Welfare Act (1987)*.

When the Department of Community Services intervenes in domestic violence situations, it aims to:

- a) resolve the immediate crisis by ensuring immediate safety and on-going protection of women and children, and
- b) refer women and children to appropriate services which can assist in the provision of accommodation, income security and on-going counselling and support where necessary.

Services provided

The Department of Community Services provides support, advocacy, advice and referral to women experiencing domestic violence. Specifically, DoCS provides:

- a telephone information, advice, advocacy and referral service via the DV Line
- a face-to-face information, advice, advocacy and referral service from community services centres, and
- risk assessment with the client or family

Women with dependent children may also be able to access some financial assistance from Child Welfare Assistant Program (CWAP), and may have visits at home if required.

Funded services are also available to provide

assistance with services such as supported accommodation, counselling and advocacy.

The Department is committed to considering diversity in background and experience to ensure the needs of all women are met.

Inter-agency protocols

The Domestic Violence Policy document states that

Community Services Centre staff, together with staff of relevant services funded by the Department, will actively support Local Domestic Violence Committees through membership and aim to improve the coordination and quality of service delivery through an integrated approach.

Confidentiality

The Domestic Violence Policy states that confidentiality will be maintained on particulars relating to women and children who are clients of the Department because of domestic violence. Information will be shared on a 'need to know' basis where it is considered that neither the interests of the woman nor the child(ren) will be adversely affected.

Children

The Domestic Violence Policy states the following in relation to children:

Children who have witnessed domestic violence can be included in the Department's child protection program. Therefore each child's circumstances needs to be assessed to establish whether a report is appropriate. At all times the Department seeks to support and maintain children in their own families unless it is impossible to ensure their safety.

Those children who have experienced or are likely to experience domestic violence must be reported under the Department's child protection program.

Where there are concerns for the on-going safety of a child(ren) in situations of domestic violence, District Officers and Crisis Care workers will attend as described in the Child Protection Policy.

Irrespective of a woman's right to choose to remain within a violent relationship, the Department must ensure the safety of children and that they are not subjected to on-going abuse.

The *Interagency Guidelines for Child Protection Intervention*, released by the NSW Child Protection Council in February 1997, stresses that all professionals and agencies have a responsibility to stop child abuse and neglect.

Agencies should make a report to the Department of Community Services where they suspect a child is at 'risk of harm'. A child is considered 'at risk of harm' if:

- their physical or psychological or medical needs are not being met
- they have been (or are at risk of being), physically or sexually abused or ill-treated
- they are exposed to domestic violence or other serious psychological harm.

The Department of Community Services is the agency with the authority and mandate to respond to reports of child/ren 'at risk of harm'.

For copies of the guidelines, contact the Commission for Children and Young People on 02 9286 7276.

For more information about the new child protection legislation – *Children and Young Persons (Care and Protection) Act 1998*, visit the website:
www.community.nsw.gov.au

The Department of Community Services will begin updating its Domestic Violence Policy around February 2001. This information is current until the new policy is released.

complaints procedure

Department of Community Services

Firstly, talk with the staff person you know best.

To make a formal complaint, fill out a Complaint Registration Form available from staff at the Department. Your complaint will then be handled by a more senior staff person.

If you are still not happy with the outcome, you can make a complaint to the Community Services Commission, which oversees complaints made against the Department.

Write to:

Community Services Commission
Level 3, 128 Chalmers Street,
Surry Hills 2010

Or phone between the hours of 1-5pm
Monday to Friday
Ph: (02) 9384 4999
Freecall 1800 060 409

Department of Housing

The Department of Housing (DoH) is committed to reducing the effects of domestic violence by improving access to safe, affordable housing. The Department's response to the housing needs of people experiencing domestic violence is informed by the *Statement of Principles* agreed to by Heads of Government at the National Domestic Violence Summit in 1997.

What response can a woman expect from the Department of Housing?

A woman who requests housing assistance because of domestic violence can expect that DoH Client Services staff will:

- Arrange an interview and respond sensitively to her request for assistance
- Ask her if she prefers to speak to a female staff member
- Arrange for a female professional interpreter if required (family members should not be used as interpreters)
- Respond equitably, using a consistent approach to assessing her request
- Provide her with information, advice and referral that can help the woman resolve her situation
- Recognise that she may require time to decide the best course of action for her
- Treat her safety and wellbeing (and the safety of any children and young people that may be part of her household) as the main priority when considering her request for assistance

- Not give any personal information about her, her family, or household members, to another person unless there is a lawful reason to do so or she gives the Department permission to disclose the information.

If the client wishes a third person to be present during the interview, this should also be arranged.

Department of Housing's obligation to report to the Police

It is the Department's policy to treat all client information with the strictest confidentiality. However, if there is a serious risk to the client, for example, the client says the perpetrator is armed and threatening to use the weapon, staff have a duty to report the matter to police regardless of the client's wishes. The client should be informed of this decision.

In all other instances, Client Service staff must respect the right of the client to pursue, or not pursue, incidents of domestic violence with the police.

What evidence of domestic violence does the Department require?

If a woman makes a request for help because of domestic violence, this must be supported by a letter or document from the following:

- local court (a current Apprehended Violence Order)
- a doctor (a medical report or medical assessment form)
- police
- a solicitor
- a recognised domestic violence service

It's not love – it's violence

- a relevant welfare service including refuges and migrant services
- a helping professional – for example, social worker, counsellor, psychiatrist or psychologist
- Department of Community Services requesting assistance from the Department of Housing
- A current Apprehended Violence Order (AVO)

The applicant does NOT have to produce evidence of the violence itself and documentation does not have to contain explicit details. It does, however, have to outline the nature of the domestic violence in relation to the client's current circumstances.

If a woman is not able to provide documentation and there are concerns about her immediate safety, a Senior Client Service Officer (Specialist) or Team Leader may interview her.

Reporting children at risk

Under the *Children and Young Person's (Care and Protection) Act 1998*, the DoH is legally bound to report to the Department of Community Services, any concerns about a child (under 16) they suspect is at risk of serious physical, sexual or psychological harm because of domestic violence.

To appeal a decision

If the Department makes a decision not to approve housing assistance on the grounds of domestic violence, a client can appeal this decision. If a first level appeal is unsuccessful, a second level appeal can be made to the Housing Appeals Committee.

For details about Department of Housing options for applying for housing, or if the violence occurs in a Department of Housing home, see page 112 of this kit.

The Department of Housing is in the process of reviewing its domestic violence policy. It is expected to be release during 2001. This information is accurate until the new policy is released.

complaints procedure

Department of Housing

If you wish to make a complaint about the Department of Housing, you may speak to your Client Officer and let them know you have a problem.

If your problem is still not resolved, contact the Client Feedback Unit
Freecall 1800 652 059

If still unresolved, contact

NSW Ombudsman
580 George Street
Sydney NSW 2000

Ph: (02) 9286 1000
or Freecall 1800 451 524

Centrelink

Defining domestic and family violence

Centrelink acknowledges that violence against individuals is described by a variety of terms including: assault, child abuse, domestic violence, economic abuse, elder abuse, emotional abuse, exploitation, financial coercion, maltreatment, neglect, partner abuse, psychological abuse, sexual assault, social abuse, verbal abuse, wife abuse.

Centrelink defines domestic and family violence as:

Violence adopted by a person to control and/or manipulate the interactions they have with other, more vulnerable family members. This hinders self-determination and results in others living in fear of physical, sexual and/or psychological violence, forced social isolation or economic deprivation.

The term 'family' encompasses the various uses of the term that are found in the Australian community. The term 'domestic' identifies the setting in which violence occurs. The term 'violence' refers to intentional, hostile and aggressive physical and other acts rather than minor arguments or disputes.

What response should a client expect?

A Centrelink customer experiencing domestic and family violence can expect a prompt and supportive service that will meet their needs. They can expect:

- To be listened to.
- A response that is welcoming, friendly, fair, courteous, respectful and non-judgemental.

Note about the terms

It is the publisher's decision to refer to the person experiencing domestic violence as a woman because 95% of the reported cases of domestic violence are perpetrated by men against women. This is in keeping with objective of the kit and its target audience.

Centrelink wishes to make it known that the services described in this section are available to anyone who is escaping violence.

- A personalised service that includes providing information and opportunities for personal choices that will help them through transitional periods in their lives.
- To get any information they need to make choices for themselves, in a manner that is easy to understand.
- A pro-active and flexible response that understands the needs of customers in violent situations and improves their safety.
- An appropriate response to their cultural, language or disability-related needs.
- Correct assessment, referral and payment information.
- Quick access to the right Centrelink person to deliver assistance, including access to specialist services such as Social Workers.
- Early provision of any payments to which they may be entitled.
- Respect to their rights to privacy and that their personal information will be held in confidence.
- Referral to available community resources and other agencies for training, education, housing, legal assistance, police, child care, longer term counselling and help to negotiate with other government and community agencies.

Getting access to Centrelink services

If a woman is experiencing or escaping domestic violence, the Centrelink social workers are the people she should talk to. A woman may ask to see a social worker, or she may be referred to them after her initial interview.

A woman should be offered a referral to a social worker if she is:

- Experiencing or escaping a violent situation
- Obviously distressed or upset
- Requesting a change of identity
- Claiming payment for being separated under the one roof
- Requesting nominee arrangements
- Alleging that their nominees are improperly handling their Centrelink payments.

Social workers can provide services by phone (reverse charges if necessary), office interview, home visit or by visit to shelters.

As part of their casework service, the social workers are responsible for compiling lists of local domestic violence services. They should provide clients with information about self-protection, crisis intervention, legal protection and the longer-term resources needed to live independently and free from violence.

If a woman is escaping domestic violence, she may be eligible for special provisions. Her interview with the social worker will clarify this.

If appropriate, a woman can ask to see a Multicultural Service Officer, an Indigenous Customer Service Officer or a Disability Officer. Centrelink also has a Multilingual Service that provides information in a range of community languages.

Other services available include Financial Information Services Officers, that provide information to customers about their finan-

cial affairs and Centrelink Community Officers that provide services to homeless people of all ages. Community Officers can visit people at places like refuges, hostels, drop-in centres, psychiatric hospitals, prisons or other organised meeting places.

Protecting client information

Centrelink customers escaping violence can seek additional protection of their personal information that is held by Centrelink. They may be eligible for the 'deny access' facility or a password. A woman should ask the social worker about this facility and whether it is relevant to her.

Centrelink and Family Law

If Centrelink is served with a Location Order by the Family Law Court under section 67N of the *Family Law Act*, it must provide the Court with the information specified in the Order. Location Orders seek information about the whereabouts of a child. If a woman is concerned about this, she should ask a social worker to explain the Act to her in more detail and see if it has any implications for the safety of her or her children.

Crisis Payment

Centrelink can provide income support to customers who are in financial difficulty and experiencing domestic or family violence.

Crisis Payment is a one-off, non-refundable payment and may be paid to customers experiencing domestic or family violence who are in severe financial hardship and forced to leave their home.

Payments which a woman may be eligible for

Centrelink social workers or Customer Service Officers can help customers to identify what support they can get from Centrelink. Or contact your nearest Centrelink office for up-to-date information about benefits and eligibility.

Residency status

Department of Social Security benefits are paid to Australian citizens. There is a two year waiting period for new migrants before they can access most social security payments.

However, migrants whose circumstances change significantly after their arrival in Australia, for reasons beyond their control, may be eligible for payment of special benefit if they are in financial hardship. This may include women whose residency application has been sponsored by an Australian citizen, and who are now experiencing abuse or violence from that sponsor or a member of the sponsor's household.

Women should contact their nearest Centrelink office.

The information in this section is from Centrelink Working to assist people experiencing violence. This summary is accurate to December 2000.

complaints procedure

Centrelink

For complaints about Centrelink and the Child Support Agency, contact:

The Commonwealth
Ombudsman's Office
Level 8, 345 George St
Sydney NSW 2000

Ph: (02) 9248 2000
Freecall 1300 362 072

Department of Education

The Department of Education recognises that domestic violence is a serious crime and that students are often victims of this crime.

Schools are helping to prevent of domestic violence by:

- including curriculum material that emphasises non-violent ways of relating and promotes gender equity.
- training teachers and school counsellors to identify student victims of domestic violence and to implement appropriate interventions including, where appropriate, reporting to the Department of Community Services.
- teaching a compulsory Child Protection curriculum across both primary and secondary schools that provides information on preventative measures, reporting and support options.
- producing a non-compulsory domestic violence module/resource kit.

Within primary schools, teaching focuses on protective strategies, whilst within secondary schools the emphasis is on domestic violence, coercion, peer abuse, abuse within relationships and emotional abuse.

Child protection policy

The Department has released its revised policy, called *Protecting and supporting children and young people*. Employees of the Department of Education are mandatory reporters.

Student Welfare consultants

Forty two student welfare consultants are located throughout New South Wales.

Schools within New South Wales are divided into districts and there is at least one student welfare consultant for each district.

One of the welfare consultant's roles is to promote the welfare of students and encourage schools to implement non-compulsory syllabus modules, such as the domestic violence, bullying and homophobia modules. The student welfare consultants target schools with the greatest needs.

*Approved by the Department of Education
10/1/01.*

Endnotes

- 1 The information included about the Victims of Crime Bureau are extracts from the Bureau's leaflets.
- 2 Source: Victims Rights leaflet Attorney General's Department 1994 updated to include amendments Victims Rights Act 1996.
- 3 NSW Health Domestic Violence Policy page 8
- 4 NSW Health Domestic Violence Policy page 8
- 5 NSW Health Domestic Violence Policy page 10
- 6 NSW Health Domestic Violence Policy page 3
- 7 Department of Community Services – Domestic Violence Policy page 7
- 8 Department of Community Services – Domestic Violence Policy page 6
- 9 Department of Community Services – Domestic Violence Policy page 8
- 10 Department of Housing Client Service Manual page 15–4
- 11 Department of Housing Client Service Manual page 15–7 – 15–8