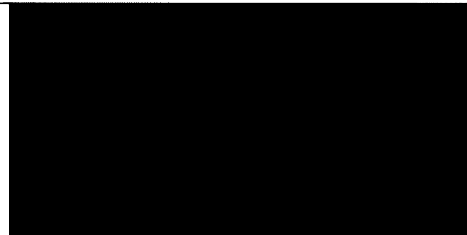


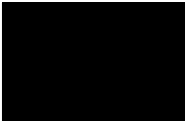
**IN THE MATTER OF THE ROYAL COMMISSION
INTO FAMILY VIOLENCE**

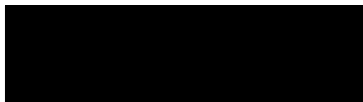
ATTACHMENT BA-19 TO STATEMENT OF BETH ALLEN

Date of document: 13 July 2015
Filed on behalf of: State of Victoria
Prepared by:
Victorian Government Solicitor's Office
Level 33
80 Collins Street
Melbourne VIC 3000



This is the attachment marked '**BA-19**' produced and shown to **BETH ALLEN** at the time of signing her Statement on 13 July 2015.

Before me: 



**An Australian Legal Practitioner within
the meaning of the Legal Profession Uniform Law (Victoria)**

Attachment BA-19

Family violence referral protocol
between the Department of Health & Human Services
and Victoria Police

2015

If you would like to receive this publication in another format, please email family.violence@dhs.vic.gov.au

This document is also available on the internet at <http://www.dhs.vic.gov.au/for-service-providers/children,-youth-and-families/family-violence>

Published by the Victorian Government Department of Health & Human Services, Melbourne, Australia

May 2013

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Authorised by the Victorian Government, 50 Lonsdale Street, Melbourne

Foreword

Family violence is a serious problem that has profound effects on women children, families and communities. Children who are exposed to family violence can experience trauma that may affect their development and well being. Women can fear for their safety and may become homeless. Providing integrated, effective responses to cease family violence is a key priority for the Department of Health & Human Services and for Victoria Police.

This document – the *Family violence referral protocol between the Department of Health & Human Services and Victoria Police 2015* – provides guidance on how Victoria Police, the Department of Health & Human Services and the service agencies it funds can work together to strengthen the collective response to family violence.

Family violence is primarily perpetrated by men against women and children and it is known to be a cyclical problem. Effective strategies must account for this, with systems for monitoring, feedback, prevention and timely intervention. The *Family violence referral protocol* sets out effective referral pathways for Victoria Police and family violence services along with clear and consistent referral practices. It reflects recent improvements to the service system including important improvements to referral pathways for men who use violence and control, to help them change their behaviours. It also specifies procedures for service agencies to notify Victoria Police of safety concerns and to provide feedback on the outcomes of referrals.

The *Family violence referral protocol* is an important part of the overall, state-wide effort to build an integrated system to respond to family violence and it will strengthen existing agreements in this area. Importantly, it requires collaborative arrangements between Victoria Police, the Department and service agencies at the front line to cease family violence, to protect those affected by it, and to bring greater accountability and service options to men who use violence.

Dr Pradeep Philip
Secretary
Department of Health & Human Services

Tim Cartwright
Acting Chief Commissioner
Victoria Police

Contents

Foreword and Endorsement	3
1. Introduction	5
1.1 Objectives of the protocol	5
1.2 Definition of family violence	5
1.3 Risk and threats assessment	5
2. Procedures for referrals by police and DHHS funded services to each other	6
2.1 Referrals by police of victims to family violence services	6
2.2 Where children and young people are present	8
2.3 Police referral of perpetrators to DHHS funded services	10
2.4 Family violence services referrals to police for assistance and ongoing involvement	12
3. Review date	13
4. Document owners	13
5. Dispute resolution	13
6. Disclaimer	14
7. Definitions	14
8. Contact details	14
9. Internal guidelines	14
10. Execution of this schedule	15

1. Introduction

The following protocol has been developed to support the legislative context and the reform agenda of building an integrated system to respond to family violence. This protocol is to be read in conjunction with, and performed in accordance with, the principles detailed in the Overarching Relationship Principles Memorandum of Understanding (dated November, 2014) to which both the Department of Health & Human Services and Victoria Police are signatories.

A key aspect of family violence reforms involves the police, justice and human services working together to develop an integrated system to respond to family violence.

The protocol is strengthened when read in conjunction with The Victoria Police *Code of Practice for the Investigation of Family Violence*.

The *Family Violence Protection Act 2008* is the main legislative instrument covering family violence in Victoria. In addition, related Victorian Acts are the *Children, Youth and Families Act 2005* and the *Child Wellbeing and Safety Act 2005*.

In regard to the *Children, Youth and Families Act 2005*, section 10 provides a unifying set of best interests principles and the concept of 'cumulative harm', which recognises the trauma and impact on the development and safety of children who witness family violence over time.

1.1 Objectives of the protocol

The aim of this protocol is to document effective referral pathways *between* Victoria Police and family violence services funded by the Department of Health & Human Services so women and children are better protected and family violence is reduced over time.

It outlines the approaches for:

- formal and informal *referrals by police for victims of family violence to family violence services*
- *assessing the risk to any child or children or young person present at a family violence incident, and referring that child to appropriate support services*
- formal and informal *referrals by police of perpetrators of family violence to services and emergency accommodation if required*
- referral by family violence support agencies for police assistance.

1.2 Definition of family violence

For the purpose of this protocol the definition of family violence is located within s.5 of the *Family Violence Protection Act 2008*.

1.3 Risk and threats assessment

The Victoria Police Code of Practice for the Investigation of Family Violence states that police will respond to and take action on any family violence incident reported to them. The action taken is based on an assessment of the risks and threats, regardless of whether the affected family member makes a verbal complaint or written statement.

The risk assessment tool used by police is compatible with the Common Risk Assessment and Risk Management Framework (CRAF), used by family violence services funded by DHHS.

2. Procedures for referrals by police and DHHS funded services to each other

2.1 Referrals by police of victims to family violence services

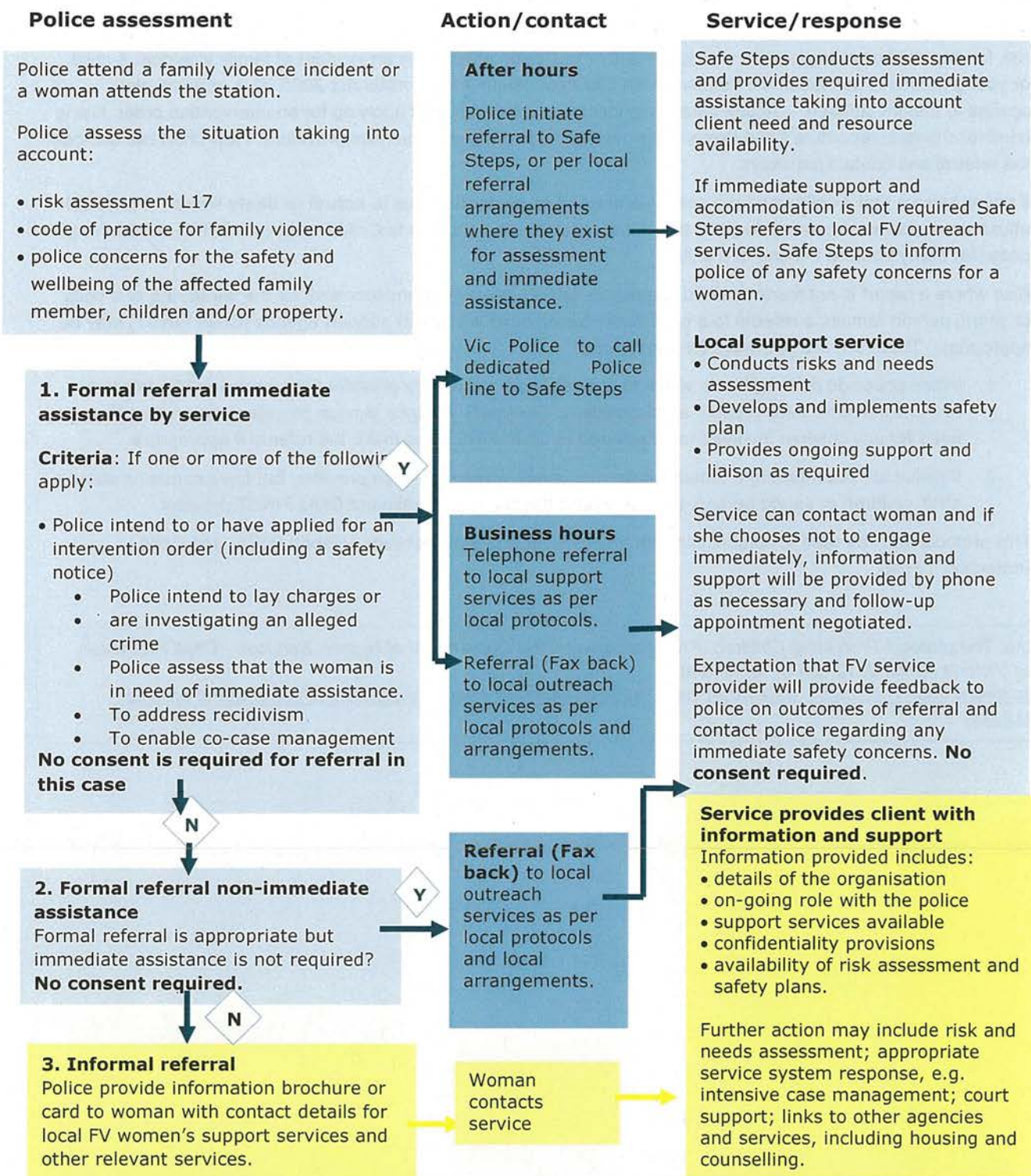
For victims of family violence, referral by police to family violence services for necessary support and assistance will follow in all cases. Options of criminal charges or civil complaint will be made against perpetrators of family violence where warranted.

Flow chart one indicates the assessment criteria and pathways for:

- formal referral for immediate assistance for female victims to family violence services
- formal referral for non-immediate assistance for female victims to family violence services
- informal referral to family violence services (where the client is provided with contact details and encouraged to seek support from services).

Where a victim of family violence is male, referrals to support services/ or victim assistance counselling can be made at a local level of through the Victims of Crime Helpline via telephone on 1800 819 817.

Flow chart one: Police referral of female victims of family violence to family violence services



Where child/children are present at an incident the procedures in flow chart two must also be followed. At the time of referral police must advise family violence services about any children, and whether a referral to Child Protection or Child FIRST has been made. **Local and statewide protocols must be adhered to when assisting Indigenous families.**

2.2 Where children and young people are present

Police members must make an independent (from the affected family member and perpetrator) assessment of risk for any child or young person who is present or has been affected by an incident of family violence. A child or young person is defined in the context of the *Children, Youth and Families Act 2005*. This protocol also applies to unborn children. . Action taken may include a combination of applying for an intervention order, laying criminal charges, reports to Child Protection or formal referrals to other service providers. Flow chart two outlines the referral and contact pathways.

If police believe that a child or young person is in **need of protection** due to **actual or likely** sexual or physical abuse, or concerns of harm or neglect, they must report these concerns to Child Protection, DHHS, as soon as possible; always before the end of a shift.

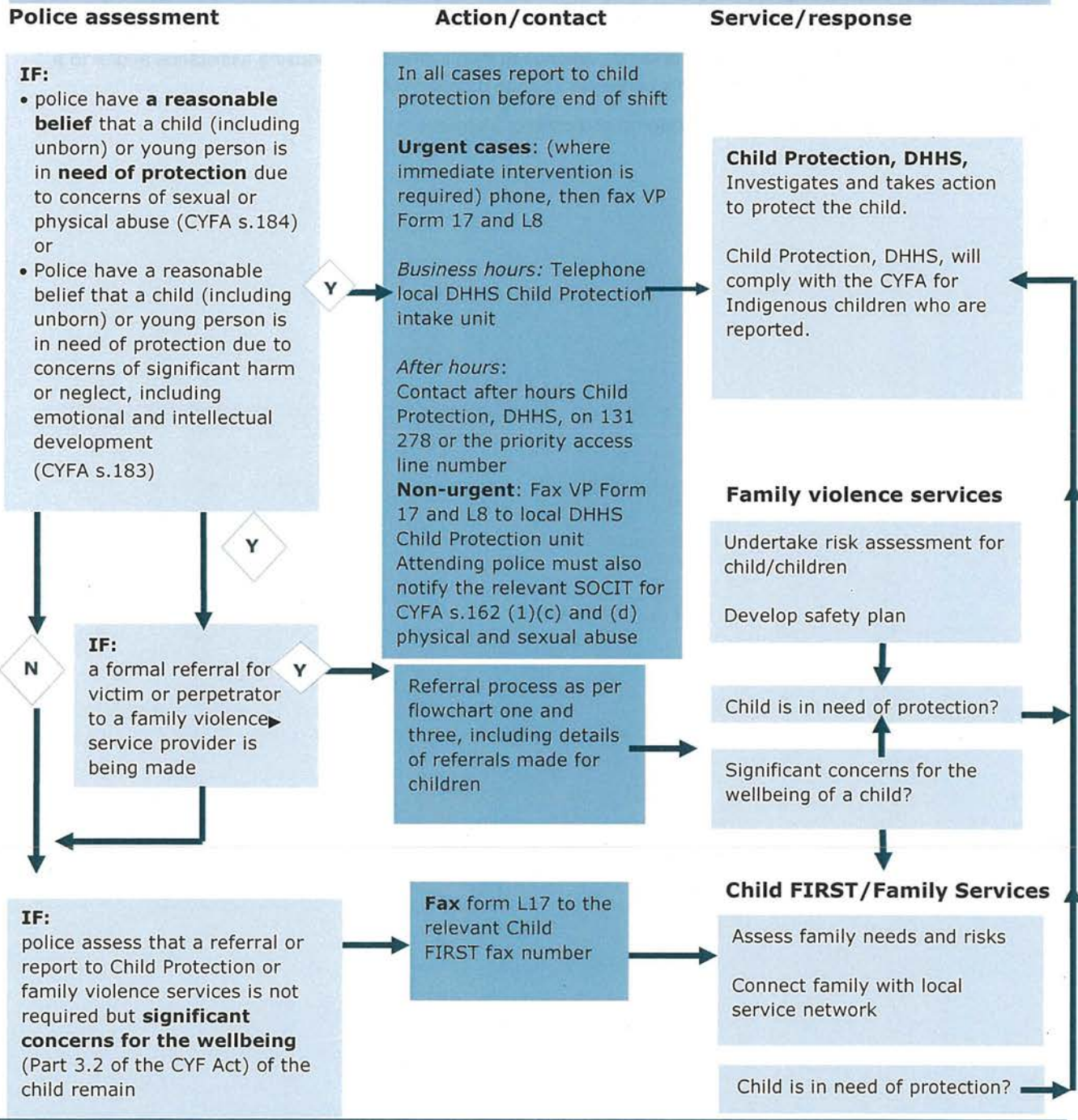
Also where a report is not made to Child Protection, DHHS, but significant concerns for the **wellbeing** of a child or young person remain, a referral to a community-based child and family support agency (Child FIRST) may be appropriate. There are two pathways for this referral:

1. When police do refer a female victim to a family violence service provider they must provide details of any children who were present at this incident. The family violence service provider will consider the need for any children involved to be referred to Child FIRST and make the referral if appropriate.
2. If police are not referring a female victim to a family violence service provider, but have concerns about a child, children or young person, they may refer the child to the relevant Child FIRST provider.

This protocol must be read in conjunction with any existing protocols between Victoria Police and Child Protection, DHHS.

Note: The protocol *Protecting Children: Protocol between the Department of Human Services - Child Protection and Victoria Police 2012* can be located at http://www.dhs.vic.gov.au/data/assets/pdf_file/0019/442603/Protecting-Children-CP-and-VicPol-protocol-2012.pdf

Flow chart two: Where a child (including unborn) or young person is present or a witness to a family violence incident



Each of the parties in this flowchart may contact the other to gain additional and background information to assist in the assessment of risk to the child. When contacted, parties should provide relevant information as requested. Communications must comply with all laws including the *Children, Youth and Families Act 2005* and the *Privacy and Data Protection Act 2014*.

2.3 Police referral of perpetrators to DHHS funded services

Police will lay criminal charges or seek civil compliance against perpetrators of violence where warranted. This is consistent with the Victoria Police *Code of Practice for the Investigation of Family Violence*.

Police may also refer male perpetrators of family violence to men's emergency housing assistance and/or to a men's case management (MCM) or men's behaviour change program (MBCP).

Flow chart three outlines the criteria for referral and contact pathways.

Flow chart three: Police referral for male perpetrators of family violence

Police assessment

Action/contact

Service/response

Police attend a family violence incident or a man/woman attends the station. Police assess the situation taking into account:

- risk assessment L17
- code of practice for family violence
- Police concerns for the safety and wellbeing of the affected family member, children, or property.

Criteria: If one or more of the following apply:

- Police intend to or have applied for an intervention order (including a safety notice)
 - Police intend to lay charges or
 - are investigating an alleged crime
 - Police assess that the woman is in need of immediate assistance.
 - To address recidivism
 - To enable co-case management

No consent is required for referral in this case

- AND IF the perpetrator is removed from the home by an exclusion condition of a family violence safety notice, exclusion order, intervention order or other legal process

2. Informal referral: Men's referral service or local men's behaviour change program

Police provide details of service to man

MRS After Hours and Regional Intake Service

Fax referral to statewide number

MRS and/or Regional Intake will attempt to engage with men.

After Hours service will on refer to Regional Intake

Regional Intake will refer to appropriate service and provide feedback to police

Regional Intake will develop communication protocols with women's and children's services

Referral to men's emergency accommodation assistance

Man makes contact with service

Men's behaviour change

Service will be provided in accordance with *Men's behaviour change group work: minimum standards and quality practice 2005*

Referral to men's case management

Criteria

Men who use family violence against family members and are subject to a safety notice, exclusion order, intervention order or other legal processes

Case management service available in four mainstream and five Indigenous sites

Local **MoUs** will have processes for feedback to police and women and children's services

Men's Emergency Accommodation

Service provides police with relevant details of local accommodation

Service determines if referral to case management service is required

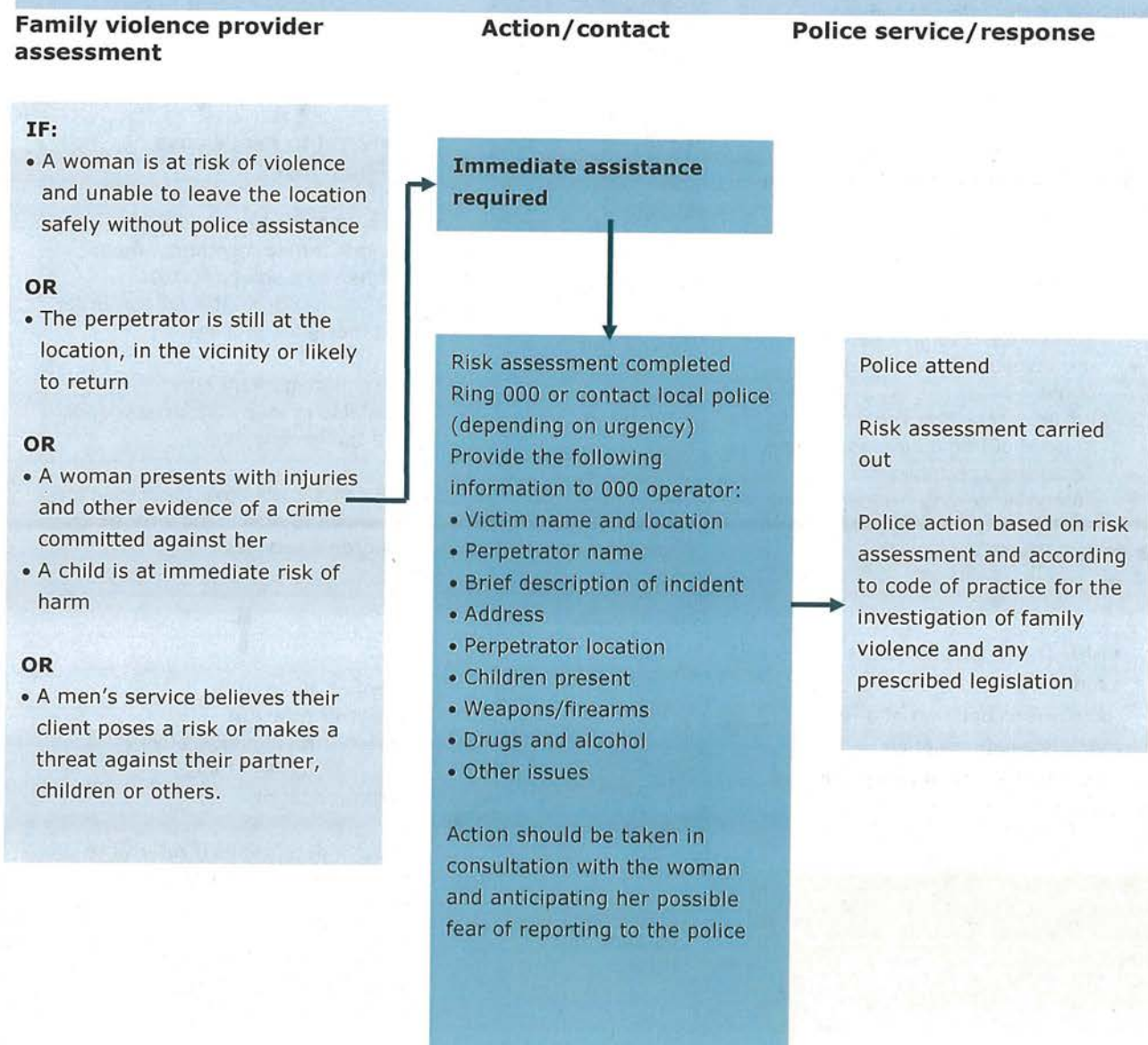
Where possible police escort the perpetrator to the emergency accommodation

Where child/children are present at an incident the procedures in flow chart two must be followed. At the time of referral police must advise family violence services about any children, and whether a referral to Child Protection, DHHS, or Child FIRST has been made. **Local and statewide protocols must be adhered to when assisting Indigenous families.**

2.4 Family violence services referrals to police for assistance and ongoing involvement

Family violence services refer to police for immediate assistance where a person is at immediate risk of violence or further violence.

Flow chart four: Family violence service referrals for police assistance



3. Review date

Either party may terminate this Protocol by giving 30 (thirty) days' written notice to the other party.

The next joint review of this document will be conducted by December 2015.

4. Document owners

There shall be no changes to this document unless approved in writing by:

- Deputy Secretary, Service Design & Operations Department of Health & Human Services
- Assistant Commissioner, Family Violence Command, Victoria Police.

Requests for amendment will be coordinated by:

- Director, Service Development & Operations, Department of Health & Human Services
- Manager, Family Violence Policy and Projects, Family Violence Command, Victoria Police.

5. Dispute resolution

Local issues should initially be raised with:

- Managers of the Department of Health & Human Services-funded family violence services
- Family Violence Advisors, Victoria Police/Regional Police Management
- Regional Integrated Family Violence Committee
- Department of Health & Human Services Local Engagement Officers/Local Connection Manager/ Area Director

Statewide issues should be resolved through the process below:

- Issues to be raised with central office of Department of Health & Human Services (Across System Responses Unit) and Victoria Police (Family Violence Command).).
- If unresolved, issues will be taken to the Violence Against Women and Children Interdepartmental Committee for discussion.

A party to this protocol claiming that a dispute has arisen under this protocol will immediately inform the other party. Upon being informed of a dispute, the parties will enter good faith discussions and use all reasonable endeavours to resolve the dispute through negotiations. The relevant persons to notify of a dispute are:

- **Director, Human Services Design and Development, Department of Health & Human Services (for DHHS); and**
- **Manager Policy and Projects, Family Violence Command , Victoria Police** (for Victoria Police)

If the parties are unable to resolve the dispute within a reasonable time then the dispute shall be referred for resolution to:

- Deputy Secretary, Service Design and Operations, Department of Health & Human Services' Director, Service Development & Operations; and
- Assistant Commissioner, Family Violence Command, Victoria Police.

If the parties are still unable to resolve the dispute within a reasonable time, the dispute shall be referred to the:

- Secretary, Department of Health & Human Services; and
- Chief Commissioner, Victoria Police

as per the final dispute resolution procedures under the overarching Memorandum of Understanding (dated November 2014).

6. Disclaimer

This protocol is neither intended to represent a comprehensive analysis of the law nor replace the exercise of professional judgment on a case-by-case basis.

Nothing in this protocol should replace the seeking of appropriate legal advice by the parties where it is considered appropriate.

Nothing in this protocol creates, nor is intended to create, any legally binding obligation on any party.

7. Definitions

The definition of **family violence** is consistent with the definition as outlined in the *Family Violence Protection Act 2008* s. 50 (1) – (3)

The definition of **child** is consistent with the definition as outlined in the *Children, Youth and Families Act 2005* s. 3(1)

Victims and perpetrators: for the purpose of this protocol it is recognised that in the majority of cases victims of family violence are women and children, and that those who perpetrate violence against victims are men. This language is consistent with the Victoria Police Code of Practice for the Investigation of Family Violence. This will not preclude other local and statewide services using alternative language to represent this gender difference (for example, men who use violence).

8. Contact details

For further information please contact your local:

- Victoria Police Family Violence Advisors
- Department of Health & Human Services Agency Connection Officers
- Family Violence Regional Integration Coordinators

9. Internal guidelines

[Family Violence Risk Assessment and Risk Management Framework, 2012](#)

[Domestic Violence Victoria: Code of practice for specialist family violence services for women and children 2006](#)

[Practice guidelines: Women and children's family violence counselling and support programs 2008](#)

Homelessness Assistance Service Standards, 2006

Men's behaviour change group work: minimum standards and quality practice 2005

Victoria Police Code of Practice for the Investigation of Family Violence , Third Edition 2014

Protecting Children: Protocol between the Department of Human Services - Child Protection and Victoria Police 2012

Assessing children and young people experiencing family violence practice guide, 2013

10. Signing of this Protocol

Signed for and on behalf of the **Department of Health & Human Services**



by the Secretary, Department of Health & Human Services

Date: 1 June 2015

Signed for and on behalf of **Victoria Police**



by the Acting Chief Commissioner, Victoria Police

Date: 19 May 2015