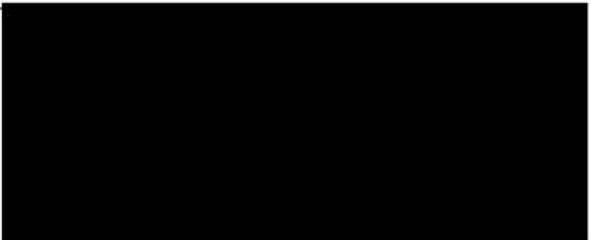




**IN THE MATTER OF THE ROYAL COMMISSION
INTO FAMILY VIOLENCE**

**ATTACHMENT DM-10 TO STATEMENT OF ASSISTANT COMMISSIONER DEAN
MCWHIRTER**

Date of document: 27 July 2015
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This is the attachment marked 'DM-10' produced and shown to **DEAN MCWHIRTER** at the time of signing his Statement on 27 July 2015.

Before me: ..  ..



An Australian legal practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)

Attachment DM-10

Victoria Police Manual – Policy Rules

Family Violence

Context

Action taken by police in response to family violence incidents is to maximize safety for children and adults who have experienced family violence, as defined in the *Family Violence (Protection) Act 2008*, to the greatest extent possible and promote accountability of perpetrators of family violence for their actions.

The primary response of police in reports of family violence is the safety and welfare of the affected family member and children. Police must conduct an assessment of immediate and future risk on each occasion to ensure their action is appropriate in the circumstances to afford optimum protection to those involved. Members must investigate and pursue criminal charges, initiate civil interventions where appropriate, and on every occasion provide all parties with referral to appropriate support agencies to meet individual needs.

These policy rules are provided to support members in their roles and responsibilities in providing effective intervention to prevent and reduce family violence.

Application

Policy Rules are mandatory and provide the minimum standards that employees must apply. Non-compliance with or a departure from a Policy Rule may be subject to management or disciplinary action. Employees must use the **Professional and ethical standards** to inform the decisions they make to support compliance with Policy Rules.

These Policy Rules apply to:

- Operational members
- Work Unit Managers
- Supervising Sergeants
- Local Area Commanders

Rules and Responsibilities

1. Accountabilities

1.1 *Work Unit Managers*

Work Unit Managers must ensure that Family Violence Intervention Orders (FVIO) are recorded and served in a timely manner in accordance with s.48 of the *Family Violence Protection Act 2008*

1.2 *Supervising sergeants*

Supervisors must guide, monitor and approve action taken. In particular they must:

- determine whether:
 - there were sufficient grounds for arrest
 - the most appropriate course of action was followed
 - the most appropriate final disposition was taken for the offender.
- actively monitor progress of the investigation via LEAP case management.

1.3 *Members*

- Members responding to a report of family violence must:
 - provide safety and support
 - investigate and identify criminal offences
 - present offenders before the courts
 - assist in the minimisation of family violence within the community.
- To determine whether members have fulfilled their functions, they will need to consider if their action has resulted in:
 - the safety of the Affected Family Member (AFM)
 - appropriate referral being made
 - civil process initiated where applicable
 - investigation and prosecution where applicable
 - disruption to the cycle of family violence.

1.4 *Criminal Investigation Units*

Criminal Investigation Units (CIU) take responsibility for or actively oversee investigations involving serious criminal offences. Have regard to VPMP Crime reporting and investigations for further details of CIU involvement.

1.5 *SOCAU/SOCIT*

Sexual Offence and Child Abuse Units/Investigation Teams respond to notification of reported sexual assault, or physical assault on a child, see VPMP Protecting children for specific responsibilities relating to children.

1.6 Family Violence Adviser

To provide advice on the response to family violence and related matters with regards to Victoria Police code of practice for the investigation of family violence.

2. Responding to family violence

2.1 Attending the scene

- 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.
- Before attending the scene of a reported family violence incident members must:
 - conduct LEAP checks on the premises and persons involved, including the existence of any current or expired FVIOs
 - conduct an operational risk assessment
 - formulate an operational safety plan.
- For further guidance on safety considerations, refer to **VPMG Family violence**.

2.2 Managing the incident

- All reports of family violence must be investigated, no matter where they originated from.
- Members must investigate with or without the consent of the AFM. Statements of no complaint are not grounds for ceasing an investigation.
- Reports of property damage resulting from a family violence incident cannot be taken via telephone crime reporting; the scene must be visited.
- Members are to treat the scene as they would any other crime scene and conduct an investigation accordingly. For further guidance refer to **VPMP Scene management**.

2.3 Recording family violence incidents

All reports of family violence must be recorded by completing a Family Violence Risk Assessment and Management Report [Form L17].

3. Risk assessment and risk management

3.1 Conduct of Risk Assessment

- Sub-Officers must ensure that the attending member:
 - completes Form L17 to record the incident

- conducts a risk assessment
- decides on the most appropriate action.
- Members must consider:
 - the victim's level of fear
 - past history
 - risk indicators
- For further guidance on risk assessment, have regard to **VPMG Family violence**.

3.2 Factors to consider in managing risk

- In managing the risks for the continuing safety and wellbeing of AFMs, members must:
 - manage the incident
 - assess the immediate threat and risks
 - arrest any offenders where appropriate
 - assess the level of future protection required
- For further guidance on risk management, have regard to **VPMG Family violence**.

4. Taking action - Options Model

Police must choose the most appropriate course of action from one or a combination of the following options based on the victim's circumstances and needs, risk assessment and investigation.

4.1 Criminal

- Where criminal charges are alleged or detected members must choose the appropriate disposition from the following options:
 - charge and remand
 - charge and bail
 - charge and summons
 - intent to summons
 - no further police action.
- For further guidance on disposition options, refer to **VPMP Disposition of offenders**.

4.2 Civil

- Where a FVIO is required police must make application by:
 - complaint and warrant (C&W)
 - complaint and summons (C&S)
 - Family Violence Interim Intervention order (FVIO)
 - Family Violence Safety Notice (FVSN).

4.3 **Family Violence Safety Notice**

Where immediate civil protection is required out of business hours, a member may apply to a Sergeant or above for a FVSN to be issued to a respondent 18 years and over (s.24 of the *Family Violence Protection Act*). For further instruction on the application and issuing of FVSN, have regard to **VPMG Family violence safety notice**.

4.4 **Holding Powers**

Where no specific power of arrest exists, members are able to use holding powers to direct or detain as is applicable for the duration of making an application for a FVIO or FVSN (s.13 of the *Family Violence Protection Act*). For further instruction on the use of holding powers, have regard to **VPMG Family violence holding powers**.

4.5 **Referral**

Referral must be made for all parties involved by one of the following methods:

- Formal
- Informal
- Child (see section below)

For further guidance in actioning the Options Model have regard to **VPMG Family violence and DHS and Victoria Police Family Violence Referral Protocol**

5. **Children**

- When responding to a family violence incident where children are concerned, members must independently assess the level of risk to the children to ensure their safety.
- For further guidance on referrals and intervention orders involving children, have regard to **VPMG Family violence**.
- For mandatory reporting requirements of child physical or sexual assault, comply with Chapter 4, *Children, Youth and Families Act 2005* and **VPMP Protecting children**.

6. **Service of FVIO**

- Work Unit Managers must ensure FVIOs received from the court are recorded and allocated to a member for service
- FVIOs that cannot be served:
 - must be returned to the court of issue by the prescribed time and/or
 - application made for extension or substitute service

- For further instruction on service requirements of FVIOs, extension for service and substitute service, have regard to **VPMG Family violence**.

7. Final outcome

- A sub-Officer must ensure that the action taken in relation to the respondent is appropriate based on an assessment of present and future risks to the safety and welfare of the AFM, including final disposition where applicable, as outlined in section 4.
- Conditions of any intervention order should provide the appropriate level of protection necessary. Consider that conditions in the order may be reviewed to afford protection that is more appropriate in the circumstances. For further guidance on revocation or variation of Orders, consult **VPMG Family violence**.

7.1 Case review

When a brief of evidence has not been authorised for prosecution police must advise the AFM that they may request a case review. For further instruction on convening a case review, have regard to **VPMG Family violence**.

7.2 Case Conference

When an AFM is unsure, reluctant or does not want to proceed with criminal proceedings, police should hold a case conference to provide further advice and support to the AFM and address any concerns. For further instruction on convening a case conference, have regard to **VPMG Family violence**.

8. Attending court for criminal/civil proceedings

For both criminal and civil proceedings, the initiating member must liaise with the prosecutor prior to the hearing to ensure they are provided with the necessary paper work. Members need only attend court if required by the court or prosecution. For further instruction on required documents, have regard to **VPMG Family violence**.

9. Family violence incidents involving police employees

In addition to the general response to family violence there are extra requirements for incidents involving Victoria Police employees. This action is to remove any perceived conflicts of interest, in order to maintain the integrity and ethical standards of Victoria Police. To ensure the additional accountabilities are met, where practicable a sub-Officer must attend at the scene and comply with section 10 of **VPMG Family violence**, where an employee is involved in the incident.

10. Firearms

Where a FVSN or FVIO has been issued or the member believes reasonable grounds exists for issuing either an Order or Notice and is aware the respondent has a firearm, firearm authority, ammunition or weapon. The member has the power to:

- search property (s.159(2) of the *Family Violence Protection Act*)
- direct surrender (s.158 of the *Family Violence Protection Act*)
- seize (s.53(2) of the *Firearms Act*)
- apply for a warrant to search property and vehicle (s.160 of the *Family Violence Protection Act*).

10.1 Retention of firearms by police

- Police must retain any firearms and ammunition pending the full hearing of the FVIO. If the FVIO is not granted, the respondent is responsible for making application to the court to have their firearm authority restored.
- For further information on the retention and disposal of seized firearms, consult **VPMG Family violence**.

Quick Links

- **VPMG Family violence**
- **VPMG Family violence safety notices**
- **VPMG Family violence holding powers**
- **VPMP Protecting children**
- **VPMP Crime reporting and investigation**
- *Victoria Police Code of Practice for the Investigation of Family Violence*

Further Advice and Information

For further advice and assistance regarding these Policy Rules, contact your supervisor, and your local FVIO.

Update history

Date of first issue	22/02/2010	
Date updated	Summary of change	Force File number