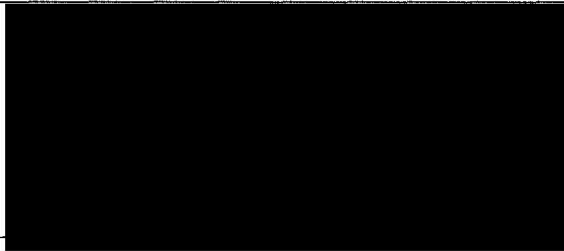


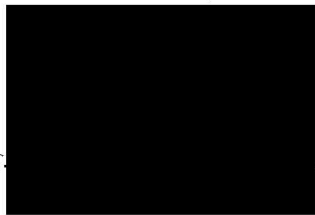
**IN THE MATTER OF THE ROYAL COMMISSION
INTO FAMILY VIOLENCE**

ATTACHMENT DW-11 TO STATEMENT OF DAVID WATTS

Date of document: 31 July 2015
Filed on behalf of: the Applicant
Prepared by:
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This is the attachment marked '**DW-11**' produced and shown to **DAVID WATTS** at the time of signing his Statement on 31 July 2015.



Before me:



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

Attachment DW-11



information
and privacy
commission
new south wales

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Direction relating to CARAM-DFV Framework

This Direction allows public sector agencies and Non-Government Organisations operating within Cross Agency Risk Assessment and Management – Domestic and Family Violence Framework, to assess victims of domestic and family violence as to the extent to which those victims are at risk of experiencing future violence. A related Direction has been made under s62 of the HRIP Act.

1. Interpretation

1.1 In this Direction, the following words have the respective meanings:

"CARAM-DFV Framework" means the framework described in the publication entitled *Cross Agency Risk Assessment and Management - Domestic and Family Violence Framework*;

"Crimes (DPV) Act" means the *Crimes (Domestic and Personal Violence) Act 2007*;

"Direction" means this direction and its Schedule;

"domestic and family violence" includes behaviour, and alleged behaviour, which could support the laying of a charge for a domestic violence offence under the *Crimes (DPV) Act*;

"initial assessor" means a member of staff of a participating agency who conducts the initial risk assessment of victims under the CARAM-DFV Framework;

"NGO" means a non-government organisation that provides support services under the CARAM-DFV Framework;

"NSWPF" means the New South Wales Police Force;

"participating agency" means a public sector agency specified in Schedule 1;

"personal information" has the same meaning as in s. 4 of the *PPIP Act*;

"PPIP Act" means the *Privacy and Personal Information Protection Act 1998*;

"purposes of the CARAM-DFV Framework" includes evaluation of the trial of the CARAM-DFV Framework;

"relevant Area Health Service" means whichever of the Greater Southern Area Health Service or the South Eastern Sydney and Illawarra Area Health Service operates in the geographic area where the initial assessor is when the referral for specialist risk assessment and management occurs;

"specialist assessor" means a member of staff of a participating agency or NGO who conducts the specialist risk assessment of victims under the CARAM-DFV Framework;

"support services" means any welfare, health, disability, drug and alcohol, housing, educational or other assistance and support provided by a public sector agency or an NGO to victims, victims' families, or other persons who have experienced or are experiencing domestic and family violence;

"third person" means any person who is not a victim and includes a victim's child or other family member; and

"victim" means a person of or over the age of 16 years who is experiencing or has experienced, or is alleged to be experiencing or have experienced, domestic and family violence.

2. Objectives of the CARAM-DFV Framework

2.2 Parliament, in s. (9)(3)(g) of the *Crimes (DPV) Act*, recognises that domestic and family violence "is best addressed through a co-ordinated legal and social response of assistance and prevention of violence".

2.3 Consistently with this principle, the NSW Government will implement a trial of the CARAM-DFV Framework, which aims to:

- (a) assess the risk to individuals and families of domestic and family violence, and
- (b) identify and co-ordinate intervention by participating agencies and NGOs to manage or reduce this risk.

In relation to client outcomes, the CARAM-DFV Framework seeks to: reduce re-offending rates, increase safety and sense of safety, and increase reports of satisfaction with service responses. In relation to service outcomes, the CARAM-DFV Framework seeks to: enhance service responses from participating services or agencies, and enhance whole-of-Government responses through the improved coordination of interagency service responses.

3. Process

3.4 The participating agencies and NGOs regularly come into contact with victims of domestic and family violence. Under the CARAM-DFV Framework,

participating agencies and NGOs agree to conduct an assessment of the extent to which those victims are at risk of experiencing future violence. Victims who will be assessed are those of or over the age of 16 years and are either male or female.

3.5 The CARAM-DFV Framework will generally operate in two phases.

Initial Risk Assessment and Management

3.6 First, an initial assessor in a participating agency or NGO will identify victims who are already seeking assistance directly from their agency or NGO in relation to domestic and family violence or who have disclosed one or more instances of domestic and family violence in the course of interacting with a member of staff of that agency or NGO.

3.7 An initial assessor will ascertain whether the person seeking assistance is experiencing or has experienced domestic and family violence according to its particular operational definition of "domestic and family violence", all of which are consistent with the *Crimes (DPV) Act* or the ordinary meaning of that phrase. An assessment of these victims will be conducted, in order to determine their risk of future violence. Risk will be assessed according to risk factors drawn from relevant literature.

3.8 Where an initial assessor assesses a victim at risk or high risk, the assessor will refer the victim for specialist risk assessment and management in accordance with the procedure outlined at [3.9]. Victims assessed at high risk will be referred for specialist risk assessment on an urgent basis.

Specialist Risk Assessment and Management

3.9 The initial assessor will refer a victim assessed at risk or high risk:

(a) to the referral coordinator in the relevant Area Health Service who will refer the victim to a participating agency or NGO for specialist risk assessment and management; or (b) directly to another participating agency for specialist risk assessment and management.

Where a direct referral occurs, the initial assessor will provide a copy of the risk assessment form he or she has prepared to the referral coordinator.

3.10 Specialist risk assessment and management will be conducted by a specialist assessor and may involve, amongst other things, developing a safety plan. A specialist assessor will urgently address the safety needs of victims at high-risk, provide advice to the victim, refer them to the NSWPF (if applicable) or providers of legal, housing, health or support services, as required.

3.11 If a participating agency or NGO which carries out specialist risk assessment under the CARAM-DFV Framework:

(a) identifies a victim who is seeking assistance from the agency or NGO in relation to domestic and family violence, or who has disclosed one or more instances of domestic and family violence in the course of interacting with a member of staff of that agency or NGO; and

(b) assesses the victim as being of risk or high risk of future violence; the agency or NGO will carry out specialist risk assessment and management in accordance with the procedure outlined in [3.10].

Reporting child/ren at risk of harm or significant harm

3.12 Officers in participating agencies will follow current legislative and policy directions in relation to children at risk of harm or risk of significant harm.

4. Public Interest

4.13 This Direction has been made to permit the collection, use and disclosure of personal information by participating agencies for the purposes of the CARAM-DFV Framework.

4.14 I am satisfied that the public interest in making this Direction is greater than the public interest in requiring the participating agencies to comply with the information protection principles contained in Pt. 2, Div. 1 of the *PPIP Act*.

4.15 A corresponding direction applies in respect of health information held under the *Health Records and Information Privacy Act 2002*.

5. Duration

5.16 This Direction has effect for a period of 12 months.

6. Modification of Information Protection Principles

6.17 The application of the information protection principles under Division 1, Part 2 of the *PPIP Act* to the participating agencies are modified to the extent described below.

Collection

6.18 Notwithstanding s. 8(1) of the *PPIP Act*, a participating agency may collect personal information for a lawful purpose that is related to a function or activity of that agency if:

- (a) the collection is for the purposes of the CARAM-DFV Framework;
- (b) the collection is reasonably necessary for those purposes; and
- (c) the collection is in accordance with the CARAM-DFV Framework.

6.19 Notwithstanding s. 9 of the *PPIP Act*, a participating agency may collect personal information of any third person from the victim for the purposes of the CARAM-DFV Framework.

6.20 A participating agency need not comply with s. 10 of the *PPIP Act* where a third persons' personal information is being collected from the victim for the purposes of the CARAM-DFV Framework, however, must otherwise comply

with s. 10 in relation to the collection of the victim's personal information.

Openness

6.21 A participating agency need not comply with s. 13 of the PPIP Act in relation to any personal information it holds about a third person for the purposes of the CARAM-DFV Framework.

6.22 A participating agency must comply with s. 13 in relation to any personal information it holds about a victim for the purposes of the CARAM-DFV Framework.

Access

6.23 A participating agency that holds personal information about a third person for the purposes of the CARAM-DFV Framework need not comply with s. 14 of the PPIP Act in relation to a request by the third person for access to that information.

Correction

6.24 A participating agency that holds personal information about a third person for the purposes of the CARAM-DFV Framework need not comply with s. 15 of the PPIP Act in relation to a request by the third person for amendment (whether by way of corrections, deletions or additions) of that information or for the attachment of any statement of amendment in relation to that information.

Accuracy

6.25 A participating agency that holds personal information about a third person for the purposes of the CARAM-DFV Framework need not comply with s. 16 of the PPIP Act in using that information for the purposes of the CARAM-DFV Framework. 6.26 A participating agency must comply with s. 16 in using personal information about a victim for the purposes of the CARAM-DFV Framework.

Use: third persons' personal information

6.27 Notwithstanding s. 17 of the PPIP Act, a participating agency that holds personal information about a third person for the purposes of the CARAM-DFV Framework may use that information without the consent of that person for the following purposes:

- (a) to undertake initial risk assessment, refer a victim for specialist risk assessment or undertake specialist risk assessment;
- (b) the provision of support services;
- (c) to manage, prevent or lessen a threat to the life, health or safety of a victim or any other person, which need not be imminent;
- (d) to evaluate the trial of the CARAM-DFV Framework; or
- (e) any other purpose directly related to the CARAM-DFV Framework;

where use of the information is reasonably necessary for the relevant

purpose.

Use: victims' personal information

6.28 Notwithstanding s. 17 of the PPIP Act, a participating agency that holds personal information about a victim for the purposes of the CARAM-DFV Framework may use that information without the victim's consent if the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious, but not necessarily imminent, threat to the life, health or safety of the victim concerned or another person.

Disclosure: third persons' personal information

6.29 Notwithstanding s. 18(1) of the PPIP Act, a participating agency that holds personal information about a third person for the purposes of the CARAM-DFV Framework may disclose the information, even if the agency has reason to believe that the individual concerned would object to the disclosure, for any of the following purposes:

- (a) to undertake initial risk assessment, refer a victim for specialist risk assessment or undertake specialist risk assessment;
- (b) the provision of assistance and support services to the victim;
- (c) reporting any incident of domestic violence, that involves a serious threat of harm or physical injury which is likely to cause a reasonable victim to fear for her or his safety, to the NSWPF;
- (d) the evaluation of the trial of the CARAM-DFV Framework; or
- (e) any other purpose (directly or indirectly) related to the CARAM-DFV Framework.

Disclosure: victims' personal information

6.30 Notwithstanding s. 18(1) of the PPIP Act, a participating agency may disclose personal information about a victim to the NSWPF, without the victim's consent if the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious, but not necessarily imminent, threat to the life, health or safety of the victim concerned or another person.

Disclosure: sensitive personal information

6.31 Notwithstanding s. 19(1) of the PPIP Act, a participating agency may disclose personal information relating to a third person's ethnic or racial origin, religious or philosophical beliefs, or sexual activities for the purposes of:

- (a) mitigating the effects of domestic and family violence, or reducing the risk of further domestic and family violence, in accordance with the CARAM-DFV Framework; or

(b) any evaluation of the trial of the CARAM-DFV Framework. 6.32 Notwithstanding s. 19(1) of the PPIP Act, a participating agency may disclose personal information relating to a victim's ethnic or racial origin, religious or

philosophical beliefs, or sexual activities in accordance with the CARAM-DFV Framework where:

(a) the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious, but not necessarily imminent, threat to the life, health or safety of the victim concerned or another person; or (b) the disclosure is reasonably necessary for the provision of support services to the victim. Signed by me on the Thirtieth Day of June 2010

John McAteer
Principal Privacy Officer
(as delegate of the Privacy Commissioner)

Schedule 1 Participating Agencies

Department of Health
Department of Human Services
Department of Justice and Attorney General
Greater Southern Area Health Service
NSW Police Force, established under the *Police Act 1990*
South Eastern Sydney and Illawarra Area Health Service

Rating:

1 2 3 4 5

No votes yet