



VICTORIA POLICE

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State Coroner Judge John Cain
Coroners Court of Victoria
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Subject: Simone Quinlan - Finding into death without inquest
Court Reference: COR 2015 4974
Date of Recommendation: 6 July 2021

Dear Judge Cain,

Victoria Police response to recommendation arising from the Finding into the Death without Inquest of Simone Quinlan (Finding)

This document provides the Victoria Police response to Judge John Cain's recommendation directed at the Chief Commissioner of Police concerning the death of Simone Quinlan on 25 August 2015.

RECOMMENDATION

Victoria Police: I recommend that Victoria Police update the Code of Practice and relevant family violence policies and procedures to include advice recommending that police members do not contact alleged family violence perpetrators by telephone prior to the service of a family violence safety notice or intervention order. The advice should highlight the vulnerability of affected family members when a safety notice or intervention order is not yet in effect and the potential evasion of service by an alleged perpetrator upon notification that a family violence allegation has been made against them.

Victoria Police is committed to continuous improvement of policing responses to family violence including optimising the safety of victims.

Victoria Police has considered and will implement the Coroner's recommendation relating to reviewing current relevant policing policy and guidance (including the Code of Practice) to identify ways to improve advice to:

- better support victim safety including exploring potential ways to further mitigate risk to affected family members when family violence safety notices and/or intervention orders are yet to come into effect including where an alleged perpetrator may be evading service
- and to ensure policing response consistency around the risk assessment of contacting respondents.

This may include strengthening practices to ensure that the victim is aware that the alleged perpetrator is being served, noting the existing requirements in the *Victoria Police Manual (VPM) - Family violence* (effective as at 19 February 2021) (**Attachment A**).

Victoria Police has carefully considered the Coroner's recommendation to not contact alleged family violence perpetrators by telephone prior to the service of a family violence safety notice or intervention order but for the reasons that follow, has determined not to implement this aspect of the recommendation.

While Victoria Police supports the rationale underpinning this recommendation, we consider implementation of this aspect of the overall recommendation may have adverse consequences and would present significant practical and resourcing challenges, particularly given the volume of family violence intervention orders that police are required to service. We consider it may not effectively mitigate the identified risk but is likely to adversely affect the delivery timeframes of service of family violence related orders and therefore victim safety.

Victoria Police acknowledges that there are potentially increased risks for victims once an alleged perpetrator becomes aware that judicial processes are underway regarding family violence. This is true in the context of both civil and criminal proceedings and is a relevant consideration for police (and others such as courts) tasked with the service of orders. Such risk exists regardless of the method of notification of the alleged perpetrator. Accordingly, Victoria Police is of the view that the focus when arranging for service of intervention orders should be on assessing the potential risk to victims, particularly during any gap between notification of alleged perpetrators and orders being served, and the protections in place to mitigate such risk.

While in person service of family violence orders is preferred, it is not always practicable. Locating the high volume of alleged family violence perpetrators can be a challenging and resource intensive process. To optimise the probability of efficiently locating the alleged perpetrator and therefore serving intervention orders within the required timeframes, police may use a variety of methods including attendance at the recorded address, leaving a card at the address, contacting family and friends, requesting attendance at a police station and contacting the alleged perpetrator by telephone, email or text message. In addition to assisting police to locate a respondent to an intervention order, contact with them may also be for the purposes of conducting a risk assessment prior to service.

We consider that having several options available to support contacting respondents and thereby promoting timely service is critical to community safety, together with the focus on risk assessment on a case by case basis. The VPM - Family Violence requires members to conduct a risk assessment prior to service and to consider contacting the Affected Family Member (**AFM**) to determine the whereabouts of the respondent and their possible reaction to the FVIO. The VPM Family Violence also stipulates: *Members should consider, where appropriate and safe to do so, contacting the AFM to determine the whereabouts of the respondent and possible reaction to the FVIO.*

Victoria Police will consider if there are ways to further strengthen policy and guidance for members in relation to safe and timely service in a way that better supports victim safety particularly regarding notification of the AFM when police are contacting the respondent about orders (including by telephone).

Victoria Police will also continue to focus on exploring options to improve victim safety after the service of intervention orders, including by working with other parts of the system to address volume and resourcing challenges to improve the timely service of orders. For example, this includes work currently being progressed by Department of Justice and Community Safety on Recommendation 56 from the Royal Commission into Family Violence to trial alternatives for applications for family violence intervention orders¹ and ongoing work between Victoria Police and Magistrates' Court of Victoria to support increased consistency of practice for the alternative service of family violence intervention orders where the court deems alternative service appropriate and alternative means of communication can be established and relied upon for service.

Yours sincerely



Shane Patton APM
Chief Commissioner

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¹ The current status of the progress of this recommendation can be found at <https://www.vic.gov.au/family-violence-recommendations/trial-alternatives-applications-family-violence-intervention-orders>

The Victoria Police Manual is issued under the authority of the Chief Commissioner in s.60, Victoria Police Act 2013. Non-compliance with or a departure from the Victoria Police Manual may be subject to management or disciplinary action. Employees must use the Code of Conduct – Professional and Ethical Standards to inform the decisions they make to support compliance.

Family violence

Context

Victoria Police regards family violence as extremely serious and is dedicated to responding and investigating such matters. When responding to family violence incidents, police are expected to treat all parties with dignity and respect.

Family violence, as defined by the *Family Violence Protection Act 2008* (FVPA), is any behaviour that in any way controls or dominates a family member and causes them to feel fear for their own, or other family member's safety or well-being. It can include physical assault, direct or indirect threats, sexual assault, emotional and psychological abuse, economic abuse, property damage and behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of family violence. Family violence often includes criminal behaviour.

Family violence:

- is often an escalating pattern of coercive, controlling and violent behaviour
- disproportionately affects women and children, and a disproportionate number of men are perpetrators
- occurs in current or past family, domestic or intimate partner relationships, between people in a range of family and family-like relationships
- occurs in all communities, with vulnerable victims from specific cohorts and priority communities likely at greater risk due to barriers that make seeking help particularly difficult
- involves varied dynamics and complex patterns of behaviour. Police must understand family violence dynamics to accurately identify the primary aggressor
- places children at additional risk of psychological, developmental and emotional harm
- can include the perpetrator withholding children to cause significant distress and fear to a parent victim.

The primary responsibility of police responding to a report of family violence is the safety and welfare of the affected family member and children. Police must conduct a family violence risk assessment utilising the Victoria Police Family Violence Report (FVR L17) risk assessment and management tool to identify the risk of future family violence. This tool aligns to the Victorian Multi Agency Risk Assessment and Management (MARAM) Framework. Police must take the most appropriate course of action based on the Options Model. This may include pursuing criminal charges and initiating civil options. Victoria Police are part of Victoria's integrated family violence service system. By making referrals to support services, Victoria Police ensures that all parties have access to immediate and ongoing support.

This policy provides guidance to members on their roles and responsibilities when responding to family violence.

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Definitions

Accused – a person under criminal investigation

Affected family member (AFM) – defined in s.4 FVPA. The family member whose person or property is the subject of an application for an order. Once an intervention order is granted the person is known as the **protected person**. Used interchangeably to refer to victims of family violence as an intervention order is not always sought or granted.

Alternative service – court ordered service of Family Violence Interim Intervention Order or Final Family Violence Intervention Order other than by personal service.

Child (or young person) - a person who is under the age of 18 years

Family member – defined in s.8, FVPA and in relation to a person means:

- a person who is, or has been, the spouse or domestic partner of that person
- a person who has, or has had, an intimate personal relationship with that person
- a person who is, or has been, a relative of that person. This includes brothers, sisters, aunts, uncles, cousins, nephews, nieces, and in-laws
- a child who normally or regularly resides with that person or has previously resided with that person on a normal or regular basis
- a child of whom that person is a guardian
- a child of a person who has, or has had, an intimate personal relationship with that person
- any other person who the person regards as being like a family member having regard to the circumstances of the relationship as outlined in s.8(3), FVPA.

Family Violence Report (FVR (L17)) – Victoria Police Risk Assessment and Risk Management Report

Intervention order – general term to refer to all types of orders; being Family Violence Safety Notices (FVSN), Interim Family Violence Intervention Orders (Interim FVIO) and Final Family Violence Intervention Orders (FVIO)

Options Model – criminal, civil and referral actions to be considered by police after conducting a risk assessment

Primary Aggressor – the party to the family violence incident who, by their actions in the incident and through known history and actions, has caused the most physical harm, fear and intimidation against the other

Protected person – a person/s protected by an intervention order

Respondent – defined in s.4, FVPA. The person against whom an application for or actual intervention order has been made or issued.

Substituted service – service via means other than personal service of Family Violence Interim Intervention Order or Final Family Violence Intervention Order. Ordered by the court following application by members when attempts at personal service are unsuccessful. Not applicable for Family Violence Safety Notices.

Victims' Charter – sets out principles for victims of crime to be treated with respect, courtesy and dignity by investigatory, prosecuting and victim support agencies. It is contained within the *Victims' Charter Act 2006*.

Policy

The main principles that apply in the investigation of family violence are:

- all reports of family violence must be investigated, no matter where they originated from
- family violence incidents must be investigated with or without the consent of the affected family member (AFM). Statements of no complaint are not grounds for ceasing an investigation
- the presence of family violence should be considered at all incidents attended by police, even where family violence was not the initiating report. For example, family violence is commonly seen in mental health and property damage incidents
- appropriate referrals must be made for all parties involved in a family violence incident
- enforcement action must be taken from the criminal and/or civil options as circumstances require.

Accountabilities

1. Overarching accountabilities

1.1 *Work unit managers*

Work unit managers must ensure that intervention orders are recorded and served in a timely manner in accordance with Part 12, ss.201-207, FVPA with reference to their duties under s.56, *Victoria Police Act 2013*. Refer to section 25 for guidance on service of intervention orders.

1.2 *Supervising sergeants*

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

- assist those responding to ensure safety, welfare and appropriate level of investigation and timeliness of the police response
- 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.

If required, further advice may be sought from the divisional Family Violence Investigation Unit (FVIU) and Family Violence Training Officers (FVTOs).

1.3 *Members*

- Members responding to a report of family violence must:
 - provide safety and support
 - investigate and identify criminal offences
 - assess risk of future family violence and take appropriate action
 - apply the most appropriate offender disposition by summons, bail or remand
 - assist in reducing family violence within the community.
- To determine whether members have fulfilled their responsibilities, they will need to consider if their action has resulted in:

- the safety and wellbeing of the AFM and children
- appropriate referrals being made
- initiation of civil process where applicable
- investigation and prosecution where applicable
- disruption to the cycle of family violence.

1.4 *Family Violence Investigation Units*

FVIUs are responsible for:

- investigating serious and complex family violence cases
- managing high-risk, complex and repeat cases
- supporting and advising general duties members and specialist units.

Refer to **VPM Crime attendance and investigation** for further FVIU involvement.

1.5 *Crime Investigation Units*

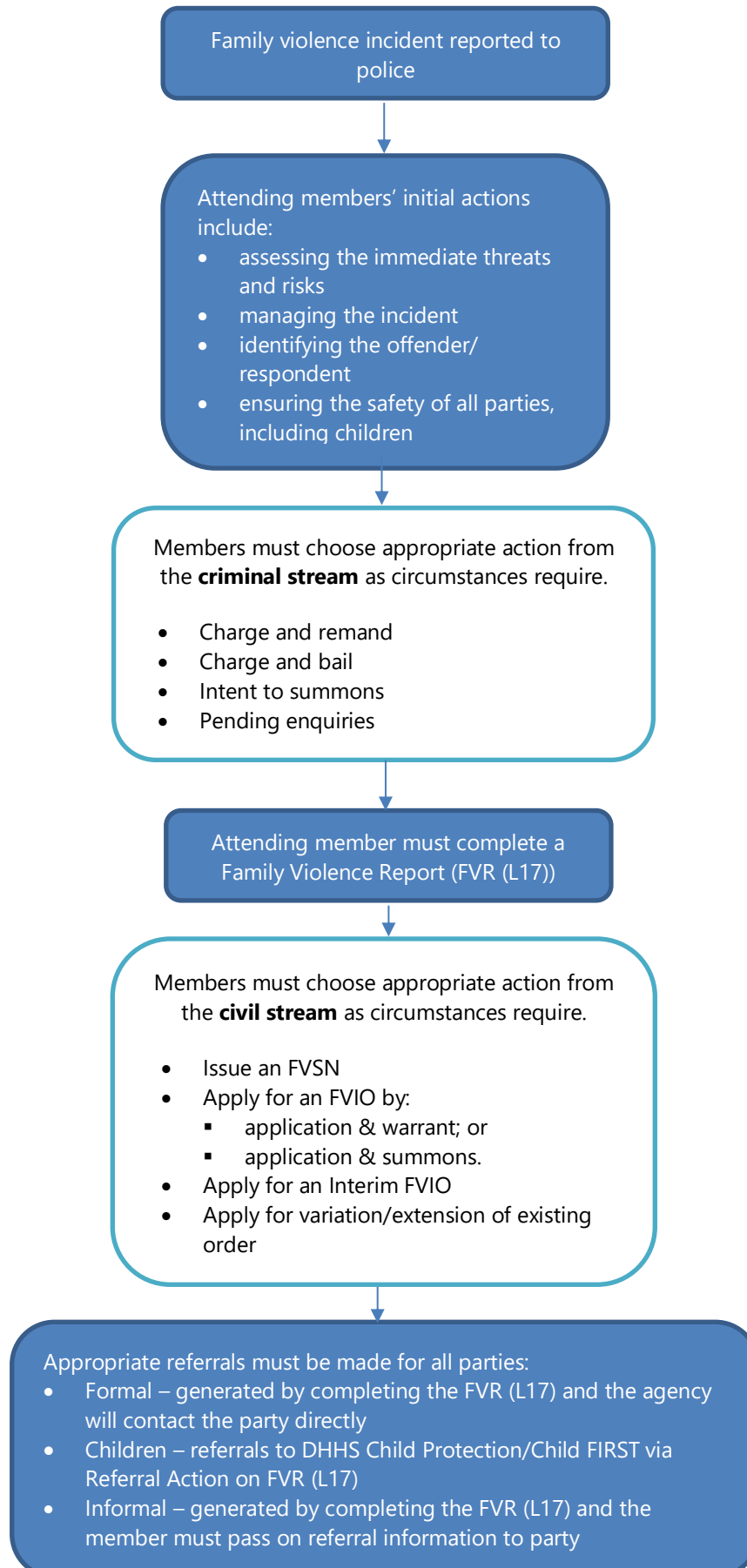
Crime Investigation Units (CIU) take responsibility for, or actively oversee investigations involving serious criminal offences. Refer to **VPM Crime attendance and investigation** for further details of CIU involvement.

1.6 *SOCIT*

Sexual Offence and Child Abuse Investigation Teams (SOCITs) respond to notifications of reported sexual offences of an adult/child or child abuse; see **VPMP Protecting children** for specific responsibilities relating to children and **VPM Sexual offence investigations** for responding to reports of sexual offences.

Responding to family violence incidents

2. Overview of police response



3. Initial actions

3.1 *Prior to attending the scene*

- The primary responsibility for police when responding to any incident is safety first. This includes the safety of attending members and persons who are present at the incident, including any children.
- Before attending the scene, members must:
 - conduct LEAP checks on the premises and persons involved
 - conduct an operational risk assessment
 - formulate an operational safety plan.
- To ensure these requirements are met, on the way to the scene members must consider the following:
 - whether there are any intervention orders in place between the parties
 - any history of violence, including family violence (including conducting a National Police Reference System (NPRS) check for interstate family violence history)
 - whether the parties are affected by drugs or alcohol or have a history of drug or alcohol issues
 - mental health issues
 - any Person Warning Flags
 - presence of or access to firearms or weapons
 - presence of any children at the address
 - operational safety principles
 - the need for back up and/or the attendance of a sub-officer and specialist services including the Critical Incident Response Team
 - the need to meet at an appropriate location to formulate a planned response using incident management principles, i.e. isolate, contain, evacuate, negotiate, conclude, investigate and rehabilitate
 - the need for medical attention of all parties.

3.2 *Attending the scene*

- In response to a family violence incident, members must manage the risks for the continuing safety and wellbeing of AFMs and children by:
 - managing the incident
 - assessing the immediate threat and risks
 - arresting any offenders where appropriate
 - assessing the level of future protection required.
- When attending at a family violence incident, members must:
 - activate body worn camera in accordance with **VPM Body worn cameras**
 - be aware there is a specific power of entry according to s.157, FVPA
 - comply with **VPMP Searches of properties** when conducting a forced entry
 - assess the scene and identify all people, including children who may be present at the time
 - take charge and manage the incident in accordance with the operational safety principles and crime scene management policy, refer to **VPM Scene management**
 - consider the medical needs of all parties involved
 - consider the level of immediate threat to members, the AFM and their children

- where possible, separate the parties and speak to them privately to determine what has occurred
 - follow up with any parties that are believed to be involved but are no longer present
 - account for the whereabouts of all children or young people from the family who usually reside at the address
 - investigate all offences by gathering background information and physical evidence, including photographs/CCTV, clothing and statements from all available witnesses and complainants. Members are to investigate regardless of whether the AFM makes a complaint or a written statement
 - notify the FVIU, CIU, SOCIT, Forensic Services Department and/or Crime Scene Services where appropriate. For further information have regard to **VPM Crime attendance and investigation**
 - if the respondent is on parole, follow the requirements in **VPM Parole**.
- In cases where a respondent is detained under the *Mental Health Act 2014*, members must coordinate their response in accordance with the *Department of Health and Human Services – Victoria Police protocol for mental health* and **VPMG Apprehending persons under the Mental Health Act**.
 - Members must comply with the Victims' Charter. See **VPM Victim support** for further information.

3.3 Recording family violence incidents over the telephone

- When members receive information regarding a family violence incident, including a contravention of an invention order over the telephone, or instances where no offences have been disclosed or identified to police, they must assess the need for police attendance.
- If there is any indication that any person, including children, are at risk of harm, the member must immediately arrange for police attendance through Police Communications.
- Where an offence against a person is identified or property damage has occurred, including a series of offending, stalking, using a carriage service to harass or persistent breach of intervention order, the report must not be taken over the telephone. Instead, the member must immediately arrange for police attendance through Police Communications.
- Where there is no risk of harm to any party, including children, it may be deemed appropriate for an FVR (L17) to be completed over the telephone. This does not preclude attending the scene subsequently as part of an ongoing investigation.
- Approval to complete an FVR (L17) over the telephone is required from a member of the rank of sergeant or above prior to the commencement of the FVR being taken.
- The name of the approving sergeant or above must be recorded in the LEAP narrative.
- If taking the FVR (L17) over the telephone is not the approved course of action, police must attend the scene.
- Members must not ask a person to attend at a police station to initiate a report in instances where telephone reporting of family violence is considered inappropriate or has not been approved.

- All FVRs generated by telephone must be investigated in accordance with **VPM Crime attendance and investigation**.
- The reporting member must update the LEAP narrative to ensure all relevant information is recorded and to provide the most accurate and up to date information for investigators.
- If the nature of the call is to enquire, or to provide further information about an existing incident recorded on LEAP, including the service status of an intervention order, the member must:
 - obtain the details of the parties involved and identify the relevant LEAP incident
 - update the narrative in LEAP detailing the enquiries made, information received from the caller and any information provided by the member to the caller.
- Members should refer to the **Taking reports of family violence by telephone Practice Guide** for further information.

3.4 *Use of interpreters in family violence incidents*

Where either party does not speak English as their first language or uses Australian Sign Language (commonly referred to as Auslan) members must seek an interpreter as soon as possible and at every stage of the investigation including:

- during initial crisis intervention (e.g. at the scene)
- whilst evidence gathering and statement taking
- if the matter proceeds to court – members are to inform Court prior to hearings when an interpreter is required/what language
- when explaining conditions and purpose of an intervention order to the AFM and respondent.

The language needs of the AFM and respondent are to be considered separately.

Where possible:

- request an interpreter with NAATI professional level certification
- request an interpreter with specialist training in family violence
- two separate interpreters should be provided if both the respondent and AFM require an interpreter, even if they speak the same language
- gender of the interpreter should be considered carefully. An interpreter of the same gender as the AFM should be arranged
- members should not use individuals known to the AFM or respondent. To assist with this, members:
 - should, when using onsite interpreters, take all reasonable steps to ensure that the interpreter is not associated with the AFM or their immediate cultural community
 - can choose not to disclose the AFM's details or identifying information to the interpreter where practicable and inform the AFM of this
 - can request an interpreter from another state (telephone or video conferencing interpreting)
 - can ask the parties if they would like to know the name of the interpreter beforehand to establish if the interpreter is known to the AFM.

Parties to the incident, including children, must not be used as interpreters.

Members may only use neighbours or other persons present (with the exception of respondents, family members, friends and children) in an emergency situation. An accredited interpreter must be used as soon as practicable.

Refer to **VPM Interviews and Statements** and **Practice Guide – Priority Community Response**.

3.5 *Risk assessment and management and the Family Violence Report*

Members investigating an incident where family violence has occurred, must:

- complete an FVR (L17) for every reported incident of family violence, regardless of who made the report. This includes incidents where there are other issues present such as mental health
- record the details of every person involved, including children, and their relationship to the parties involved in the incident regardless whether they heard/witnessed the incident
- follow up with AFMs if not present at the incident to complete an FVR (L17)
- when a person is detained under the *Mental Health Act*, follow up with parties to complete a standard family violence response, including FVR (L17), as soon as practicable
- ascertain whether the respondent is in possession of, or has access to, firearms or weapons. Members are to make specific inquiries with the AFM to elicit any information they may hold regarding the respondent's access to or possession of firearms or weapons
- utilise the FVR (L17) questions to help identify the history of violence in the relationship and any patterns of harmful behaviour, taking into consideration AFM and other party relationship:
 - previous incidents (regardless of whether they were reported to police)
 - intervals between incidents of violence
 - escalation of violence
 - describing the current incident
 - most serious incident and previous incidents
 - including whether children were present
 - threats of suicide
 - assessment of risk and vulnerability factors such as pregnancy or recent separation.
- identify who is the primary aggressor and whether there is a history of family violence. Where physical violence has occurred, assess if it is likely that someone has been acting in self-defence
- take immediate action to protect and support AFMs and children. See section 8 for requirements regarding mandatory reporting.
- where children are concerned, independently assess the level of risk to the children to ensure their safety
- consider a Visual Audio Recorded Evidence (VARE) interview if children or young people have witnessed or been a victim of family violence. Refer to **VPM Visual Audio Recorded Evidence**.

Sub-officers must ensure that members attending a family violence incident:

- assess appropriate action regarding criminal and civil options (see sections 10 and 13 respectively)
- complete and submit an FVR (L17) to record the incident and make appropriate referrals for AFMs and children prior to end of shift.

Once members have completed the FVR (L17), it will create the following:

- a family violence risk score that may refer the FVR (L17) to an FVIU for further review through the triage process (see section 4 for further information)
- appropriate referrals for persons captured by the FVR (L17) (see section 5 for further information and required action)
- access to FVSN, Interim FVIO or Final FVIO application documents.

3.6 *Identifying the primary aggressor*

- The primary aggressor is the party to the family violence incident who, through known history and actions within the relationship, has caused the most physical harm, fear and/or intimidation against the other.
- The primary aggressor is the perpetrator who is using violence and control to exercise general, coercive control over their partner or family member. Once they have been violent (particularly the use of physical or sexual violence) all of their other actions take on the threat of violence.
- The primary aggressor, through their history and pattern of coercion, power and controlling behaviour, distinguishes from a victim who may have utilised self-defence or violent resistance in an incident or series of incidents.
- Key indicators to identify the primary aggressor include:
 - respective injuries
 - likelihood or capacity of each party to inflict future injury
 - whether either party has defensive injuries
 - whether it is likely one party has acted in self-defence
 - in predicting or anticipating violence, whether it is likely one party acted with violent resistance
 - which party is more fearful
 - patterns of coercion, intimidation and/or violence by either party.
- Only one primary aggressor should be identified. Cross applications must not be made for FVIOs or FVSNs.
- Members must not make assumptions when assessing and determining who is the primary aggressor. Members should be alert to:
 - attempts to influence, the presence of power imbalance and/or possible manipulation by the primary aggressor
 - the primary aggressor can appear calm and reasonable, whereas the victim may appear agitated or potentially violent
 - the primary aggressor can use the incident to minimise their actions and create doubt about the victim's version of events. Through these actions the primary aggressor continues to use the system to carry out family violence
 - violence may be normalised so the AFM may appear to 'choose' to remain in a violent relationship.
- If it is unclear who the primary aggressor is:

- the AFM should be nominated on the basis of which party appears to be most fearful and in most need of protection
- record reasoning as appropriate in the Case Progress Narrative
- consider consulting your Family Violence Liaison Officer (FVLO) or supervisor. In some instances, additional information may be available. Refer to **VPM Family violence and child information sharing**.

3.7 *Removal of persons, property and animals*

- Where separation of family members is needed to ensure safety, effort should be made to support the AFM to stay in their home.
- If no legal power exists to remove an offender from the premises and the AFM requires accommodation, police must contact Safe Steps for emergency accommodation.
- Members should assist with the safe removal of persons from the premises, ensuring there are no breaches of the peace and that those leaving the premises for their safety have sufficient clothing and personal items.
- Where a respondent is excluded from the premises, members are to support them to gather basic and essential belongings, and any relevant documentation. See section 21 for additional information.
- Pet abuse can be a form of family violence. Members should contact the RSPCA when there is a need to remove an animal following attendance at a family violence incident (e.g. where the animal is in distress or in need of care, or there are ongoing animal cruelty concerns). See **VPM Animals** for more information.

3.8 *Women's refuges*

- In high risk situations it may be appropriate for women and children to be placed in a women's refuge. The refuges maintain confidential addresses and a corresponding level of medium or high security which is intended to preserve the safety of clients and workers alike.
- To seek secure accommodation for an AFM 24/7, members are required to contact Safe Steps. An intake staff member from Safe Steps will assess the eligibility of the woman and any children. Eligibility usually applies to women and children escaping an immediate threat of family violence.
- Under no circumstances is the address or location of a women's refuge to be divulged.
- Members should not contact Safe Steps directly regarding the whereabouts or welfare of an AFM who has been placed in a women's refuge or must not visit an AFM whilst at a refuge.
- To facilitate police contact and ongoing family violence case management with an AFM who has been placed in a refuge, members are to consider obtaining alternative means of contacting the AFM such as via email or mobile phone at the time of taking the report.

3.9 *Responding to diverse community needs*

The dynamics of family violence may affect some priority communities in particular ways. Refer to **Family violence priority community response Practice Guide** for in depth information about how family violence intersects with priority communities,

including:

- Aboriginal communities
- culturally and linguistically diverse communities
- people with disabilities
- older people
- adolescents as perpetrators of family violence
- lesbian, gay, bisexual, transgender and intersex communities
- people who work in the sex industry.

4. Investigation primacy – family violence response model

- Investigation primacy in a family violence response is determined by the family violence risk score and the Accountability & Resource Model (ARM) category rating. The family violence risk score is calculated by the submission of the FVR (L17) and recorded on LEAP. See **Family Violence Report (L17) and frontline response Practice Guide** for more practical guidance on the FVR (L17).
- The FVIU retains investigation primacy for:
 - all Category 2 cases where family violence is the determining factor in the commission of the offence
 - family violence cases that are prioritised by the Case Prioritisation and Response Model as high risk or complex. Case complexity includes consideration around vulnerability and reporting barriers for priority community members. See **Family violence priority community response Practice Guide**
 - cold case family violence investigations.
- FVIU investigators must complete a Management Response Template (MRT) and upload the MRT to Interpose, where the investigation must be managed. See **Family violence investigation units and family violence investigative response Practice Guide**.
- Frontline members retain investigation and risk management of cases that are rated medium or standard risk, with further monitoring and coordination by the FVLO. See **Family violence roles and responsibilities Practice Guide**.
- Frontline family violence investigations must be managed on LEAP in accordance with **VPM Crime investigation – Case management**.

Referrals

5. Referrals

5.1 Overview

- The information members include within the FVR (L17) helps to determine both the referral and risk rating generated by the system. This information informs who the referral agency will be and how the referral will be made.
- The risk rating score generated by the FVR (L17) will produce either a formal (score of 4 or more) or informal (score of 3 or less) referral.

- The following table outlines the processes members must follow dependent on whether a formal or informal referral has been made:

Type of referral	Process
Formal <i>risk rating score of 4 or above</i>	Members: <ul style="list-style-type: none"> • cannot change the referral generated by the system • must tell the party/ies that their details have been forwarded to an appropriate external agency who will contact them directly
Informal <i>Risk rating score of 3 or less</i>	Members: <ul style="list-style-type: none"> • can override the informal referral if parties would be better supported by a formal referral (see section 6 for guidance on when a formal referral may be required) • must provide the party/ies with the referral information so the party may contact the external agency if they wish to do so

- Members should ensure that a copy of the “Information and Support Referral” brochure is given to the respondent in all cases where either criminal and/or civil action is being taken by police.
- Where a child is otherwise exposed to the effects of family violence, members must include reference to the child in the AFM’s FVR (L17) (see section 8.4 for further information about this process). Members may include a referral for the child to Child FIRST/Child Protection in the AFM’s FVR (L17).
- Members are to assess the interests of the child independently of a parent and should refer to section 8 for further information about referrals for children, including mandatory reporting requirements.
- For further referral information refer to the **Family violence referral protocol between the Department of Health and Human Services, Family Safety Victoria, Department of Justice and Community Safety and Victoria Police 2018**.
- Referrals are in addition to and do not replace pursuing criminal charges or seeking an intervention order under the FVPA (see criminal and civil stream sections).

5.2 Family Violence Report updates and the L17 Portal

- If the FVR (L17) has not yet been authorised and committed to LEAP, members can make changes using LEDR Mk2 or the IRIS device.
- Formal referrals, including the narrative, are transmitted to agencies when the FVR (L17) is submitted to the sub officer.
- Any update made to the FVR (L17) (excluding the narrative) within 14 days after the initial report was authorised and committed to LEAP will be transferred automatically from LEAP to the L17 Portal. The additional information will then be made available to referral services who have access to the portal to assist both AFMs and respondents.
- Changes that are made to the FVR (L17) after 14 days of the report being authorised and committed to LEAP will not be forwarded to the L17 Portal. Members are encouraged to communicate directly with the relevant referral agency if required. Members should seek advice from their local FVLO if unsure which agency to contact.
- Examples of an update to an FVR (L17) include but are not limited to:

- incident details (date, time and location)
- AFM/respondent name, DOB (identity)
- AFM/respondent phone number, address (contact information)
- AFM/respondent accessibility needs (including Aboriginal, Torres Strait Islander, interpreter needed, disability)
- children present
- if respondent has been spoken to
- phone numbers/e-mail addresses of parties involved.

6. Formal referral

- Where an FVR (L17) automatically selects an informal referral, members should consider manually changing this option to a formal referral in the following instances:
 - where they intend to lay criminal charges or are investigating an alleged crime relating to a family violence incident
 - where the safety, welfare or property of a family member appears to be endangered by another family member and police intend to apply for or to have sought an FVSN, Interim FVIO, Application and Summons (A&S) or Application and Warrant (A&W)
 - where the likelihood of future violence is assessed as 'likely'
 - to address recidivism
 - to enable co-case management (working with external agencies)
 - in any other circumstances where police assess a formal referral is required.
- If members assess that an AFM needs immediate assistance contact Safe Steps (Assistance 24/7).

7. Formal contact between police and an external agency

- When a formal referral is generated by the FVR (L17), information from the FVR (L17) is shared via the Department of Health and Human Services (DHHS) L17 Portal for either the AFM, child or respondent to the referral agency. Always refer to the parties as respondent and AFM in the narrative to avoid one party being identified by the other party's agency.
- Members may also wish to confer with other agencies regarding the particulars of the family violence incident, e.g. during a multi-agency co-case conference.
- For further guidance on information sharing consult **VPM Family violence and child information sharing** regarding the routine sharing and release of information to third party organisations.

8. Reporting requirements for children

8.1 Reporting and referral

- There are three types of child reporting/referral:
 - mandatory reporting to Child Protection
 - referral to Child FIRST
 - referral to a specialist Family Violence Service with the AFM.
- Members must advise the parent/s or guardian of any child whenever a referral is going to be made and the circumstances of the referral. Advising of the referral

does not apply if the notification could be to the detriment of either a criminal investigation or a protective investigation under the *Children, Youth and Families Act 2005* (CYFA), e.g. where there is a possibility that evidence might be destroyed or the child could be further endangered.

- For further guidance refer to **VPMP Protecting children**.

8.2 *Mandatory reporting*

- Police are mandated, in accordance with s.182(1), CYFA, to make a report to DHHS Child Protection when they believe that a child is in need of protection or at risk of significant harm as a result of physical or sexual abuse. When a notification to Child Protection is required, contact DHHS Child Protection by telephone and tick the relevant box on the FVR (L17).
- In accordance with the CYFA, a mandatory report to Child Protection must be made in any of the following circumstances:
 - physical abuse of, or non-accidental or unexplained injury to, a child
 - a disclosure of sexual abuse by a child or witness, or a combination of factors suggesting the likelihood of sexual abuse – the child exhibiting concerning behaviours.
- Where members make a mandatory report, they should also notify the local SOCIT.
- See **VPMP Protecting children** for further information regarding mandatory reporting.
- Where police may not be required to report emotional abuse, neglect, or abandonment to Child Protection under these obligations, members must comply with requirements and responsibilities set out in **VPMP Protecting children**, including referring to the **Protecting Children Protocol between the Department of Human Services – Child Protection and Victoria Police**.
- Where Child Protection determines its involvement is not warranted, members must reassess the circumstances to determine whether the level of future protection requires them to apply for an FVIO on behalf of the child or children.

8.3 *Child FIRST*

Where children are present and a report to Child Protection is not made, but where police have significant concerns for the wellbeing of a child or young person, members should refer the matter to Child FIRST by selecting the option in the FVR (L17); either in the child's FVR (L17) or as part of the AFM's FVR (L17). It is important to record if the AFM is pregnant and there is a significant concern for the wellbeing of the child after their birth.

Options Model

9. Enforcement options

- Members must choose the most appropriate enforcement options based on the AFM's circumstances and needs, risk assessment and investigation.
- The Options Model provides two streams of intervention to break the cycle of violence: Criminal and Civil. Based on their risk assessment, investigation and all

relevant information, members are to choose the most appropriate method/s of intervention. See the criminal and civil stream sections below for further information and guidance.

Criminal stream

10. Overview

- Where criminal charges are alleged or detected members must choose the appropriate disposition from the following options:
 - charge and remand
 - charge and bail
 - intent to summons
 - pending enquiries.
- Members must not actively encourage AFMs to request no further action or to sign a statement of no complaint.
- For further guidance on disposition options, refer to **VPMP Disposition of offenders**.
- Members must also complete and submit an FVR (L17) and ensure the safety of the AFM and any children by making a civil application where required.
- Following the offender interview members must submit a brief of evidence. If the brief is to be considered for non-authorisation it must include a covering report.

11. Process for a criminal offence

- If a criminal offence has occurred members are to investigate and pursue criminal offences as they would any other criminal investigation, even if the AFM is reluctant for charges to be pursued:
 - pro arrest and pro charge – members will investigate all family violence incidents reported to them, ensuring that appropriate action is taken
 - members are to determine if there has been a contravention of any existing orders
 - where a criminal offence is identified, members will conduct an investigation, pursue criminal options and prepare a brief of evidence, see **VPM Briefs of evidence, VPM Forensic procedures, and VPM DNA profile samples**.
 - a supervisor will authorise any charges based on the available evidence and may do this with or without consent of the AFM. Consider conducting a case review if the AFM is reluctant to support charges
 - bail does not replace the need to seek an intervention order where circumstances require
 - if the respondent has not been located or processed, members must keep the LEAP incident as active.
- For further guidance on requirements for criminal action, refer to **VPM Crime attendance and investigation, VPMP Disposition of offenders** and **VPM Sexual offence investigations**.

12. Contravention of an existing family violence order

12.1 Overview

Contravention of an intervention order (including nationally recognised domestic violence orders and interstate or New Zealand orders registered in Victoria):

- a contravention of an intervention order is a criminal offence
- both summary and indictable contravention offences exist in the FVPA
- the offence of a contravention is against statute not the protected person
- **the conditions within an intervention order are to be strictly interpreted and enforced. There is no such thing as a ‘technical’ breach. Prosecutions must proceed**
- a protected person is not liable for a charge of aiding, abetting, counselling or procuring the commission of any contravention offence (s.222(2)(b), FVPA)
- members do not require the consent of the AFM to pursue a charge of contravention
- respondents held in prison may contravene the conditions of their FVIO by contacting the AFM from prison. Members may make application for a warrant under s.160, FVPA to seize records of phone calls to be used as evidence of a summary contravention of an FVIO, provided there is reasonable belief the respondent is likely to continue to contact the AFM i.e. a pattern of behaviour is established
- decisions to prosecute are based on evidence gathered and not subjective assessment by the member. If evidence of contravention exists members need to consider prosecution. In all cases the matter must be investigated and a brief of evidence submitted
- conditions in the order may need to be varied following a contravention to afford protection that is more appropriate.

12.2 Summary offences for contraventions of FVSN, Interim FVIO and FVIO

Summary contraventions of an intervention order are strict liability offences, i.e. the prosecution does not have to prove intent.

12.3 Indictable offences for contraventions of FVSN, Interim FVIO and FVIO

- These offences carry up to five years imprisonment and can be heard summarily.
- Contravention of notice/order intending to cause harm or fear for safety (ss.37A and 123A, FVPA):
 - these offences apply to situations where the offender intends to cause, or know that his or her conduct will probably cause:
 - physical or mental harm to the person protected by the intervention order, including self-harm; or
 - apprehension or fear in the person protected by the intervention order for his or her own safety or that of any other person.
 - they are aimed at contraventions which, while not necessarily constituting an offence other than contravention, are particularly harmful to the AFM. The power of arrest is s.459, *Crimes Act 1958*

- for the purposes of this offence, 'mental harm' includes psychological harm and suicidal thoughts.
- Persistent contravention of notices and orders (s.125A, FVPA):
 - s. 125A, FVPA makes it an indictable offence to persistently contravene an intervention order:
 - liability for this offence occurs where the offender commits a summary contravention of an intervention order (the 'trigger' offence), and within the preceding 28 days has committed at least two other summary contraventions. When laying this charge there must be at least three summary contravention charges accompanying the indictable charge
 - the prerequisite contraventions must have occurred on or after 17 April 2013 to be included in the sequence of an indictable persistent contravention offence charge
 - where a preceding incident has not been reported to police but falls within the preceding 28 day period, reports can be taken and used to contribute towards the indictable charge. In this case submit one FVR (L17) with multiple sub-incidents
 - for the purposes of this offence, the prosecution must demonstrate that the offender knew or ought to have known that the conduct constituted a contravention of the intervention order
 - if the charge against s.125A is dismissed then the Magistrate can still find the offender guilty of the offences against either ss.37A and 123A or ss.37 and 123 as alternatives.

12.4 *Taking the alleged offender into custody*

- Where the alleged offender is at the scene:
 - s. 38, FVPA provides a power of arrest where police believe on reasonable grounds that a person has contravened a FVSN
 - s. 124, FVPA provides a power of arrest where police believe on reasonable grounds that a person has contravened an Interim FVIO/FVIO
 - s.459, *Crimes Act* provides a power of arrest for indictable contraventions (ss.37A, 123A and 125A).
- Where the alleged offender is not at the scene:
 - members should conduct an investigation to locate and interview the alleged offender within 24 hours, in line with the Advancing Investigation Management accountabilities (Project AIM)
 - if unable to locate within 24 hours members are to submit a Person Whereabouts Desired [Form L12] and consider a Person Warning Flag [Form 292]
 - once located, arrest and interview the alleged offender.

12.5 *Interviews*

- Members are to conduct all interviews as required by **VPM Interviews and statements**.
- When interviewing a respondent for persistent contravention, members are not to re-interview for the prerequisite summary contraventions. It is advisable to confirm the respondent's knowledge of the preceding summary contraventions only.

12.6 *Brief preparation for persistent contravention offences*

- Where one member responds to all of the prerequisite contraventions that comprise the persistent contravention charge, that member is to compile one brief of evidence which includes all summary contravention offences and the persistent offence. Where the summary contraventions that make up a charge of persistent contravention have been responded to by multiple members a brief coordinator is to be allocated. Refer to **VPMG Brief preparation and management**.
- Allocation of Brief Coordinator:
 - the Brief Coordinator role is allocated by the supervisor of the member who identifies the 'trigger' indictable offence
 - the informant who responds to the trigger offence should be the Brief Coordinator unless extenuating circumstances exist, e.g. when an FVIU is better placed to investigate or the member is going on leave.
- Responsibilities of Brief Coordinator:
 - coordinating all charges pertaining to each prerequisite summary contravention offence in order to lay the indictable persistent contravention offence
 - compiling and attaching a Family Violence Contravention Coversheet [Form 1430] to the brief of evidence containing indictable persistent offence
 - coordinating and facilitating the collation of the relevant briefs and aligning all court matters to the same venue and same date. This will maximise the likelihood of a successful prosecution of the indictable persistent charge.
- Where a Brief Coordinator is allocated:
 - members who have issued process are to provide an authorised copy of the brief to the Brief Coordinator
 - members who have not issued process are to forward the brief (prior to authorisation); or all statements, evidentiary material and interviews to the Brief Coordinator for brief compilation and authorisation.

12.7 *Brief preparation for breaches of orders served by alternative service*

- Where an alleged offender has breached an order served by alternative service, a certified extract detailing the alternative service is required to meet evidentiary requirements.
- Members should request the Certified Extract from the court.

Civil stream

13. Overview

13.1 *Applying for a family violence intervention order*

- Members are to make and sign an application for an intervention order whenever the safety, welfare or property of a family member appears to be endangered by another family member. It is not always necessary to have the agreement of the AFM to proceed.
- Refer to section 20 of this policy to determine whether a nationally recognised Domestic Violence Order (DVO) exists.
- Where an FVIO is required members must make an application by:
 - FVSN
 - Application & Summons with an interim order (Interim FVIO)
 - Application & Summons
 - Application & Warrant.
- Members must not advise an AFM to seek their own intervention order.
- The following flowchart provides instruction on the FVIO application process, including brief preparation requirements. Refer to the criteria and any additional requirements for each application method in the sections below.

Overview of Application for Interim FVIO/FVIO by Summons or Warrant

Determine that a FVIO is required and the appropriate application process for the circumstances

Prepare application for FVIO and summons/warrant
Complete Application for an intervention order and Summons/Warrant [Form 422]. Initiate the application via LEDR Mk2

Summons with Interim FVIO

- Liaise with court/FVCLO or afterhours Registrar
- Forward application to the court for listing

Summons

Forward application to court for the Registrar to issue and list the court date

Warrant

- Obtain approval from supervising sergeant
- Seek warrant from Registrar

Service

- Serve the Application and Summons with the Interim FVIO on the respondent.
- Explain the conditions of the Interim FVIO and date of the court hearing.

Service

- Serve the Application and Summons on the respondent at least two days prior to the court date
- Explain the conditions of the summons and date of the court hearing

Warrant executed

- Arrest and bail respondent with family violence conditions to a court date within five days for the FVIO hearing
- Complete Bail Form [Form L22] and fax to CDEB
- Forward endorsed warrant and bail bonds to court
- **Warrant not executed within 24 hours:** submit Whereabouts [Form L12]; see section 17 for further requirements

File documents at court

- Fax/email copies of application documents and Affidavit of Service to the court before the hearing date
- Original to be sent via DX or delivered in person to the court filing before the hearing date.

Notify AFM

Once the respondent has been served/bailed, advise the AFM of the court date and Interim FVIO/bail conditions (if applicable).

Prepare FVIO brief

- The FVIO brief must contain (as a minimum):
- Intervention order brief head [Form 957]
 - Family Violence Report
 - FVIO application
 - copy of Interim FVIO (if applicable)
 - copy of service/execution FVSN/FVIO/bail details
 - Form 1357 including Form 1500 attached to each exhibit

FVIO Brief authorised

- Once FVIO brief is authorised:
- scan and upload to CBSS by the end of shift
 - forward/email to prosecutions office

13.2 *Children*

- Where children are exposed to family violence and recorded on the AFM's FVR (L17) consider including them on the FVIO application for the AFM.
- If the AFM is a child, make an application on behalf of the child at the Children's Court.
- Children cannot be the respondent on a FVSN application.
- Where a FVIO application involves a respondent who is a child, members are to liaise with DHHS Child Protection, prior to applying for the order. A child cannot be excluded from the home without consultation with DHHS Child Protection and accommodation arranged. See section 16 of this policy and refer to **VPMP Protecting children**.

14. Family Violence Safety Notice

14.1 *Purpose of a FVSN*

- A FVSN is:
 - a means of placing temporary conditions on the respondent to protect the AFM and children and their property
 - an application to the courts for a FVIO by a member to protect the AFM against the respondent
 - a summons for the respondent to appear at the first mention date for the applications stated in the notice.
- Holding powers may be used for the purpose of issuing a FVSN or serving an active and unserved FVSN. For further guidance on these powers see section 19 of this policy.
- A FVSN cannot be used to vary an existing FVIO. For further guidance on varying conditions of an order (e.g. exclusion clause) refer to section 26 of this policy.
- Where an National Domestic Violence Order Scheme (NDVOS) order exists members can issue a FVSN where immediate and additional protection is required for the AFM.

14.2 *Criteria for a FVSN*

General

- An application for a FVSN can only be made in the following circumstances:
 - after completion of a FVR (L17)
 - the respondent is aged 18 years or over
 - the respondent is not cognitively impaired
 - there are reasonable grounds to suspect there is no *Family Law Act 1975 (Cth)* (FLA) order, child protection order or community correction order under the *Sentencing Act 1991* in force that may be inconsistent with the proposed terms of the FVSN. In order to inform reasonable grounds, enquiries must be made of the respondent, the AFM and any other adults at the scene of the incident
 - no active FVIO is in place between the AFM and the respondent
 - when police will act as an applicant for a FVIO.

- When both the member responding to the incident (applicant) and the Issuing Officer (sergeant or above) believe on reasonable grounds that, until an application for a FVIO can be decided by the court, a FVSN is necessary to:
 - ensure the safety of the AFM;
 - preserve any property of the AFM; or
 - protect a child who has been subjected to family violence committed by the respondent.
- The respondent is not required to be present at the time a FVSN is applied for or issued providing the member applying for the FVSN believes they will be able to serve the FVSN on the respondent as soon as reasonably possible and without unnecessary delay.
- The FVSN should be initiated via LEDR Mk2.

Member responding to the incident

The member responding to the family violence incident is required to:

- refer to section 19 of this policy on holding powers
- complete a FVR (L17)
- when applying to an Issuing Officer, be able to substantiate that there are sufficient grounds for a FVSN to be issued in accordance with s. 24, FVPA
- ensure service of the FVSN and notification of service is effected in accordance with s.35, FVPA
- when making an application, believe on reasonable grounds the criteria for making a FVSN, listed above, apply.

Issuing Officer

- When an Issuing Officer considers application for a FVSN, they are required to be satisfied on reasonable grounds:
 - that the issue of a FVSN is necessary and in accordance with the provision of s.26, FVPA
 - there are no active FVIOs in place between the AFM and respondent.
- Before making a decision, the Issuing Officer:
 - must discuss the circumstances with the member responding to the family violence incident
 - must be satisfied that the member has formed an opinion on reasonable grounds to meet the criteria listed above
 - may, if practicable, hear from the AFM or respondent.

Checking Officer

Where a FVSN has been issued as part of the remote application procedure (see below), the Checking Officer (sergeant or above) is required to check the Authorisation Form against the corresponding FVSN for material discrepancies in accordance with s.28, FVPA. This is not limited to the Issuing Officer.

14.3 Application process

Specific considerations when making conditions

Part B of the FVSN specifies the conditions which may apply to the respondent to

ensure the safety of the AFM. Before including a condition which prohibits the respondent from being anywhere within a specified distance from a particular place, the Issuing Officer is required to make reasonable inquiries to ensure that the condition will be practical (s.29, FVPA).

Setting the court date

- To provide the time for all parties to prepare for court members should, where appropriate, seek a mention date as close to the maximum 14 days allowed after commencement of the FVSN. However, where the respondent is removed from the home, the mention date should be listed as soon as practicable.
- All court dates must be booked through the Electronic Mention Diary. If the court date cannot be selected within the 14 days or is unsuitable, contact the proper Court or Magistrates' Court Victoria After-Hours Service for direction.
- Members should also consider the following when determining an appropriate mention date:
 - the risk assessment and identified needs of the AFM
 - the scheduled family violence sitting days at the relevant court.

Determining the court location

- The proper venue for the hearing of a FVSN is generally the court closest to the AFM's residential address. If that court is not appropriate due to the safety of the AFM or the FVSN cannot be listed within the 14 days, members are to contact the proper Court or Magistrates' Court Victoria After-Hours Service for advice.
- Members must obtain the FVSN court date from the Electronic Mention Diary.
- Copies of the FVSN documents, including Part G, must be faxed/mailed to the nominated court listed on the FVSN prior to the hearing date.
- Originals must be sent via DX or delivered in person for filing by the court prior to the hearing date. If the court has not received all correct paperwork, the matter may not be listed for hearing.

Method of application

The method of application for a FVSN can only be made either:

- in person
- remotely, by fax or telephone or other electronic communication.

In-person procedure

- The member is required to contact an Issuing Officer and determine whether they can attend at the scene of the family violence incident or, an alternative location (e.g. the police station). Where this is not practical, a remote application for an FVSN is to be made, refer to the procedures below.
- Once the Issuing Officer is satisfied the requirements to issue a FVSN have been met, the Issuing Officer is required to tick the In-person Application box on each page of the FVSN and complete Parts A, B, C and D.
- If the attending member cannot contact a sergeant or above who can issue a FVSN, or the circumstances do not permit a FVSN to be issued, then consideration should be given to applying for an application and warrant or application and summons with interim order.

Remote application procedure

- When a member attends a family violence incident and the circumstances meet the requirements to issue a FVSN, but an Issuing Officer is not able to attend, the member may use a telephone, fax or other electronic device to communicate the circumstances of the incident to the Issuing Officer.
- Where the Issuing Officer decides to issue a FVSN, the following will occur:
 - the Issuing Officer must tick the Authorisation Form box on each page and complete Parts A, B and C of their FVSN. This becomes the Authorisation Form
 - the member must then tick the Remote Application box of the Safety Notice on each page of a separate FVSN and complete Parts A, B, D, E and G as directed by the Issuing Officer. This becomes the Safety Notice Form.
- Particular attention should be given to the information provided in Part A of each form. The reasons outlined in the attending member's statement must accurately reflect the reasoning of the Issuing Officer recorded on the Authorisation Form.
- See section 14.5 of this policy for further instruction on checking the Safety Notice and Authorisation Form.

14.4 Serving the FVSN

- As soon as practicable once the FVSN is certified, a member is required to serve the Respondent's Copy and Protected Person's Copy by personal service and complete the Details of Service (Part G). The completed FVSN, including Part G, should then be faxed/mailed to the court nominated on the FVSN.
- When serving the Respondent's Copy and the Protected Person's Copy, the member must explain (s.35, FVPA):
 - the FVSN to the respondent or AFM and take reasonable steps to ensure that they understand the nature and consequences of the notice
 - the purpose, duration and conditions of the FVSN
 - the consequences of contravening the FVSN
 - that the AFM cannot consent to the respondent breaching the FVSN
 - that the FVSN is a summons to court for the first mention date which is specified on the FVSN
 - the consequences for the respondent not attending the court date specified on the FVSN
 - the right of the respondent and AFM to obtain legal advice before the court date.
- Where the member determines that the respondent or AFM may not sufficiently understand English to comprehend the information the member is providing, the member is required to arrange for an interpreter to facilitate the communication as per s.35(3), FVPA (see section 3.4 of this policy for further information on the use of interpreters in family violence incidents).
- In addition to the above, where remote application has been made, the member is required to arrange with the Issuing Officer for the Safety Notice Form and Authorisation Form to be checked, see section 14.5. The Checking Officer is to be a sergeant or above and may also perform the role of Issuing Officer.

14.5 *Checking the Authorisation Form against the FVSN Form*

- Where a remote application has been made, as soon as practicable after the service of the FVSN, the Checking Officer is required to compare the Safety Notice Form to the Authorisation Form and identify whether there are material discrepancies between the two documents. Material discrepancies are:
 - the Safety Notice Form omits/includes a condition which is inconsistent with the Authorisation Form
 - the Safety Notice form changes the scope of the condition in the Authorisation Form
 - the names of the respondent or AFM on the Safety Notice Form are not the same as the Authorisation Form.
- Where there is a material discrepancy, the FVSN Form is only invalidated to the extent of the discrepancy and until the corrected Safety Notice Form can be served on the respondent and AFM.
- Where there are no material discrepancies, the Checking Officer is required to complete Part F of the Safety Notice Form and fax/email this and the Authorisation Form to the proper Court. The certified Safety Notice Form and corresponding Authorisation Form should be filed at the Checking Officer's station.
- Where there are material discrepancies, the Checking Officer should:
 - tick the Supplementary Notice box at the top of each page of the Safety Notice Form
 - correct and initial the Safety Notice Form to ensure it accurately reflects the Authorisation Form.
- Once corrected, the Checking Officer is to complete Part F of the Safety Notice Form.
- The Checking Officer is to then fax or forward a copy of the corrected Safety Notice Form to the member to arrange service. In the absence of the member, their work unit manager is to arrange for it to be re-served on the respondent and AFM.
- Service requirements stated above also apply to the second service.
- The member who served the corrected Safety Notice Form must complete a new Part G and tick the Supplementary Notice box at the top of the page. The Part G document, along with the corrected Safety Notice Form, must then be faxed to the court.
- The corrected Safety Notice Form and Authorisation Form should be filed at the Checking Officer's station.
- The serving member must provide a copy of the amended Safety Notice Form and service details to the member preparing the family violence intervention order brief.

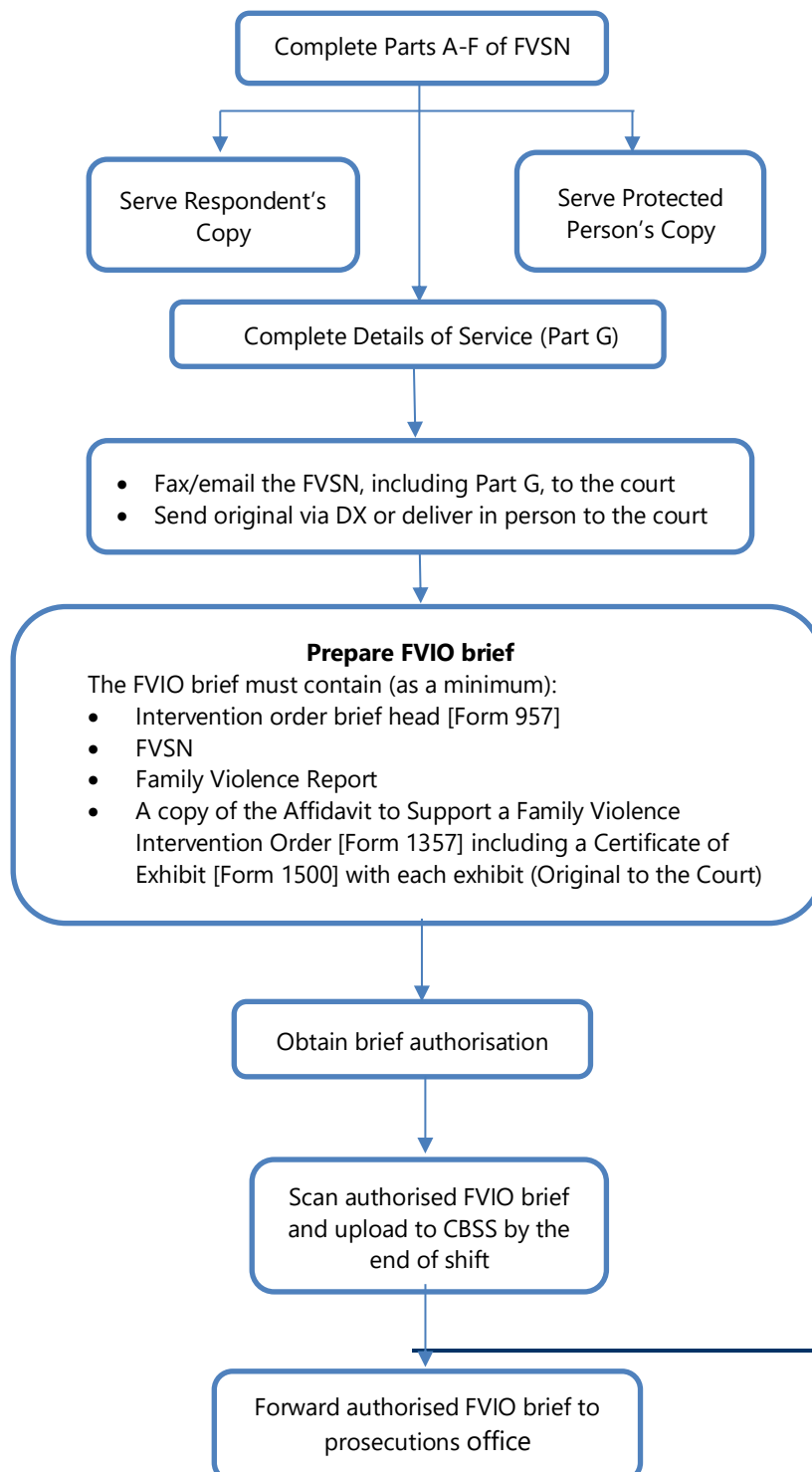
14.6 *Duration of FVSN*

- A FVSN is to be returned to the court before the first mention date stated in the notice. The first mention date for the application for an FVIO is to be:
 - at a court nominated by the member after due consideration has been given to the requirements of a proper venue (refer to Court Rules); and
 - within 14 consecutive days after the FVSN is served on the respondent; or
 - if the FVSN contains an exclusion condition, as soon as practicable.

- A FVSN commences when it is served on the respondent and ends when the earlier of the following occurs:
 - the court adjourns the application for the FVIO or refuses to make a FVIO on the first mention date for the application for the FVIO
 - if the court makes a FVIO on the first mention date when the order is served on the respondent.
- Where a FVSN is corrected, and the amended FVSN is served on the respondent, the FVSN is taken to commence from the time the original FVSN was served (s.30, FVPA).

14.7 Preparation of the intervention order brief

The member who applied for the FVSN must compile the FVIO brief. Refer to the flow chart below for the process and the requirements for preparing the FVIO brief.



14.8 *Address for service*

- A member who applies for a FVSN is required to ask the respondent to provide an address for service of documents. The respondent is not obliged to comply with this request. The member should also advise the respondent that, should the police not be able to locate the respondent for the service of documents under the FVPA, police can seek information from public sector organisations (s.33).
- Members should use the form Request for Information – Family Violence Protection Act 2008 [Form 1349] to apply to public sector organisations for this information.

15. Interim Family Violence Intervention Order

- Seek an A&S with an interim order (Interim FVIO) when immediate action is required to protect the AFM and their children, for example where the respondent is not present at the scene:
 - when an A&W or FVSN is inappropriate in the circumstances, or the court has not granted an application for an A&W and welfare concerns still exist
 - where the respondent is 17 years or younger, an A&S (with or without Interim) is the only available mechanism for applying for an intervention order.
- The application must be made in accordance with s.43, FVPA. Refer to the flowchart at section 13 of this policy for direction on the process for making an Interim FVIO.
- Members may make an application for an Interim FVIO by contacting the Court/Family Violence Court Liaison Officer/Family Violence Prosecutor during court hours or after-hours by contacting the after-hours Registrar.
- When the application is granted the Interim FVIO is valid until:
 - a final FVIO is made and served; or
 - the Interim FVIO is struck out, revoked or withdrawn; or
 - the Interim FVIO is varied and the new Interim FVIO is served.
- If the Interim FVIO contains firearms conditions members must hold any seized firearms or act to seize any firearms according to the FVPA, pending the final hearing of the FVIO. See section 42 of this policy for further details.
- Where an Interim FVIO returns to court for a hearing and the matter is adjourned, the protection of the Interim FVIO continues.
- There is no right of appeal against an Interim FVIO.
- If an after-hours Interim FVIO has not been granted members must record the reasons on LEAP and inform the AFM. Consider other options for AFM safety.
- If the court does not grant an application for an FVIO, the checking supervisor is to ensure that:
 - details are recorded on the LEAP case narrative
 - the AFM has received appropriate referral and advice
 - a copy is sent to the FVLO for recording and follow up as required.

16. Application and Summons

- This course of action is appropriate when there is no immediate danger to person or property, but action is required.
- A&S (with or without Interim) is the only civil option available when the respondent is under 18 years of age. Prior to making an application, members should liaise with DHHS Child Protection.
- If a member intends to seek an interim order with an A&S that includes exclusion conditions for a respondent under 18 years of age, emergency accommodation must be confirmed for the duration of the interim order prior to making the application.
- Apply for an A&S in accordance with the FVPA.
- Members should refer to the flowchart at section 13 for direction on making an A&S application.

17. Application and Warrant

17.1 *Considerations for using a warrant*

- Members may make application to a Registrar of the Magistrates' Court or the Children's Court for the issue of a warrant for the arrest of an adult respondent if it is necessary:
 - to ensure the safety of an AFM
 - to preserve any property of the AFM
 - to protect a child who has been subjected to family violence committed by the respondent
 - to ensure a respondent attends court on a mention date for the application.
- An A&W may also be sought through the Magistrates' Court of Victoria After Hours Service where the respondent is not in custody.
- If making the application at the court:
 - a member will be the applicant
 - advise the police prosecutor/police lawyer of the application.
- If after court hours, contact the after-hours court Registrar via telephone. All documents are to be ready before contacting the Registrar.

17.2 *Executing the warrant*

- In addition to the process detailed in the flowchart at section 13 of this policy, where members become aware that the respondent is avoiding arrest:
 - police initiated – the member who applied for the warrant should record its existence on LEAP by submitting a Person Whereabouts [Form L12]
 - non police initiated – a supervisor must ensure a Form L12 is submitted and marked as Serve Process – Important – See Remarks. Contact AFM for further information/statement; commence a criminal investigation and execute the warrant.
- Where the person is no longer wanted, or the unexecuted warrant is returned to court, the LEAP whereabouts record should be updated and cleared by a supervisor.

18. Electronic Mention Diary

- All court dates must be booked through the Electronic Mention Diary.
- See **VPMG Brief preparation and management** for specific listing requirements and timeframes for criminal matters involving family violence as part of the family violence Fast Track Initiative (FTI). If the court date cannot be selected within FTI timeframes or is unsuitable, contact the proper court or Magistrates' Court Victoria After-Hours Service for direction.

19. Holding powers

19.1 Overview

- Members may utilise holding powers if they intend to make an application for one of the following against a person:
 - a FVSN
 - an Interim FVIO or FVIO
 - an Order varying an existing Interim FVIO or FVIO.
- Members may also utilise holding powers for the service of a FVSN, Interim FVIO, FVIO or declared interstate or nationally recognised DVO if the member reasonably believes that an order or notice has been issued against a person, but it is not yet served.
- Before exercising holding powers members must:
 - have reasonable grounds for suspecting that the person is 18 years or older; and
 - believe on reasonable grounds that exercising the power is necessary to ensure the safety of the AFM or to preserve their property.
- The direction is to be given to the person orally or in writing and is to be reasonable in the circumstances.
- Members must inform the directed or detained person of their rights using Information on the Holding Powers for a Temporarily Detained or Directed person [Form 1266] and a copy of that form must be given to the directed or detained person.

19.2 Power to direct a person

- Members can use holding powers to direct a person, to:
 - remain at the place where the person is when the direction is given
 - go to and remain at a place stated by the member
 - remain in the company of the member or with another member stated in the direction, or with another person stated by the member (this may only be done with the permission of the accompanying person).
- The directed person must be told at the time of giving the direction, that if they fail to comply with the direction, they may be apprehended and detained.

19.3 *Detention power*

- If a directed person refuses or fails to comply with a direction, a member may use such force as is reasonably necessary, to apprehend and detain the directed person.
- A directed person may be detained at a police station or other place. Members are to comply with security and welfare requirements as detailed in **VPMP Persons in police care or custody**.
- It is an offence for a person to escape or attempt to escape once detained.

Direction or Detention at a police station

- To ensure the safety of the AFM and to allow the member to make the application and serve the Order, it may be appropriate to use holding powers to have the directed person accompany a member to the police station.
- Prior to bringing a directed or detained person into custody, members are to consider the security arrangements in place at the appropriate station.
- If a directed or detained person goes to a police station, they are to be:
 - entered in the Attendance Module, refer to **VPMP Persons in police care or custody**. Use the specific attendance codes; DIR for direction and DET for detention
 - informed of their rights using Form 1266 and given a copy of the Form
 - told at the time the direction is given, if they are at the police station, or as soon as they arrive at the station:
 - that they may communicate or attempt to communicate with a friend or relative (besides the AFM) to inform them of their whereabouts
 - that they may communicate or attempt to communicate with a legal practitioner in circumstances which, as far as practicable, cannot be overheard.
 - given access to facilities to enable the above communication, unless there is a belief on reasonable grounds that the communication would be likely to jeopardise the safety of the AFM and their property
 - given access to independent assistance if required. For further guidance consult **VPMP Interviews and statements and VPMP Persons in police care or custody**.

19.4 *Power to search*

In accordance with s.16, FVPA, members may search a directed person and any vehicle, package or thing in the directed person's possession if the member suspects, on reasonable grounds, that the person has in their possession any object that may cause injury or damage or may be used to escape. This search power is not to be used for evidence.

19.5 *Duration of holding powers*

- Holding powers commence when the direction is given, the directing member is required to record this time in their notes and on the FVR (L17) narrative and/or the Case Progress Narrative Update [Form L1A] forms.
- The maximum period a direction remains in force or a directed person may be detained is:
 - six hours after the direction is given; or

- if an extension is granted by the court, the period that the direction is extended (see section 19.6).
- If, despite an intervention order being served on a directed person, the member believes on reasonable grounds that the direction or detention should continue to enable further measures to be taken for the protection of the AFM, the use of holding powers is authorised until sufficient measures have been taken or the period referred to above, whichever occurs first.

19.6 *Extension of period*

- A member may apply to the court for an order extending the standard six-hour period of the direction or detention, only if they intend to make an application for a FVSN or FVIO. The application is to be made within the original six-hour period using the Application for Extension of Period of Direction or Detention [Form 1267] and can be made in person, by fax, telephone or via electronic means.
- If the court is satisfied that there are exceptional circumstances and issues an extension for a further period specified in the order, a member is required to serve the copy of the order to the directed person. The extension will not be greater than four hours.
- To extend the order, the member should have Form 1267 and other relevant documentation completed prior to contacting the after-hours Registrar.
- The work unit manager responsible for conducting a welfare check is required to record the outcome of the extension order application in the 'Welfare Check' field of the Attendance Module as either 'refused' or 'granted'.

19.7 *When a direction or detention ceases*

- When a direction ceases to be in force, a member is required to:
 - immediately notify the directed person, orally or in writing, that the holding power (direction) has ended
 - immediately release them from detention
 - take reasonable steps to notify, orally or in writing, the AFM that the direction has ended.
- Despite the prescribed time periods, a direction and/or detention ceases when:
 - the order or notice is served on the person, a FVSN is issued or the Interim FVIO or FVIO application is active but unserved; or
 - when a member decides not to make an application, or withdraws an application, for a FVSN, Interim FVIO or FVIO; or
 - a warrant is issued under s.50, FVPA, at the time the person is arrested under the warrant; or
 - an application for a FVSN, FVIO or warrant is refused; or
 - a member becomes aware that a FVSN or FVIO has not been made against the directed person.

19.8 *Interview for other offences*

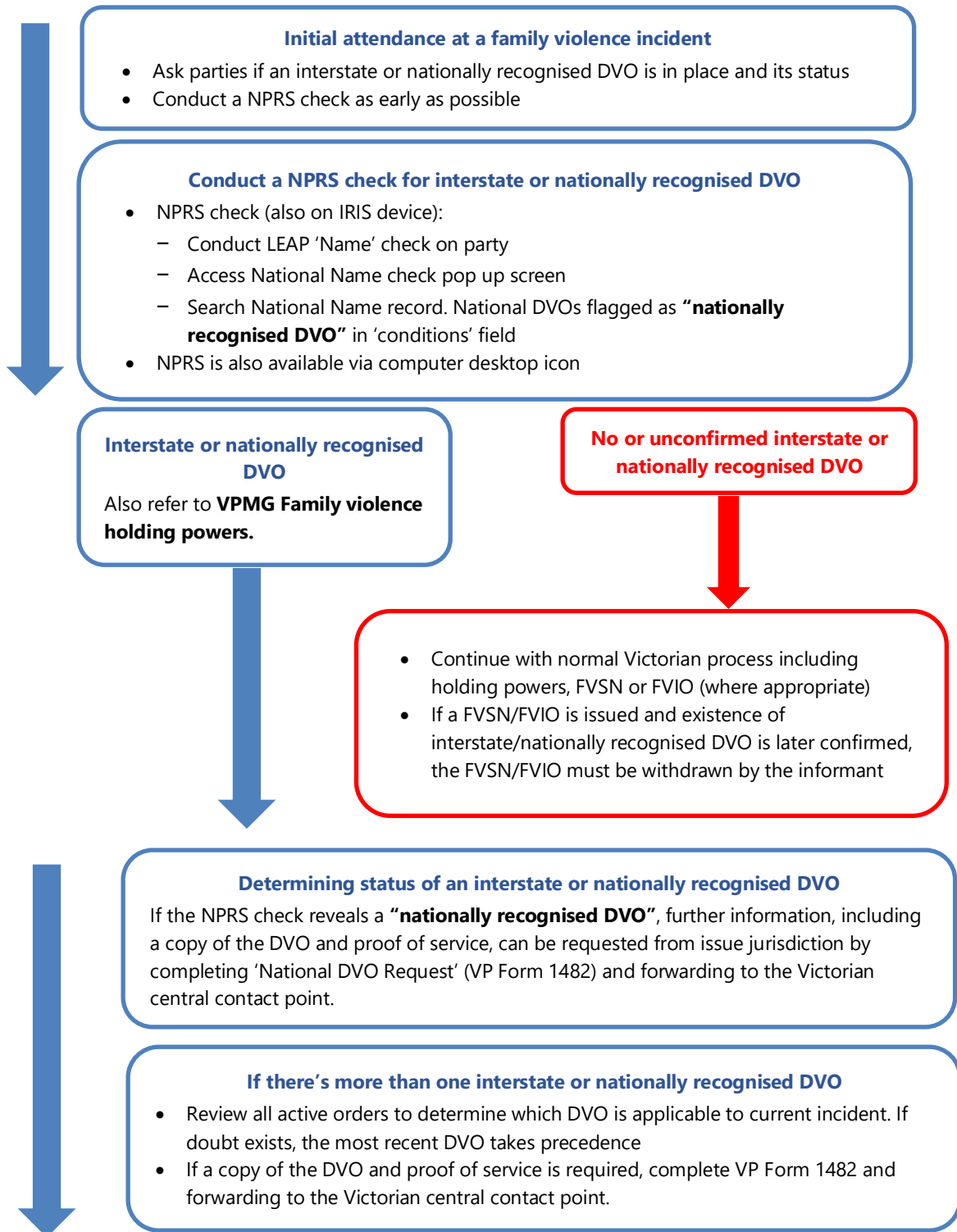
- Legislation does not permit members to interview the directed person for any offence or alleged offence while under direction or in detention.
- Where a power of arrest exists, any interview is to be conducted in accordance with **VPMP Interviews and statements**.
- After the interview, police may use holding powers to direct the person to remain at the police station, for the purpose of making the application. In this circumstance, the person is to be:
 - released from custody for the initial reason for attendance, including all Attendance Module disposition
 - then re-entered in the Attendance Module. Members are to use the specific attendance codes; DIR for direction and DET for detention. For further guidance on Attendance Module consult **VPMG Attendance and custody modules**.

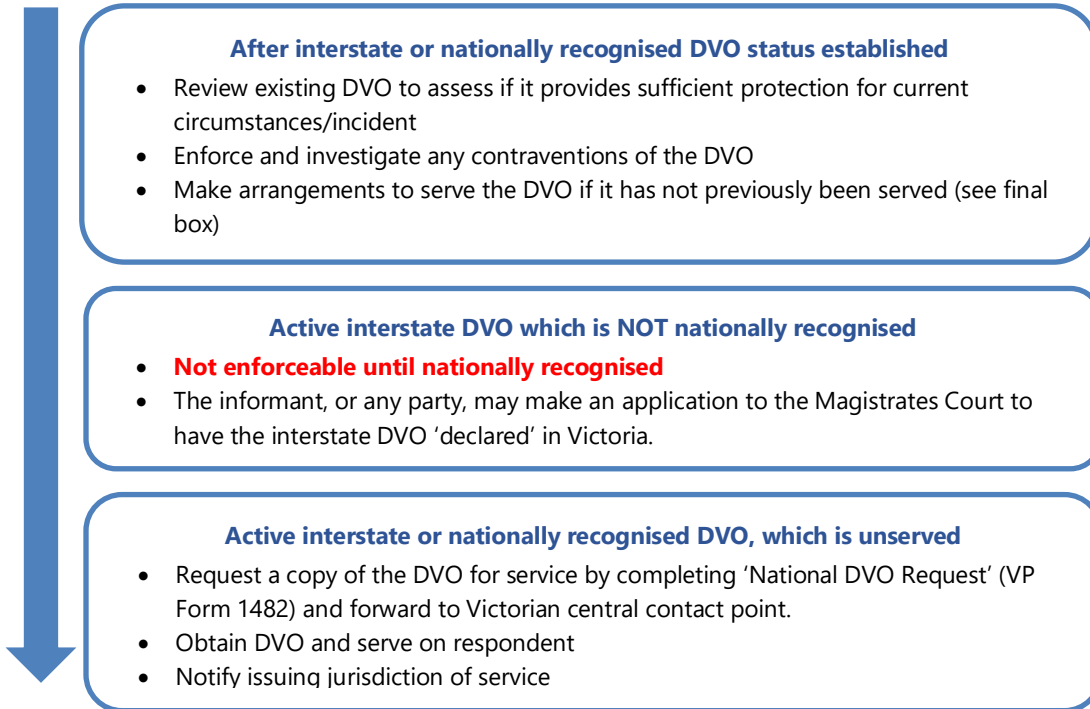
20. National Domestic Violence Order Scheme

20.1 *Overview*

- The NDVOS commenced nation-wide on 25 November 2017.
- All active Victorian FVSNs, Interim FVIOs and FVIOs, regardless of when they were issued, are nationally recognised under the scheme.
- Any interstate Domestic Violence Order (DVO) made after the commencement date is a nationally recognised DVO and enforceable in Victoria.
- An interstate DVO issued prior to 25 November 2017 may be 'declared' as nationally recognised by any party via application to the Magistrates' Court.
- All DVOs are listed on the National Police Reference System (NPRS).

20.2 *Identifying and managing interstate or nationally recognised DVOs*





20.3 *Enforcing a nationally recognised DVO*

- All conditions within a nationally recognised DVO can be enforced in Victoria, with appropriate criminal investigation and arrest practices.
- Members must determine whether:
 - information within NPRS is sufficient to initiate action (reasonable belief/suspicion), noting action may not necessarily be an arrest, e.g. service of DVO
 - action to enforce a nationally recognised DVO is in accordance with the legislation, policies and procedures of the jurisdiction enforcing the order.
- Details of any enforcement action must be recorded in LEAP. To determine if an individual has previously breached a nationally recognised DVO, members can:
 - undertake an NPRS check
 - request a full background check from the original jurisdiction using Form 1482 in order to:
 - identify any pending court matters
 - obtain any relevant narrative(s).

20.4 *Enforcing a nationally recognised DVO where parties are in different jurisdictions*

- The law enforcement agency in the jurisdiction where the respondent was located at the time of the commission of the offence should investigate and enforce any breach, regardless of whether the respondent has left that jurisdiction.
- Where the protected person and respondent are in different jurisdictions, the interstate law enforcement agency will:
 - take a statement from the victim
 - obtain necessary evidence
 - forward the investigation package to the investigating jurisdiction.

- The request to investigate an offence must be directed to the police station closest to the person under investigation (via email or hard copy) and the police central contact points in both jurisdictions copied into the email.
- The investigation package should include, but is not limited to:
 - National Request to Investigate and Prosecute Breach of National DVO [Form 1483]
 - copy of the DVO and proof of service (if issued in Victoria)
 - victim statutory declaration (victim statement)
 - FVR (L17)
 - details of any matters pending before the courts
 - basic evidential material where possible (i.e. copy of text message, Facebook post, telephone records, etc.)
 - police statement
 - background information/family violence history.
- The member receiving an investigation package for investigation from another jurisdiction must:
 - notify the originating member to confirm hand-over of the investigation
 - contact the AFM to notify them of the hand-over of the investigation
 - notify the originating jurisdiction of the outcome of the investigation
 - ensure that information relating to the location of an AFM is not disclosed to the offender.
- If a respondent makes serious threats, or if members have any concerns for the safety of the AFM/s, action should be taken under other appropriate legislation while the breach of an order is determined.
- Where the respondent is located in another jurisdiction a copy of the signed witness statement should be sufficient grounds to arrest, while further investigations occur.

20.5 *Holding powers for interstate or nationally recognised DVO*

Victorian holding powers may be used in order to affect service of a declared interstate or nationally recognised DVO. See section 19 of this policy.

20.6 *Variation of an interstate or nationally recognised DVO*

- An interstate or nationally recognised DVO can only be varied by a court.
- When making an application to vary an order, the Informant must:
 - make it in accordance with the requirements of the jurisdiction in which the application is made (including notifying parties of an application to vary a DVO)
 - disclose any special conditions on the order and the issuing jurisdiction's legislation that limits the ability for one or all the parties to seek a variation
 - provide the court with all the relevant background details of the order, including conditions of the DVO, any matters pending and previous breaches (where available).

20.7 *Evidentiary requirements*

- A jurisdiction must provide evidence in the format that is required by the court in their jurisdiction.
- A video link may be provided where a court requires an interstate witness to appear in accordance with the legislative provisions and practices of the jurisdiction hearing the matter.

20.8 *Firearms and weapons*

- Members must:
 - ascertain whether the respondent is in possession of or has access to firearms or weapons
 - make specific inquiries with the AFM to elicit any information they may have regarding the respondent's access to, or possession of firearms or weapons
 - check NPRS and LEAP for any firearm involvements.
- When the respondent is subject to a DVO, the suspension/cancellation of firearm licences and seizure of firearms must be carried out in accordance with the requirements of the jurisdiction where the licences and permits were issued.
- All DVOs issued by participating jurisdictions from 25 November 2017, are subject to a national firearms licence and/or weapons check. This also includes DVOs declared as a 'nationally recognised order' and any order that is declared by a Court and then varied.
- If it is identified that a respondent has an interstate firearms licence or registered firearm, members must contact the relevant jurisdiction and provide a copy of the relevant paperwork. This can be done via the firearms registry for the particular jurisdiction.
- Where it is established that a nationally recognised DVO is in place and the respondent holds a firearm licence, the Informant must take appropriate action in accordance with current Victorian legislation and this policy to apply for a suspension or revocation of the firearms licence.

20.9 *Requesting information and central contact points*

- National DVO Request VP Form 1482 must be completed for each request and emailed to the Victorian central contact point using the predetermined headers. A follow up phone call may be made once the email has been sent, if the matter is urgent (one hour turn around).
- All law enforcement agencies provide a 24/7 central contact point for interstate law enforcement agency requests.
- The contact details for the Victorian central contact point are:
 - email PBEA VIC-POLICE-DVO-CENTR
 - phone 8335 5701.

21. Property collections

- Where a property condition is included on an intervention order, it may specify police must accompany the AFM or the respondent to the property collection. Members are to ensure no contravention of the intervention order occurs and intervene to keep the peace. When attending property collections members must:

- before attending review all available information in relation to the parties, including past FVRs (L17), LEAP records, previous intervention order applications and details of any previous property exchanges
 - during the collection actively use it as an opportunity for risk assessment and risk management, if indicated by the circumstances
 - consider whether completion of an FVR (L17) is required
 - record that a property exchange has occurred in the most recent FVR (L17) narrative and any observations of the parties on LEAP
 - record if either party has indicated that there may be additional property to be obtained at a later date.
- Failure to return the property specified in a FVIO can constitute a contravention of the order. Members are to investigate the contravention of the FVIO relating to property and consider applying for a search warrant under s.160, FVPA.

22. Family Law Act orders

22.1 Overview

- Members should make enquiries with the AFM, respondent and any other adults at the scene of an incident to ascertain if there are FLA orders in place.
- Members must not issue a FVSN if they have reasonable grounds for suspecting there is a FLA order in force that would be inconsistent with the terms of the FVSN (s.24(c), FVPA).
- FLA orders include:
 - parenting orders
 - recovery orders (s.67Q FLA)
 - injunctions (ss.68B or 114 FLA)
 - arrangements, including undertakings and recognisances entered into under the FLA.
- Members should note that parenting plans are not FLA orders (see below for further information).
- Where it is alleged that a person has not returned a child in accordance with a FLA order or a parenting plan, members should consider:
 - consulting their sub officer
 - a breach of a FVIO
 - contacting DHHS Child Protection for advice
 - contacting SOCIT for advice
 - conducting a welfare check
 - advising the reporting person to seek immediate specialist family law advice
 - applying for a FVIO and a variation/suspension/revocation of a FLA order if required (see section 22.4 of this policy).

22.2 Arrests under the Family Law Act

- Refer any breaches of an FLA order to the Australian Federal Police for investigation or further information, unless they are incidental to a Victorian offence.
- There is no associated offence with the breach of a FLA order and therefore police have a limited role in their enforcement.

- However, members have a power of arrest (ss. 114AA(3), (4), (5) and (7), FLA) for a breach of an injunction when the respondent has:
 - caused, or threatened to cause, bodily harm to the applicant/s; or
 - harassed, molested or stalked the applicant/s.
- The court may also send police a warrant for arrest.
- Any person arrested is to be dealt with according to any respective warrant or brought before the court that granted the injunction or another court having jurisdiction under the FLA (the Magistrates' Court may sit as a family law court).
- Members must notify the other parties of the injunction of an arrest.
- Where members are unable to verify the existence of an injunction and its conditions, contact the Federal Circuit Court or Family Court of Australia to verify if an injunction exists.
- Where police cannot confirm an injunction and have concerns for the safety of the AFM, they should follow standard operating procedures including:
 - use of Victorian state-based arrest powers
 - issuing a FVSN (see section 14)
 - applying for an Interim FVIO or FVIO (see sections 15 and 16).

22.3 *Interaction between FLA orders and FVIOs*

- An Interim FVIO, FVIO, or nationally recognised DVO can operate alongside a FLA order. However, any conditions of an Interim FVIO, FVIO or nationally recognised DVO that are inconsistent with the FLA order are overridden by the FLA order and invalid.
- The Magistrates' or Children's Courts have the power to revive, vary, suspend or discharge a FLA order when making or varying an Interim FVIO, FVIO or nationally recognised DVO (s.68R, FLA).
- The Magistrates' or Children's Courts cannot revive, vary, discharge or suspend a FLA order unless:
 - it also makes or varies an Interim FVIO, FVIO or nationally recognised DVO; and
 - it has material or facts that were not before the family law court that made the FLA order.

22.4 *Applying to make or vary a FVIO when there is a FLA order*

- If FLA order/s are in place, members should seek a copy of the FLA order/s from the AFM and/or respondent to determine its conditions.
- If a member wants to apply for an Interim FVIO or FVIO with conditions that would be inconsistent with a FLA order, members should make the following two applications:
 - an Interim FVIO or FVIO (via A&S or A&W as appropriate)
 - seek the FLA order/s be varied, discharged or suspended under s.68R, FLA by prosecutor/police lawyer at the time of the Interim FVIO/FVIO hearing. Members should also record the application in the narrative/summary.
- If there is already an Interim FVIO, FVIO or nationally recognised DVO in place that is inconsistent with a FLA order and a member is concerned that, as a result of the

FLA order, a person or child is at risk of family violence, members should consider making the following two applications:

- vary the existing Interim FVIO, FVIO or nationally recognised DVO
 - seek the FLA order/s be varied, discharged or suspended under s.68R, FLA by prosecutor/police lawyer at the time of the Interim FVIO/FVIO hearing.
- Members should also record the application in the narrative/summary.

22.5 Parenting plans

- A parenting plan is an agreement, signed and dated, that sets out parenting arrangements for a child.
- Parenting plans are not legally enforceable – parties cannot be found to be in contravention of a parenting plan under the FLA.
- Parties may enter a parenting plan while negotiating a FVIO, however it does not form part of the order – breaching a term of a parenting plan is not a breach of a FVIO.
- Members can still issue a FVSN or apply for a FVIO when there is a parenting plan in place.

23. Appeal

- Any party to a FVIO may lodge an appeal against the granting or refusal of the court to make an order.
- Members who are a party to an application are also a party to an appeal and will be required to attend the County Court for the hearing of the appeal. Members will need to contact the Staff Officer to the Executive Director, Legal Services Department for representation at the County Court.
- The Notice of Appeal will not be served directly on the police applicant, but via the Victoria Police Executive Director of Legal Services. Representation is through the Victorian Government Solicitors’ Office, not the Office of Public Prosecutions.

24. Own motion Family Violence Intervention Orders

- A court may, on its own initiative, make an order to protect a person from family violence:

Proceeding	Criteria
Bail or criminal proceedings (ss. 60B or 60C FVPA)	<ul style="list-style-type: none"> • A court may make an own motion Interim FVIO to protect a family member of a respondent • This can be made during an application or appeal relating to bail or any stage of a criminal proceeding • The court must be satisfied, on the balance of probabilities, that the order is necessary to ensure the safety of the family member • A court may also include a child in the Interim FVIO or make a separate Interim FVIO for a child where the court believes that the child has been subjected to family violence committed by the respondent • This may occur in proceedings unrelated to family violence

FVIO proceedings (ss.53AB or 77B FVPA)	<ul style="list-style-type: none"> • A court may make an Interim FVIO or FVIO to protect a child when an Interim FVIO or FVIO has not been made during the proceedings for the AFM • The court must believe the child has been subject to family violence and that an order is necessary to protect that child
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- Where the court has made an own motion order and nominated either a police informant or the Chief Commissioner of Police as the applicant, the court will:
 - send the order for service on the respondent to the 24-hour police station closest to the respondent's address (via fax for orders made by the Magistrates' Court or email for orders made by the County or Supreme Courts). See section 25.3 of this policy
 - in all instances, email an application pack to the 24-hour police station closest to the AFM's address for further action. This will include a copy of the order, and the details of any further FVIO proceedings.
- The Station Commander that receives the application pack is responsible for ensuring:
 - an informant is assigned and a standard family violence response is completed for the AFM; including a FVR (L17) and investigation (consideration should also be given to the welfare of any other AFMs). See section 3.5 of this policy for further information
 - LEAP is updated to reflect the informant's details where the Chief Commissioner has been nominated as the applicant or no applicant details have been listed
 - the FVR (L17) is linked to the order on LEAP
 - for own motion Interim FVIOs, an intervention order brief is compiled in preparation for the final order hearing and uploaded onto CBSS prior to the return court date
 - an Affidavit to Support a Family Violence Intervention Order [Form 1357] is completed. Ensure each document attached in support of the Affidavit has a Certificate of Exhibit [Form 1500].
- The Station Commander receiving the application pack must ensure there is a coordinated response where service on the respondent is actioned by another location.
- Members must complete a FVR (L17) and prepare an intervention order brief even if the AFM cannot be located or is not supportive of the application.
- The AFM may not be aware of the existence of an own motion order prior to police contact. The informant should consider the safety and welfare needs of the AFM.
- Members must comply with the child reporting and referral requirements where a child is listed as the AFM or included in the order. Refer to section 8 for more detail.
- Members must consult with the local SOCIT prior to undertaking the risk assessment for a child due to the risk identified by the court. The SOCIT will provide advice on whether a joint approach with Child Protection is necessary in accordance with the Protecting Children Protocol with the DHHS. See **VPMP Protecting children** for further information.
- Where a court issues an Interim FVIO on its own motion in criminal or bail proceedings, the relevant documents should be filed with the court listed to hear the application for the FVIO:
 - certificate of service

- inability to serve
- application for substituted service.

25. Service of family violence orders

25.1 Overview

- Work unit managers must ensure FVIOs received from the court are recorded and allocated to a member of service.
- FVIOs that cannot be served:
 - must be returned to the court of issue by the next mention date; and/or
 - application made for extension or substituted service.
- The 'returned to court' details should be entered via LEDR Mk2 to update LEAP.

25.2 Court service

- Court service takes place when:
 - a respondent is in court and receives a clear, oral explanation of the order from the Magistrate; or
 - a copy of the order is served on the respondent by court staff following the making of the order.
- Where a court has used oral explanation to serve an order, this can be confirmed by checking the narrative section of the conditions page on LEAP. The narrative will confirm when a magistrate has provided an oral explanation and the service details will reflect the time and date of service.
- If the AFM is present, the Registrar will also provide them with a copy and a clear oral explanation of the order.
- If the respondent is not present at court when the order is made:
 - the Registrar will send a copy of the order and information sheets to the police station closest to the respondent's address for police to arrange personal service; or
 - the court will make an order for service other than personal service (alternative service) by a method such as post, email or leaving it at the address of the person to be served.

25.3 Police service

Prior to Police Service

- The Station Commander must ensure:
 - the FVIO is recorded on the Station Book (Correspondence) or similar system
 - that a Form 958 is attached to the FVIO to record service and all attempts of service
 - FVIOs are prioritised for service in accordance with the FVIO Prioritisation Guide below. Until an FVIO has been served it must undergo continuous assessment
 - the location and movement of the FVIO is updated on Station Books (Correspondence) or similar system, and in LEAP (narrative and station code amended)
 - all unserved orders are included in monthly reports.
- Members should conduct a risk assessment prior to serving an intervention order.

- Members are to conduct a LEAP check (including national check) of the respondent to establish any prior convictions or known history of violence, access to weapons or firearms, active warrants/whereabouts, any history of mental illness or suicide attempts or other warning flags.
- Members should consider, where appropriate and safe to do so, contacting the AFM to determine the whereabouts of the respondent and possible reaction to the FVIO.
- Members should consider the need for back up when serving intervention orders.

FVIO Prioritisation Guide	
<p>Prioritised To be served within 7 days of receipt of the FVIO</p>	<ul style="list-style-type: none"> • Interim FVIO where no protection is in place or conditions have been increased • An order or application for an order where the court date is within 7 days • A&W to be executed within 7 days upon issue • Final FVIO with additional increased protection conditions
<p>Standard To be served within 14 days of receipt of the FVIO</p>	<ul style="list-style-type: none"> • Any order or application for an order where the court date is greater than 7 days

At the point of service

- Police service of an intervention order must be made in person, except where the court:
 - has made an order for alternative service
 - has made an order for substituted service.
- Activate body worn camera in accordance with **VPM Body worn cameras**.
- Members are to provide a copy of the FVIO and associated documents, including the Information and Support Brochure, to the respondent.
- The conditions of the order are to be explained to the respondent.

After Service

Members should complete the following:

- a certificate of service and return to the court of issue on the same day as service
- notify the AFM that the FVIO has been served
- add service details on LEAP/LEDR Mk2.

25.4 Alternative service

- Under s.202A of the FVPA members can apply for alternative service where the following apply:
 - the order is likely to bring the document to the attention of the respondent
 - alternative service will not pose an unacceptable risk to the safety of the AFM or any other person
 - it is appropriate in all the circumstances to make the order.
- A court may make an order for alternative service on its own motion or on the application of a party to the proceeding.

- To apply for an order for alternative service, members should contact the relevant FVCLO/police lawyer:
 - via email if more than 24 hours prior to the hearing
 - via phone if less than 24 hours prior to the hearing
 - members should outline suggested method of service and their reasons for alternative service on the Affidavit in Support of a Family Violence Intervention Order [Form 1357]. The court will decide the method of service.
- The court will prescribe the method of alternative service, which might include serving the order by registered or prepaid post, email or leaving it at the address of the person to be served.
- Where the prescribed method of service is via email, members should use the documents server PBEA, or similar, for their station.
- Under an order for alternative service, a document is considered to be served by:
 - post, at the time it would ordinarily be delivered
 - email, at the time of receipt.
- After alternative service has taken place members are to file the certificate of service with the court.
- An order for alternative service cannot be made for the service of a FVSN.

25.5 *Special requirements*

- Service of some FVIOs may have special requirements, for example, where:
 - an interpreter is required to explain the conditions of the order
 - the person is subject to the *Mental Health Act* – advise the court and seek further advice.
- If a respondent listed in a FVIO is in a mental health facility, members may request advance notice of their imminent release to assist with serving the FVIO.
- Advance notice can only be given if the disclosure is allowed under s.346(2), *Mental Health Act* (for example; with the patient's consent or to lessen or prevent a serious threat to an individual's life, health, safety or welfare).
- Members must follow the process outlined in the **Department of Health and Human Services-Victoria Police protocol for mental health** to make a request. As part of this process, the member making the request must:
 - submit request in writing to the person nominated by the emergency department or the Director of Clinical Services where the respondent is being assessed or receiving treatment
 - nominate themselves and the Station Commander of the 24-hour police station nearest to the mental health facility to be notified of the respondent's release
 - complete the whereabouts package before the end of shift
 - ensure the whereabouts is immediately recorded on LEAP
 - ensure the respondent is informed of the request.

25.6 *If the order cannot be served*

- Members are to make reasonable attempts, in a timely manner, to serve the order either personally or by court ordered alternative service and record all attempts on Form 958 and in the LEAP narrative.

- Reasonable avenues of enquiry must be made to locate the respondent, including with the AFM or other family members (if safe to do so), VicRoads, LEAP, Location, Attendance and TIS checks at a minimum.
- Under s.207, FVPA, a police officer can seek information from state agencies which are covered under the *Privacy and Data Protection Act 2014* for the purpose of locating the respondent for service of an FVIO [Form 1349]. This does not include federal agencies such as Centrelink, the Child Support Agency and the Australian Taxation Office.
- If the order cannot be served within the timeframes required by the FVIO Prioritisation Guide (e.g. the respondent is evading service), return the order to the court of issue, with a certificate of inability to serve and, unless exceptional circumstances exist, make an application for substituted service. Members should enter 'returned to court' details via LEDR Mk2 to update LEAP.
- When an order has been returned to the court unserved, the FVIO still remains active on LEAP and the responsibility of the nominated station to continue attempts for service.
- Members must assess the risks when there is an inability to serve the order and what alternative action can be taken in order to protect the safety and welfare of the AFM.

25.7 **Substituted service**

If seeking substituted service under s.202, FVPA:

- notify the AFM and forward the certificate of inability of service (attached to the FVIO) to the court of issue with details of attempts of service and suggested method of substituted service
- discuss alternate safety strategies with the AFM
- members will be informed by the court whether they are required to give sworn evidence
- the court may issue an order for substituted service which, if granted, will be forwarded to police for service
- after substituted service has taken place, members are to file the certificate of service with the court
- an order for substituted service cannot be made with respect to the service of a FVSN.

26. **Revocation, variation, extension or appeal of a Family Violence Intervention Order or Interim Family Violence Intervention Order**

- A party to the proceedings, including police, may apply to have a FVIO extended or its conditions, varied or revoked under s.108, FVPA.
- The court must be satisfied that there has been a change in circumstances since the FVIO was made to hear an application for variation or revocation. The respondent may only apply if the court has given leave for them to make the application. This process must not be used to make an appeal.

- Members can vary an existing FVIO after-hours by applying for an Interim FVIO 'variation' and an A&S. Complete Form 422 and tick both the 'Application and Summons' and 'Variation' boxes.
- If police are the applicant and variation is required in relation to an adult AFM, ensure appropriate action is taken to ensure any children continue to be protected under the FVIO.
- Notice is to be served on the parties who are the subject of the order when amendments are sought.
- Members should consider applying to extend a FVIO if attending a family violence incident and an existing FVIO is due to expire and they have concerns for the AFM's safety.
- Where Victoria Police applied for the original FVIO and an AFM or respondent wishes to revoke/vary/extend/appeal an existing FVIO the AFM or respondent can apply to the court. The court serves the appropriate document on Prosecutions who forward it onto the original informant with further instructions on requirements prior to next court date.
- Consideration is to be given to the impact of any variations on the AFM's safety.

Final outcome

27. Overview

- 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 of this policy.
- Conditions of any intervention order should provide the appropriate level of protection necessary. Consider whether the conditions in the order should be reviewed and a variation sought to afford protection that is more appropriate if the circumstances have changed.

28. Case review

When a brief of evidence has not been authorised for prosecution, members must advise the AFM that they may request a case review.

Case reviews can occur in two circumstances:

- when an assessment of a decision to proceed or not with a prosecution, as a result of a family violence incident, is required
- when an AFM requests no further action in either of the following circumstances:
 - there is sufficient evidence to proceed but criminal charges have not been laid and the AFM is reluctant to proceed
 - criminal charges have been laid but the AFM is reluctant to proceed.

If a police supervisor decides to not authorise a brief of evidence resulting from a family violence incident, the informant should contact the AFM and advise them of the non-authorisation. The initial notification can be done via phone and a Proforma Invitation for AFM to request case review [Form 1236] sent. The informant is to also comply with the *Victims Charter Act 2006*.

The AFM can initiate the case review by writing to the informant's Station Commander, detailing their reasons for requesting a review. Within one month of the notification the relevant FVLO should conduct the review at a time convenient for all parties.

29. 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.

30. Withdrawal of complaint

- Where a victim wants to withdraw a complaint the investigating officer must:
 - take a full statement detailing all details of the incident where possible. The AFM's request for no further action is recorded at the end of the statement or in a further statement
 - submit a report outlining the reasons for the requested withdrawal of the complaint, any independent corroborative evidence available, a brief head, a copy of any statements and a copy of any other corroborative evidence, for consideration to an officer authorised to approve briefs
 - inform the victim that their request will be considered but may be rejected and that the investigation may continue.
- Members should consider utilising available legal provisions (including the *Evidence Act 2008*) in situations where the victim does not wish to proceed with criminal charges, but where police have serious concerns for the victim's safety and/or police believe on reasonable grounds that it is likely that further offences will be committed against this victim by the same offender.
- Refer to **VPM Crime attendance and investigation** for further information.

Attending court

31. Attending court for criminal/civil proceedings

- For both criminal and civil proceedings, the informant must liaise with the prosecutor to ensure they are aware of any matters listed for hearing and provided with the relevant paperwork. Members need only attend court if required by the court or prosecution.
- The informant must keep the AFM and witnesses advised of the procedures and all relevant information in relation to their case. This includes, but is not limited to, updates on the progress of the police investigation, in particular where there are significant developments such as outcomes of a court hearing, adjournments, updates and/or outcomes of an investigation.
- For further guidance on attendance for criminal proceedings, have regard to **VPM Court processes**.

32. Responsibilities of the police prosecutor/police lawyer

- The police prosecutor or police lawyer can only prosecute hearings where a police member is named as the applicant for a FVIO application.

- Police lawyers are employed by Victoria Police to appear in intervention order applications.
- Where a police member is not required to attend court or is unavailable, before the hearing of the application the police prosecutor, police lawyer or Family Violence Court Liaison Officer (FVCLLO) should:
 - advise the AFM of the court process and procedures
 - ensure the AFM is aware of the services available and told how to access the services
 - explain that if there are safety concerns the police prosecutor/lawyer may ask the court to make a FVIO without the consent of the AFM.

Family violence related death assessment

33. Family violence related deaths

- An FVR (L17) must be completed for every family violence related homicide or murder-suicide.
- Members must complete FVRs (L17) as thoroughly as information allows whether any/all parties are deceased.

34. Family violence related death assessment

- The Homicide Squad, Arson and Explosives Squad and the Major Collision Investigation Unit must notify Family Violence Command (FVC), as soon as practical, via the FVC-INTEL-MGR PBEA, of the following deaths where they are likely to have resulted from a family violence incident:
 - suspicious deaths
 - murder/suicide
 - third party/bystander deaths (for example, where an AFM's new partner is killed by the AFM's ex-partner).
- FVC is responsible for completing a review of family violence history, known as a Death Notification Report, which will determine if a Family Violence Death Assessment (FDA) is required.
- Where FVC determine that an FDA is required, a request will be sent to Professional Standards Command (PSC) for allocation to either the PSC Investigation Division or a regional member (known as an Assessment Officer) for completion.
- Further information regarding FDAs is located on the FVC intranet page.
- For a member to perform the role of an Assessment Officer (AO) they must:
 - be of the rank of sergeant or above
 - have an operational understanding of family violence policies
 - understand organisational risk and reputation management
 - be able to undertake the assessment in an independent, transparent and timely manner. This should include consideration of geographic separation from members/work units involved in the investigation.
- On allocation of the FDA to an AO, an FVC liaison officer will create an Interpose investigation shell that includes:
 - a copy of the Death Notification Report

- the FDA template
- the terms of reference for the FDA
- a FDA Conflict of Interest Declaration form (where the AO is from a region).
- Where the AO is from a region, the FDA Conflict of Interest Declaration form must be completed prior to commencing the FDA. The AO should then send the completed form to the FVC liaison for endorsement and uploading to the Interpose shell. The FVC liaison is responsible for managing any identified conflicts of interest.
- When completing the FDA, the AO should:
 - access investigation documents including notes, criminal briefs of evidence, FVIO applications, Interpose and LEAP
 - where required, seek support and advice from the FVC liaison.
- Members involved in the family violence investigation being reviewed should assist the AO by:
 - providing access to relevant information (such as case notes and correspondence)
 - clarifying their responsibilities in relation to the investigation.
- The AO must upload the completed FDA to the Interpose shell and notify the FVC liaison.
- FDAs, when prepared, are likely to be required to be disclosed, either as part of a coronial brief, or possibly in the context of civil litigation or a criminal proceeding for a related homicide investigation.

Family violence incident involving police employees

35. Overview

- In addition to the general response to family violence there are extra requirements for incidents involving Victoria Police employees (all police officers, Protective Services Officers, Victorian Public Service employees). This action is to remove any perceived conflicts of interest, in order to maintain the integrity and ethical standards of Victoria Police. When an employee is involved in the incident a sub-officer, where practicable, must attend the scene and comply with sections 36-41 of this policy, to ensure the additional accountabilities are met.
- Treat all family violence incidents involving Victoria Police employees identified as respondents as complaints against police. A VP Form 918 notification to PSC must be submitted in all cases of family violence involving Victoria Police employees identified as respondents.
- For further information have regard to **VPMP Complaints and discipline**.

36. Responding to an incident

36.1 *Responding member's responsibilities*

- Notify a sub-officer as soon as possible. Where practicable a sub-officer must attend all incidents of family violence involving Victoria Police employees.
- Ensure that the incident is investigated fully, and the options model is utilised.

- Advise sub-officer of the application or serving of an intervention order on a Victoria Police employee.

36.2 *Sub-officer responsibilities*

- Attend and take charge of the incident, unless pressing necessity prevents this action.
- Notify the Divisional Patrol or Regional Response Manager.
- Ensure immediate notification to PSC where any criminal offences have been identified, including contravention offences.
- Ensure that the welfare of the employee is taken into consideration regardless of whether the employee is the respondent or the AFM. Consider the following:
 - peer Support
 - Wellbeing Services (Police Welfare and Police Psychology)
 - conducting welfare checks on the employee at a later time.

36.3 *Divisional Patrol Supervisor or Duty Officer responsibilities*

- Oversee the action of the attending sub-officer.
- Advise Staff Officer to the Executive Director, Legal Services as soon as possible of the incident.
- If either or both parties are employees notify the Local Area Commander/Senior Manager as soon as possible of the incident.
- For information regarding the suspension of OSTT qualifications consult **VPM Operational safety and tactics training qualifications**.

36.4 *Local Area Commander/Senior Manager responsibilities*

- Notify the Regional or Departmental Head of any employee named as a respondent under the FVPA.
- Seek advice from the Executive Director, Legal Services regarding any police employee residing in police premises, whose occupancy is affected by action taken under the FVPA.

37. Employee involved in a family violence incident

- It is the responsibility of an employee of Victoria Police, involved in a family violence incident, to identify themselves as being an employee to the responding members.
- It is the responsibility of an employee to notify their supervisor that they are subject to an intervention order.

38. Firearms and OSTT

- Police may direct the employee to surrender their firearm, firearms authority, ammunition or weapon in line with Firearms section of this policy.
- The member or PCO's OSTT qualification must be managed in line with the suspension criteria outlined in **VPM Operational Safety and tactics training qualifications**.

- The court must enquire as to whether the respondent holds a firearms authority if it intends to make an FVIO. The court must be informed of the respondent's status as a Victoria Police employee.
- If an employee is made a respondent to an Interim FVIO with conditions suspending their firearms authority the employee must first apply to court and have the Interim FVIO revoked or varied to remove the firearms clause.
- If an employee is made a respondent to a final FVIO, in order to carry a firearm, the employee must first become a non-prohibited person or to be deemed a prohibited person for limited purposes only (see section 48 of this policy).
- However, the decision to reinstate the employees OSTT qualification remains with the OSTT suspension review panel (OSRP).
- See **VPM Operational safety and tactics training qualifications** for further information on the OSTT suspension and reinstatement process.

39. Service of a Family Violence Safety Notice or Family Violence Intervention Order on a Victoria Police member

- The subject employee and the members responsible for executing an A&W, or serving a FVSN, A&S, Interim FVIO, or FVIO, are required to notify their respective supervisors.
- These parties are also required to notify the Staff Officer to the Executive Director, Legal Services when serving an intervention order on a member or when named in or served with an intervention order.

40. Bail

- Where it is intended to bail a police employee, refer to **VPMP Complaints and discipline** and PSC.
- Where there is an alleged breach of bail notify a sub-officer, who will then notify the Divisional Patrol Supervisor or Regional Response Manager, who will attend and:
 - ensure appropriate action is taken
 - advise the LAC and PSC as soon as possible.

41. Prosecution and costs

Family violence incidents, where a serving police employee is named in the order, as either the respondent, AFM or material witness, will be prosecuted by a police prosecutor or police lawyer, unless a conflict of interest exists. For further information on conflict of interest refer to **VPM Conflict of interest**.

If the member or police lawyer believes that a conflict of interest exists they are to notify a supervisor. The supervisor is to assess the circumstances and if supported contact the Staff Officer to the Executive Director, Legal Services for advice. The Executive Director, Legal Services will assess the circumstances and give consideration to engaging the services of independent counsel. The services of independent counsel are to be sought in the following circumstances:

- where a police employee is involved in an application for a FVSN or FVIO as either a respondent, AFM or material witness (where a conflict of interest or bias exists)

- where applications are initiated by a Victoria Police employee who is a prohibited person under s.189, *Firearms Act 1996*, and are to be contested by Victoria Police

Where the family violence incident involves criminal charges against an employee, the Office of Public Prosecutions (OPP) is to be engaged through the process. For further information, have regard to **VPMP Complaints and discipline**.

Costs are the responsibility of the Region/Department that has authorised the action.

Firearms

42. Overview

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

- search property (s.159(2), FVPA)
- direct surrender (s.158, FVPA)
- seize (s.53(2) *Firearms Act*)
- apply for a warrant to search property and vehicle (s.160, FVPA).

The FVPA provides for the surrender, search and seizure of firearms, ammunition, or weapons in certain circumstances. Members are to investigate the respondent's possession of, or access to, firearms when attending any family violence incident.

43. Surrender

Under ss.158(1) and (2) FVPA, members may:

- direct the person to immediately surrender the firearm, firearm authority, ammunition or weapon to the member; or
- in writing, direct the person to surrender the item to a police member at a specified place within a specified time, or where no time is given, within 48 hours

If:

- a FVSN has been issued against the person
- a FVIO has been made against the person
- a police officer is satisfied on the balance of probabilities there are grounds for issuing a notice or making an order against the person
- police have, or intend to, serve an interstate order or an application for an interstate order made against the person
- police have, or intend to, serve an interstate protection notice against the person.

Where it is impracticable for the respondent to immediately surrender the item, the member must use the Notice to Surrender [Form 1347] to direct the person to surrender the item to a 24-hour police station.

It is the member's responsibility to confirm that the item was surrendered in accordance with the direction; this must be recorded on the copy of Form 1347 and notify the Divisional Firearms Officer.

44. Search

44.1 *Without warrant*

Where a FVSN or FVIO has been issued, or a member believes there are grounds for issuing either, or has served or intends to serve a nationally recognised DVO or an application for a nationally recognised DVO/or interstate protection notice and a member is aware or has reasonable grounds to suspect the person is in possession of a firearm, firearm authority, ammunition or weapon, the member may, without warrant, enter and search:

- any premises at which the person resides or has resided
- the premises at which the person committed or allegedly committed family violence
- a vehicle registered in the person's name (s.159, FVPA).

Where a member intends to serve or has served an application for a nationally recognised DVO on a person, the member must not give a direction under s.158(2), FVPA or enter and search premises or a vehicle under s.159(2), FVPA unless the member:

- is satisfied on the balance of probabilities that the person has committed family violence against the person sought to be protected by the order and is likely to continue to do so or do so again; or
- believes on reasonable grounds that the direction is or entry and search are necessary to ensure the safety of the person sought to be protected by the order.

44.2 *With warrant*

Where a FVSN or FVIO has been issued, and police believe on reasonable grounds the respondent is committing or is about to commit an offence against the FVPA, or the respondent is in possession of a firearm, firearms authority, ammunition or a weapon, members may apply to a magistrate for a search warrant [Form 1355].

A search warrant can also be sought if a member intends to serve or has served a nationally recognised DVO, an application for a nationally recognised DVO or an interstate protection notice and police believe on reasonable grounds that the respondent is in possession of a firearm, firearms authority, ammunition or a weapon.

These circumstances apply where police need to search other premises or other vehicle(s) where:

- the respondent has not resided
- where the family violence was not committed
- vehicle(s) not registered in the respondent's name at the other premises or in a public place.

45. Seizure

- Any person having their licence/permit/authority suspended in accordance with s.159, FVPA, is required to surrender all firearms they own or are in their possession and the licence/permit/authority to police.
- If a person fails to comply with the direction or the member conducts a search, the member must seize any firearm or firearm authority the member is aware of being

in the person's possession. The member may also seize any ammunition that the person possesses according to s.163, FVPA.

- For further seizure provisions where members may seize any firearms or firearm authority not surrendered, have regard to s.53(2), *Firearms Act*.

46. 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.

47. Disposal of seized firearms

- Where a FVIO or a corresponding interstate order is made and an application to be made an undeclared prohibited person is not sought, any firearm seized or in possession of the respondent, must be disposed of according to s.164(2)(b), FVPA.
- Where a FVIO is not made, any firearm seized must be returned to the person from whom it was seized or disposed (s.165, FVPA) unless it is subject to other proceedings.

48. Prohibited persons

When a final FVIO, final interstate DVO or final recognised DVO has been granted, the respondent is a prohibited person for the duration of the order and for five years after cessation. It is an offence for a prohibited person to possess, carry or use a firearm (s.5, *Firearms Act*). The respondent is responsible for taking any action to be declared a non-prohibited person.

If the FVIO does not contain a condition cancelling the respondent's firearms licence, permit or authority, the respondent can make an application under s.189, *Firearms Act* to be made a non-prohibited person or to be deemed a prohibited person for limited purposes only. The respondent must give the Chief Commissioner 28 days' notice of their application.

The Chief Commissioner must suspend any licence held by this person (s.47A, *Firearms Act*). If the person makes a s.189 application within three months of the suspension, the suspension remains in force until the outcome of the application has been determined. If the person does not make a s.189 application in this time, the Chief Commissioner must cancel their firearms licence (s.49(4), *Firearms Act*).

If the FVIO does contain a condition cancelling the respondent's firearms license, permit or authority, the respondent is not able to make a s.189 application. The respondent must first have the FVIO varied to remove the firearms clause before they can make a s.189 (*Firearms Act*) application.

49. Further action

- Where appropriate lay applicable charges under the *Firearms Act*, in addition to any action taken under the FVPA.
- Where a FVIO is not granted, consider taking alternative action under the *Firearms Act*, to have the respondent's license/permit or authority revoked.

50. New Zealand protection order

- Members can only search for and seize firearms when either the order has been registered in Victoria according to s.184, FVPA or with an appropriate warrant.
- If asked to serve a New Zealand protection order, members are to identify if the order has been registered in Victoria. If the order is registered:
 - enquire into the respondent's access to firearms; and then
 - search for and seize according to s.184, FVPA.
- If the order is not registered:
 - advise the court of issue to have the order registered before taking any action
 - obtain an appropriate warrant to authorise the search and seizure of firearms.

Further advice and information

For further advice and assistance regarding this policy, contact the Family Violence Investigation Unit, your supervisor, or your local FVLO.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
19/02/2021	Review of policies and consolidation of instruments VPMP and VPMG Family violence, VPMG Family violence holdings powers, VPMG Family violence safety notices and CCI 02/20 National Domestic Violence Order Scheme. Inclusion of new content regarding a new prioritisation guide for service of FVIOs, requirement for the electronic storage of intervention order briefs on CBSS and guidance on taking certain FV incidents over the telephone.	FF-189857