

AFP Practical Guide on family violence incidents (ACT Policing)

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1. Disclosure and compliance

This document is classified **AFP-IN-CONFIDENCE** and is intended for internal AFP use.

Disclosing any content must comply with Commonwealth law and the [AFP National Guideline on disclosure of information](#).

Compliance

This instrument is part of the AFP's professional standards framework. The [AFP Commissioner's Order on Professional Standards \(CO2\)](#) outlines the expectations for appointees to adhere to the requirements of the framework. Inappropriate departures from the provisions of this instrument may constitute a breach of AFP professional

standards and be dealt with under Part V of the [Australian Federal Police Act 1979](#) (Cth).

2. Acronyms

ACT	Australian Capital Territory
AFP	Australian Federal Police
CPS	Care and Protection Services
DVCS	Domestic Violence Crisis Service
SPT	Service and Process team
PROMIS	Police Real-time Online Information Management System
PRS	Professional Standards
VLO	Victim Liaison Officer

3. Definitions

Domestic Violence Crisis Service – is an approved crisis support organisation as provided for in s. 17 of the [Domestic Violence Agencies Act 1986](#) (ACT) with specific skills in providing a support network to victims of family violence incidents.

Domestic violence – is defined in s. 13(1) of the [Domestic Violence and Protection Orders Act 2008](#) (ACT).

Domestic violence offence – is defined in s. 13(2) of the *Domestic Violence and Protection Orders Act 2008* (ACT).

Emergency order – is a type of domestic violence order as defined in the *Domestic Violence and Protection Orders Act 2008* (ACT).

Family violence – is the preferred term for domestic violence as it encompasses the broad relationships defined by the term 'relevant person' (s. 15 of the *Domestic Violence and Protection Orders Act 2008* (ACT)), with the exception of direct references to legislation where the term 'domestic violence' is used.

Family violence brief – a brief of evidence relating to a family violence offence.

First-instance warrant – means a warrant in the first instance for the arrest of a person.

Interim order – is defined in the *Domestic Violence and Protection Orders Act 2008* (ACT).

Member – is defined in s. 40B of the [Australian Federal Police Act 1979](#) (Cth) and includes special members (s. 40E).

Presumption against bail – is defined in the [Bail Act 1992](#) (ACT).

Pro-arrest – means that arrest is the preferred option for bringing an alleged offender before the court when the officer suspects on reasonable grounds that a family violence offence has been committed. This should be an evidence-based decision, and remains at the member's discretion.

Pro-charge – means criminal charges should be laid, and include the full range of offences for which evidence is available where the evidence discloses a family violence offence.

Protection order – means a domestic violence order or a personal protection order as defined in the [Domestic Violence and Protection Orders Act 2008](#) (ACT).

Relevant person – is defined in s. 15 of the *Domestic Violence and Protection Orders Act 2008* (ACT).

Respondent – is defined in s. 9(1) of the *Domestic Violence and Protection Orders Act 2008* (ACT).

Victim – means, in this guideline, a person who is suspected or believed to be an 'aggrieved person' as defined in the *Domestic Violence and Protection Orders Act 2008* (ACT).

4. Guideline authority

This guideline was issued by the Chief Police Officer for the ACT using power under s. 37(1) of the [Australian Federal Police Act 1979](#) (Cth) as delegated by the Commissioner under s. 69C of the Act.

5. Introduction

This guideline outlines the policy and procedures AFP members must follow when dealing with family violence incidents in the ACT. It should be read with the [Memorandum of Understanding between AFP and Domestic Violence Crisis Service](#).

6. Policy

The ACT Policing policy for intervening at family violence incidents is *pro-charge* and *pro-arrest* and *presumption against bail* where evidence exists that a criminal offence has been committed.

7. Recording reported incidents

When an incident report is received involving an element of family violence, the person receiving that report must, where practicable, obtain sufficient details from the caller to assist the assigned patrol to determine the initial course of action, specifically in relation to member safety. Without limiting what information should be obtained, the primary information required is outlined in [Attachment 1 - Report requirements](#).

If a family violence incident call is received at ACT Policing Operations, the member taking the call should obtain the information as detailed above and, without limiting further actions, aim to complete the requirements of [Attachment 2 - Operations requirements](#).

Where a family violence incident is reported in person at a district police station the member receiving the report must:

- speak to the complainant in an interview room or other private place
- seek to locate and encourage a support person or friend to stay with the complainant for the duration of the interview
- obtain, where practicable, relevant information as listed in Attachments 1 and 2

- create a PROMIS incident and forward to Operations for allocation to a patrol, ensuring that all available details are added to that job.

8. Attending incidents

Members must adhere to the [Memorandum of Understanding between AFP and Domestic Violence Crisis Service](#), in particular the '[Schedule – Operating Guidelines](#)' within that agreement.

9. Investigating incidents

When investigating a family violence incident, members must obtain as much evidence as possible at the time considering that the victim and witnesses may later become reluctant to proceed. Where practicable it is preferable that any relevant evidence is recorded using digital recorders, video and/or digital cameras.

The investigation evidence should include:

- statements (written, audio or video) from victim(s) and witnesses (hearsay evidence may be included as the courts have the prerogative to include or exclude relationship evidence, e.g. relationship history. Evidence of uncharged acts may also be included)
- any physical evidence of conflict relating to the information provided
- photographs of all visible injuries of anyone involved (with reference to the [AFP Practical Guide on forensic procedures \(ACT Policing\)](#))
- video recording the scene, weapons and any other items of potential evidentiary value (this may require consent)
- follow-up photographs of injuries several days later to capture latent bruising where relevant
- recordings of phone calls, particularly in circumstances where the call came via 000, or from the victim or child present. Applications for recordings should be made using the 'Request for CD Copy from Logging Register' (AFP forms).

The member in charge of a Family Violence incident must insure all family violence briefs of evidence are identified by:

- use of the family violence stamp
- ticking the family violence check box on the PROMIS apprehension screen.

Taking photographs and videos should not replace using the Forensics Team or Video Team at major incidents.

10. Resolution process

If a family violence offence has been committed (i.e. the parties are 'relevant persons' and the conduct constitutes domestic violence in accordance with the [Domestic Violence and Protection Orders Act 2008](#) (ACT)) members must consider the following subclauses to satisfactorily resolve the incident. All actions, and the reasons for those actions, must be recorded within the relevant PROMIS incident.

10.1 Arrest

Arrest is the preferred method of bringing the matter before the court as it is the best means of providing safety for the victim and enables the matter to be fast-tracked through the court system. The decision to arrest must be an evidence-based decision, and should not be influenced by the wishes of the victim. This decision always

remains at the member's discretion and should be made with consideration to legislative powers and the safety of victims. Members must not ask a victim if they want the alleged offender arrested or charged.

Section 212(2) of the [Crimes Act 1900](#) (ACT) provides a specific power of arrest where a domestic violence offence is suspected on reasonable grounds to have been committed, and does not require the consideration of summons provisions.

Where the alleged offender cannot be located, issuing a first-instance warrant for their arrest should be considered.

10.2 Offence not disclosed

Where an offence has not been identified or an arrest is not justified, but where victim safety remains an issue, members should consider applying for an emergency order under Part 9 of the [Domestic Violence and Protection Orders Act 2008](#) (ACT).

10.3 Emergency orders

Applications for emergency orders can only be made by members where:

- no arrest is made
- there are reasonable grounds for believing that, if an emergency order is not made, the respondent may cause physical injury to, or substantial damage to the property of, the aggrieved person or a child of the aggrieved person
- a relevant relationship exists between the parties as defined in s. 15(1) of the *Domestic Violence and Protection Orders Act 2008* (ACT)
- the incident occurs outside the sitting hours of the court.

Section 75 of the *Domestic Violence and Protection Orders Act 2008* (ACT) provides members with the power to detain (i.e. take into custody) a respondent for the purpose of obtaining an emergency order for up to 4 hours.

When the person is released from custody, the victim and/or their advocate (e.g. Domestic Violence Crisis Centre (DVCS)) must be notified.

Members may apply for an emergency order from a judicial officer by telephone. The terms of the emergency order may be dictated by the judicial officer to the member, who must record the details in writing.

Members must:

- serve the emergency order on the respondent
- explain, as far as is practicable, the:
 - effect of the order
 - consequences of contravening the order.

Where a member does not make an application for an emergency order in non-arrest circumstances, they must record the decision and reasons per s. 83 of the *Domestic Violence and Protection Orders Act 2008* (ACT).

10.4 Breach of the peace

Arresting a person for breach of the peace is a preventative measure only. Members can arrest and detain a person, who has not committed any statutory offence, for a

breach of the peace where they reasonably believe that an immediate intervention is necessary to prevent violence or to protect life or property. This should not be used in lieu of criminal action should a substantive offence be identified or where there are grounds for obtaining an emergency order.

10.5 Protection orders

Protection orders should be considered **in addition to** any criminal prosecution process, not as a substitute for criminal proceedings.

Where appropriate, investigating members should:

- encourage and support the victim to apply for a protection order and seek legal advice (Legal Aid staff and DVCS Court Advocates at the ACT Magistrates Court can provide assistance with protection orders).
- liaise with the DVCS
- consider making an application on behalf of the victim if the victim is reluctant to do so.

All protection orders delivered to the AFP by court staff must be forwarded immediately on receipt to the Service and Process team (SPT).

The SPT is responsible for recording and servicing all interim protection orders and protection orders.

When received by the SPT, the receiving member must:

- enter the details of the interim protection order or protection order into PROMIS as soon as practicable
- check PROMIS to determine if the respondent is the holder of a firearms licence
- ensure that appropriate action is taken if the respondent is the holder of a firearms licence
- deliver the hard copy of the protection order to Operations as soon as practicable.

Operations must retain the hard copy as the SPT does not retain copies.

When an interim protection order or protection order is served, the member concerned must advise the Operations team leader, who must ensure that the information is entered into PROMIS appropriately.

Breaching an order is a criminal offence and should be investigated in line with the pro-arrest and pro-charge policy. Where there is evidence that a breach has occurred, the investigating member should proceed accordingly. If the breach involves other substantive criminal offences, the alleged offender should be charged with the full range of offences.

Charges for aid and abet against the victim should only be considered after full consideration of the facts surrounding the breach. Members should consider whether the aid and abet occurred as the result of threats, coercion and intimidation and might serve to further victimise the victim. Where the order does not appear to be effective, the member should advise the victim or respondent to seek advice from the ACT Magistrates Court to amend the order.

Members should direct all enquiries about the existence or conditions of an order to Operations.

10.6 Exclusion from premises

If a person or respondent is excluded from their normal place of residence as a condition of an Emergency Order or a breach of the peace undertaking, the member involved will assist the person to canvass options for alternative accommodation. DVCS may be of assistance in this regard.

10.7 Execution of pre-existing warrants

The circumstances of a family violence incident must be dealt with on its relative merits. Executing pre-existing warrants for arrest must not be used to resolve family violence situations and must be considered an additional matter to be dealt with after determining an appropriate outcome for the current situation. This applies to victims and alleged offenders.

11. Bail considerations

Bail will be granted, where appropriate, in accordance with the provisions of the [Bail Act 1992](#) (ACT).

The arresting officer must ensure the Watch House Sergeant is comprehensively briefed on the facts surrounding a person's arrest, and any reasons to oppose bail. The victim's need for protection, any concerns and/or wishes should be included (ss. 8, 9A and 22 of the [Bail Act 1992](#) (ACT)).

The Watch House Sergeant must not grant bail to a person charged with a domestic violence offence unless satisfied that the person poses no danger to the victim during the period of bail (ss. 9F and 9G of the [Bail Act 1992](#) (ACT)).

Where the Watch House Sergeant grants an offender bail in relation to a domestic violence offence, that officer must record why, in their opinion, the accused poses no danger to the victim (s. 27 of the [Bail Act 1992](#) (ACT)). If bail is granted, the victim, or a Domestic Violence Crisis Service worker acting on the victim's behalf, must be notified and advised of any bail conditions.

Where appropriate, members who have arrested and charged a person with a domestic violence offence should consider preparing an opposition to bail and attending court to oppose the release of the person on bail from the court.

13. Children and young people

In family violence incidents members must:

- ensure that the welfare and safety of all children and young people is maintained
- adhere to the requirements of the [Children and Young People Act 2008](#) (ACT) in respect to mandatory (s. 356) and voluntary (s. 354) reporting
- report to Care and Protection Services (CPS) where mandatory reporting circumstances apply (failure to report is an offence, see penalty at s. 356)
- note all contact with CPS on the PROMIS entry.

14. Victim Liaison Officer

The attending member should create a task for the Victim Liaison Officer (VLO) in the case write-off system when they suspect that a victim and/or child either:

- is vulnerable
- is at high risk of physical injury
- should receive personal contact by the VLO.

If no offence is disclosed, and the attending members consider that contact with the VLO would be beneficial, they should task the VLO through the relevant PROMIS case log (ACT-VLO).

15. Victim follow-up

The case officer must:

- provide the victim with regular case status information per the [Victims of Crime Act 1994](#) (ACT) and the [ACT Policing: Practical Guide: Victims of Crime](#)
- record all follow-up contact with victims on PROMIS
- offer a referral to [SupportLink](#) (or another support agency) to victims and witnesses in family violence incidents
- inform victims of their right to submit a victim impact statement for eligible offences and offer support to prepare the statement
- refer any requests from the victim to withdraw the charges to the Director of Public Prosecutions.

Members will provide victims of family violence with copies of these brochures, which can be found at every ACT police station, as appropriate:

- A pocketbook guide for victims of crime
- Understanding family violence
- How to prepare a victim impact statement.

16. PROMIS entries

When making PROMIS entries members must ensure that:

- the family violence check box on the case write-off screen is ticked, whether an offence has been disclosed or not
- all relevant information is entered, including:
 - full contact details of all persons, including victims and witnesses (particularly if the victim is relocating)
 - whether children were present; their level of involvement, names, ages, relationship to victim and alleged offender
 - a description of weapons used
 - a description of injuries to all parties
 - whether other agencies attended, were involved/notified or referrals made (e.g. Domestic Violence Crisis Service, Mental Health Crisis Team, Care and Protection Services etc.)
 - available evidence (e.g. digital photographs, digital recordings of statements, witness statements, video recording of crime scene etc.)
 - any court orders in existence (e.g. bail, emergency order, protection order, Family Court orders etc.)
 - full details of the incident
 - the outcome of the attendance (e.g. arrest, summons, caution, enquiries continuing, insufficient evidence, no offence disclosed, first instance warrant to be sworn etc.)
- all follow-up contact is recorded
- any follow-up action required from the Victim Liaison Officer is tasked through PROMIS (ACT-VLO)
- all photographs relevant to the incident are uploaded
- 'alerts' are entered:
 - to identify both the participants and the address as having been involved in a family violence incident
 - if an emergency order or a breach of the peace undertaking is obtained including all relevant conditions and an end date/time.

Where persons are charged with a family violence offence, the Watch House Sergeant must ensure that the family violence stamp is used on the bench sheet.

17. AFP appointee involvement in family violence incidents

Where an AFP appointee is involved in a family violence incident, the initial response should be the same. The attending patrol's supervisor must be notified and attend the scene.

If the appointee involved is identified as the victim of a family violence offence, they must be referred to the [AFP Welfare Officer](#), who will be notified of the circumstances of the incident.

If the supervisor identifies that a domestic violence offence has been committed by an appointee, Professional Standards (PRS) must be notified.

If a conflict of interest is identified (as defined in the [AFP National Guideline on operational conflicts of interest](#)) and it is not appropriate for ACT Policing to conduct the investigation, the supervisor must brief the on-call Alpha 7 of the full circumstances and seek a decision to refer the matter to PRS, requesting PRS to take carriage of the investigation.

If criminal action is initiated, the Director of Public Prosecutions Witness Assistant will facilitate contact with the victim.

18. Further advice

Queries about the content of this guideline should be referred to Team Leader, Intervention Team, Crime Prevention or via Victims-Liaison-Office@afp.gov.au.

For further information about family violence incidents contact:

Team Leader Intervention Team (Crime Prevention)

Family violence on-call Director of Public Prosecutions Prosecutor.

19. References

Legislation

- [Australian Federal Police Act 1979](#) (Cth)
- [Bail Act 1992](#) (ACT)
- [Children and Young People Act 2008](#) (ACT)
- [Crimes Act 1900](#) (ACT)
- [Domestic Violence Agencies Act 1986](#) (ACT)
- [Domestic Violence and Protection Orders Act 2008](#) (ACT)
- [Firearms Act 1996](#) (ACT)
- [Victims of Crime Act 1994](#) (ACT)

AFP governance instruments

- [ACT Policing: Practical Guide: Victims of Crime](#)
- [AFP Practical Guide on forensic procedures](#)
- [Memorandum of understanding between the Australian Federal Police and Domestic Violence Crisis Service](#)

Other sources

- [SupportLink \(Referral Management System\)](#)

20. Attachments

- [Attachment 1 - Report requirements](#)

s37(1)(a), s37(2)(b), s47E(d)