

Police Complaints and Domestic Violence



This fact sheet summarises the Ask LOIS webinar on this topic, presented by Alicia Jillard, Solicitor, Women's Legal Services NSW on 31 March 2015. This webinar can be viewed for free at www.asklois.org.au/webinars/past-webinars.

This fact sheet covers:

- What you can expect from police when you report domestic violence
- Who do you talk to if you are not satisfied with the response to a police report of domestic violence?
- Formal and informal complaints

Key police standards and complaints policies

It is a good idea to familiarise yourself with the following documents which outline police policies and victims rights. These tools can be useful when advocating to the police or when making a complaint.

- [NSWPF Code of Practice for the NSWPF Response to Domestic and Family Violence](#) (25 November 2013)
- [Domestic and Family Violence Policy](#) (17 August 2012)
- [NSW Police Force Complaint Handling Guidelines](#) (March 2012)
- [Charter of Victims Rights](#)

The NSWPF will use a proactive approach in dealing with offenders. This approach requires police to not only respond to incidents of domestic and family violence and give strongest consideration to arrest; but to develop strategies to reduce repeat offender behaviour and manage repeat and high risk offenders.

*The NSWPF is committed to using all lawful means to police domestic and family violence. This includes wherever possible, removing offenders from the victim, taking out an AVO on behalf of victims and any children living or spending time with the victim (whether they are by consent or not), investigating breaches of AVOs, and developing solutions to managing repeat offenders - **Quote from the NSWPF Code of Practice***

What if immediate protection is needed?

Provisional AVOs are a type of 'on the spot AVO' for urgent matters and are made for safety and protection of a person(s). Interim AVOs are temporary orders that are in place before the matter goes to final hearing.

The Police may can apply for a **Provisional Order**, if

- They have good reason to believe that an order needs to be made immediately to ensure the safety and protection of the protected person or
- To prevent substantial damage to any property of the protected person.

The Police **must** apply for a Provisional order if, eg, if they suspect or believe a domestic violence offence has recently been or is being committed, or is imminent, or is likely to be committed, against the person for whose protection an order would be made.

Private applications can be made by a person seeking protection through their local court registry:

- Can apply for an **Interim Order**
- Registrar will usually refer to police if urgent protection needed

Obligations of police - AVOs

Initial action by police

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Police will treat all reports of domestic and family violence as genuine. When first notified of a domestic and family violence incident, police will:

- Assess the risks and threats
 - If the police officer believes that there is a good reason not to make the application, the police officer must make a written record of the reason
- Render and/or seek any immediate medical assistance as required, eg, ambulance
- Obtain as much information as possible including:
 - The whereabouts of all involved parties, be they victim, witness or offender
 - The nature of the domestic & family violence
 - Whether firearms were either used or are present at the scene
 - Whether alcohol or drugs are involved
 - Any injuries
 - Previous history of domestic and family violence
- Advise the person reporting of the need to preserve any physical evidence

If the report has come from a third person, i.e. a person not involved in the domestic and family violence incident, police must follow the above steps as far as practicable and:

- Investigate the report to establish all known facts to enable an appropriate response as required by *Crimes (Domestic & Personal Violence) Act 2007*, and/or
- Provide appropriate advice and referral if necessary

When police don't have to apply for an AVO...

A police officer does not need to apply for an ADVO (or Provisional Order) in certain circumstances. For example, where a person is:

- Over 16 years; **and**
- The police officer believes:
 - The person will make her own application; or
 - There is a 'good reason' not to apply.

NOTE: Reluctance to make an application by the victim is not, on its own, a good reason for the officer to not make an application if they reasonably believe that:

- The person has been a victim of violence or there is a significant threat of violence; or
- The person has an intellectual disability and no guardian.

Breaches of AVOs – Obligations of Police

How Police are required to respond to an alleged breach

NSWPF Code of Practice recognises that there is no such thing as a 'technical breach':

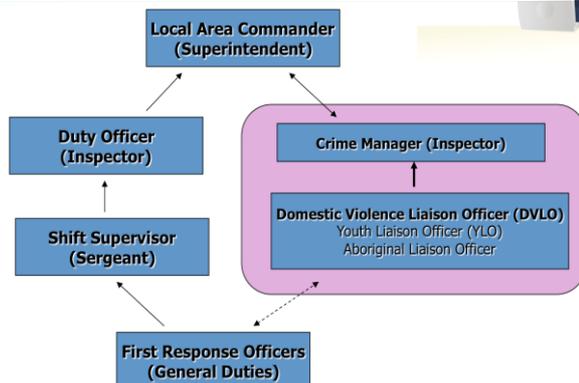
There is no such lawful term as a 'technical' or 'minor' breach and any breach will be treated the same. Ignoring the breach conveys to the defendant and the victim that the order is not taken seriously. An outcome of this could be continued abuse, further police involvement in subsequent breaches and possible harm to victims and/or their children.

- Code of Practice for the NSW Police Force Response for Domestic and Family Violence, 2012, page 46.

NOTE: Consent by the victim is **never** a defense to a breach of an AVO. A protected person to an AVO cannot be charged with 'aiding/abetting' a breach.



Police Local Area Command Accountability



- Most reports of domestic violence go to a **General Duty Officer** who will take the initial report. Eg, the constables who go to the house when neighbour calls to report an observed violence incident
- The call is lodged in the police computer system known as **COPS** and police are dispatched to the location of the incident
- Police will speak to the victim, witnesses and the alleged offender. The police will generate an incident report lodged under an **Event Number**. The event number is a useful reference to keep. You client may ask for the event number and the name of the police officers in attendance. The officer in charge of investigating is called the **Officer in Charge (OIC)**
- Detectives generally handle sexual abuse matters. Specialist teams within the police force handle child abuse and child sexual abuse matters.

Advocacy to the police

If your client has been a victim of physical and/or sexual violence, verbal intimidation or threats, or there is an AVO in place that has been breached, your client should:

1. Telephone the Domestic Violence Liaison Officer (DVLO) and explain the situation. Ask to speak to the Officer in Charge to insist on taking a full statement and taking appropriate action, eg charges for assault and/or breach of AVO or seeking an AVO on your client's behalf or taking photographs of injuries. If you are unhappy with their response you can go to the Shift Sergeant
2. Alternatively you can go directly to the Shift Supervisor also known as the Duty Sergeant- a senior police officer who is responsible for the conduct of investigations while on shift. If your clients are involved in domestic violence court proceedings and they do not understand what is happening or have a complaint about the way Police are prosecuting, they can speak with the Officer in Charge, the DVLO or ask to speak to the Prosecutors Manager
3. If you are still not satisfied you will need to consider whether you make a formal or informal complaint.

Who do you talk to if you are not happy with the response to a police report of domestic violence?

If an officer has already investigated the allegations then contact the **Officer in Charge** to find out what is happening. Ask to speak to the **Domestic Violence Liaison Officer (DVLO)** at the local Police Station if you are:

- Not comfortable contacting the OIC
- Have not had a satisfactory response from the OIC
- Cannot get in contact with the OIC

If there is no **DVLO** at the station, the DVLO is not available or, you are unhappy with the DVLO's response then you should contact the **Duty Officer** at the police station to see if they can arrange for the appropriate



action to be taken. A duty officer is a senior police officer who is responsible for the station for the duration of their shift.

NOTE: Complaints made in person or over the phone are not formal complaints.

What is a formal police complaint?

Making a formal or informal complain may depend on the relationships you already have as a service with the local police.

A written complaint is a formal complaint. It will trigger certain obligations and procedures that the NSW Police Force has to follow. A written complaint also means that there is proof that the complaint has been made, and it cannot be ignored.

Written complaints are normally made to the Local Area Commander at the following address:

Local Area Commander
X Police Station Name
X Streets
X town NSW 2xxx

Visit www.police.nsw.gov.au to find the address of the Local Area Command where the police station you need to complain about is located.

Written complaints are normally made directly to the relevant police LAC (and you would complain to the NSW Ombudsman if not satisfied with police response)

In a police complaint you should include:

- Relevant times, dates & quotes to best of recollection of what happened
- The names and ranks of police officers involved and the station the client went to
- Any event numbers given by police
- Refer to Police policies listed at the start of this factsheet and what policies have not been followed
- Seek a clear outcome, eg, perpetrator be charged with breach AVO, officer involved undergo training

If your client wants to make a complaint in writing, but needs help, contact a [Community Legal Centre](#) for assistance.

If in doubt, it is a good idea to refer your client for legal advice as soon as possible.

Other police complaints

Complaints about the behaviour of NSW Police Force officers can be made to the following people where for example you believe there is corrupt or criminal conduct:

- Any NSW Police Force officer
- The Police Integrity Commission
- The NSW Ombudsman
- The Independent Commission Against Corruption
- The NSW Crime Commission; and
- Any Member of the Parliament of NSW

Written complaints can be made to NSW Police Force Professional Standards Command Customer Assistance Unit at the following address:

- PO Box 3427

Tuggerah NSW 2259



Phone number: 1800 622 571

Email: customerassistance@police.nsw.gov.au

Making a complaint to the Ombudsman

The NSW Ombudsman is an independent and impartial body that watches over government agencies, to make sure they do their job properly. The *Police Act 1990*, gives the Ombudsman certain powers and duties in relation to complaints about NSW Police officers.

- For most complaints, the NSW Ombudsman provides oversight, rather than directly investigating the incident
- The Ombudsman can access, and review, the details of the complaint and how the police dealt with it. The Ombudsman may provide feedback, or directions, to NSW Police, if they think something was missed, or could be improved
- Most complaints sent directly to the NSW Ombudsman will be referred back to the LAC where the complained-of officer was stationed at the time of the events
- If your client is certain their cannot be properly investigated by the NSW Police Force, they should set out their reasons in detail why the NSW Ombudsman should do the investigation

If the NSW Police Force has dealt with the complaint, and your client is unhappy about how it was handled, they can write to the Ombudsman explaining why they think it was not properly handled or investigated.

- The Ombudsman may review how the police dealt with the complaint, and make recommendations to NSW Police if they think something could be improved or fixed in relation to your complaint
 - Eg, if the Police did not look at all of the available evidence (eg, they did not contact a witness), or if your client didn't receive any (or enough) information from the police about the outcome of their complaint
- Unfortunately, by the time the Ombudsman looks at your request, it will be a long time after the incident, and it may be too late to change the situation, or too late to collect evidence

Making a complaints to the Police Integrity Commission (PIC)

The Police Integrity Commission (PIC) is primarily concerned with corrupt or criminal conduct by NSW Police Force employees. Most unprofessional police work does not fall under this heading, and the PIC is likely to refer your complaint to the Ombudsman. The Ombudsman may then refer your complaint to the LAC involved to consider investigation.

Complaints to the Independent Commission Against Corruption are usually referred out in the same way as complaints to PIC.



Referrals

NSW Police Customer Assistance Line:

- 131 444

Local Community Legal Centre

Women's Legal Services NSW Domestic violence line:

- www.womenslegalnsw.asn.au/wlsnsw
- 8745 6999

Redfern Legal Centre Police Complaints Service:

- www.rlc.org.au
- 9698 7277

Police Integrity Commission (police misconduct/corruption):

- www.pic.nsw.gov.au
- 1800 657 079

NSW Ombudsman:

- (02) 9286 1000 or 1800 451 524 (Rural Freecall)
- www.ombo.nsw.gov.au

Victims Access Line (Charter of Victims Rights complaints):

- www.victimsservices.justice.nsw.gov.au
- 1800 633 063

Other Ask LOIS resources on police and AVOs

Webinars & factsheets:

- [AVO Basics](#): Explores what are AVOs, how can they be varied, what are their effects and why to report all breaches
- [AVOs Advanced](#): A detailed look at the different orders available for AVOs and how to get the most appropriate orders for your client.
- [AVOs Advanced II](#): Looks at provisional and interim orders, police powers, variations and drafting statements.
- [5 quick tips for reporting domestic violence to police](#)