

- (c) ensure a QPRIME task is forwarded to the police division where the respondent resides, to have the domestic violence incident investigated;
- (d) request the subsequent investigating officer, interview the respondent; and
  - if the investigating officer where the respondent resides reasonably believes domestic violence has occurred complete and serve a PPN or DV 01: 'Application for a protection order' upon the respondent with appropriate conditions; and
  - recommend a court district where the domestic violence application is to be heard (see 'Court district selection when respondent lives within another police division' of this section); or
  - if there is insufficient evidence to support an application, the respondent's version is to be forwarded to the reporting officer for their further investigation;
- (e) where appropriate, enter a job through the relevant police communications centre to the division where the respondent resides to have the domestic violence incident investigated and provide the relevant task number; and
- (f) ensure the aggrieved is kept informed.

An officer who receives a task to investigate a domestic violence incident should establish if the aggrieved requires immediate protection and where applicable:

- (i) prepare and serve a PPN or temporary order on the respondent; or
- (ii) if further investigation is required return the task to the initiating officer.

#### **Court district selection when respondent lives within another police division**

Where a PPN is issued, the initial court appearance is to be at the local magistrate's court location where the respondent resides (see [s. 111: 'Filing' of the DFVPA](#)).

If an investigating officer determines the aggrieved has been subject to domestic violence and:

- (i) there is considerable distance between where the respondent and aggrieved resides; and
- (ii) it is not practicable or in the best interest of the aggrieved,

where justified, the investigating officer is to:

- (i) take out a DV 01: 'Application for a Protection Order'; and
- (ii) file the application in the court district where the:
  - (a) aggrieved resides; or
  - (b) alleged incident of domestic violence was reported.

#### **9.3.3 Directing a person to a court house to make a private application**

When an officer receives a report of a domestic violence, the incident is to be fully investigated. If the officer establishes there is insufficient evidence to support a police domestic violence application or QP 0899: 'Police Protection Notice' (PPN), the officer:

- (i) should consult with a supervising officer prior to advising the person there is insufficient evidence to support a police application;
- (ii) may advise the person to attend a court house to make a private application for a protection order;
- (iii) should provide appropriate advice and support information to the person; and
- (iv) is to comply with the provisions of subsection 'Where there is insufficient evidence to support an application for a protection order' outlined in [s. 9.4.3: 'Police action to be taken where applying for a protection order, PPN or temporary protection order is not appropriate'](#) of this chapter.

ORDER

If the officer is in any doubt a person is in need of protection, the officer is to investigate the report and if appropriate, take action under the [DFVPA](#).

(see [s. 9.4.1: 'Police action re domestic violence'](#) of this chapter).

## **9.4 Investigation of Domestic Violence**

### **Police Powers and Responsibilities Act**

Officers investigating reports of domestic violence should, where necessary, make use of investigative powers provided by the [PPRA](#) that officers do not have under the [DFVPA](#):

- (i) s. 19: 'General power to enter to make inquiries, investigations or serve documents' of the PPRA;
- (ii) s. 403: 'Initial period of detention for investigation or questioning' of the PPRA;
- (iii) s. 467 to 473 of the PPRA; and
- (iv) s. 609: 'Entry of place to prevent offence, injury or domestic violence' of the PPRA.

#### 9.4.1 Police action re domestic violence

Section 8: 'Meaning of domestic violence' of the DFVPA identifies behaviour which constitutes domestic violence. Section 13: 'Meaning of relevant relationship' of the DFVPA provides a relevant relationship is:

- (i) an intimate personal relationship (see s. 14: 'Meaning of intimate personal relationship' of the DFVPA) which includes:
  - (a) a spousal relationship (see s. 15: 'Meaning of spousal relationship' of the DFVPA);
  - (b) an engagement relationship (see s. 17: 'Meaning of engagement relationship' of the DFVPA); or
  - (c) a couple relationship (see s. 18: 'Meaning of couple relationship' of the DFVPA);
- (ii) a family relationship (see s. 19: 'Meaning of family relationship and relative' of the DFVPA); or
- (iii) an informal care relationship (see s. 20: 'Meaning of informal care relationship' of the DFVPA).

#### ORDER

An officer who reasonably suspects domestic violence has been committed, is to investigate or cause to be investigated the circumstances surrounding the report and, if justified, take a course of action to immediately protect the aggrieved from further domestic violence (see s. 100(1): 'Police officer must investigate domestic violence' of the DFVPA).

#### Person reports domestic violence incident at a police station or establishment

Where a person attends a police station or establishment to report a domestic violence incident, the officer is to prioritise the receipt of the initial report and commence an investigation. Where the officer reasonably believes after the investigation:

- (i) domestic violence has occurred;
- (ii) it is necessary or desirable to protect a person from domestic violence; and
- (iii) there is sufficient evidence to a civil standard – 'balance of probability',

the officer is to take appropriate action to immediately protect the aggrieved and named persons from domestic violence (see s. 9.4.2: 'Investigating domestic violence (initial action)' of this chapter).

#### 9.4.2 Investigating domestic violence (initial action)

Where a report of domestic violence has been received, the investigating officer should:

- (i) commence an investigation in accordance with Chapter 2: 'Investigative process' of this Manual;
- (ii) determine if any domestic violence orders (DVO) or release conditions are in existence (see s. 9.4.6: 'Contravention of domestic violence order, release conditions or police protection notice' of this chapter);
- (iii) electronically record and/or take a written statement from the aggrieved (see Appendix 9.1: 'Domestic violence protective assessment framework' of this chapter);
- (iv) interview any witnesses to the incident;
- (v) conduct an electronically recorded interview with the respondent (Action should not be stopped or delayed due to the inability to locate or interview the respondent);
- (vi) if justified, take the respondent into custody (see s. 9.5: 'Domestic violence custody' of this chapter);
- (vii) where there is sufficient evidence, issue and serve a QP 0899: 'Police protection notice' (PPN) or apply for a temporary protection order (see s. 9.6: 'Domestic violence orders, police protection notices and conditions' of this chapter); or

if further investigation is required:

- (i) interview any other witnesses and in the case of:
  - (a) witnesses who are children, officers should refer to s. 9.8.5: 'Children's evidence in domestic violence proceedings' of this chapter; and
  - (b) a party, including an aggrieved, respondent, or witness being unable to adequately understand or communicate in the English language or because of cultural differences or physical disability, officers should refer to s. 6.3.7: 'Interpreters' of this Manual.
- (ii) where practicable, review and consider all previous:

- (a) protective assessments relating to the aggrieved; and
- (b) domestic violence incidents/contraventions or history of violence,

as supporting evidence in a domestic violence application. In examining risk over time, consider whether risk is escalating and whether new risk factors, particularly category 1 factors, have emerged which would place the aggrieved and other named persons at further risk of violence (see [Appendix 9.1: 'Domestic violence protective assessment framework \(DV-PAF\) of this chapter'](#)). In these circumstances additional safety and support mechanisms are needed.

(iii) if it is necessary to prevent:

- (a) a danger of personal injury to another person; or
- (b) damage to property,

take the respondent into custody (see [ss. 116: 'Police officer may take person into custody' of the DFVPA](#) and [9.5: 'Domestic violence custody' of this chapter](#)),

(iv) ascertain whether any children (including unborn children):

- (a) usually live with either the aggrieved or respondent (see [ss. 24\(2\): 'Who can a domestic violence order protect' of the DFVPA](#) and [9.2.1: 'Definitions' of this chapter](#)); or
- (b) have been exposed to domestic violence (see [s. 10: 'Meaning of exposed to domestic violence' of the DFVPA](#)),

and take appropriate action in accordance with [s. 9.8.4: 'Other action to protect children exposed to domestic violence' of this chapter](#);

(v) gather supporting evidence for an application for a DVO (see [Chapter 2: 'Investigative Process' of this Manual](#)); Sufficient evidence for an application may include, but is not limited to:

- (a) medical evidence;
- (b) statements/affidavits, e.g. aggrieved, witnesses, neighbours;
- (c) prior contact by the aggrieved with domestic violence support agencies, if any;
- (d) photographic or video evidence of the aggrieved or the premises; and/or
- (e) a statement or affidavit from the investigating officer concerned;

(vi) determine if any Family Law Court orders are in existence (see [ss. 11.13: 'Family Law Act' and 11.13.3: 'Family Law Court order inconsistent with domestic violence order' of this Manual](#));

(vii) comply with the procedure contained in [s. 9.4.7: 'Prosecution of statutory offences' of this chapter](#);

(viii) issue a QPB32A: 'Field Property Receipt' for anything seized (see [s. 622: 'Receipt for seized weapons' of the PPRA](#)).

### Cross orders

Officers investigating reports of domestic violence should not submit cross applications for a protection order but are to identify the person in most need of protection (see [s. 4\(2\)\(e\): 'Principles for administering Act' of the DFVPA](#)) and take appropriate action to protect the aggrieved from further domestic violence.

[Section 103: 'Cross-notice not permitted' of the DFVPA](#) prohibits officers from issuing a QP 0899: 'Police protection notice' where another notice is in force naming the respondent and aggrieved as the opposite party.

A DVO 'cross application' may be made where it is identified it is necessary or desirable to protect the aggrieved named in the police application, who is also named as the respondent in any other application.

### Choking, suffocation or strangulation in a domestic setting

#### ORDER

Non-fatal strangulations have been identified as a key predictor of domestic homicide. Officers responding to a domestic violence incident who have identified there is evidence of choking, suffocation or strangulation are to commence an investigation and if appropriate, initiate criminal proceedings (see [s. 315A: 'Choking, suffocation or strangulation in a domestic setting' of the CC](#)) and any other action under [DFVPA](#) against the respondent to immediately protect the victim from domestic violence (see [s. 9.4.7 of this Chapter](#)).

### Safeguards

Officers are to comply with [Chapter 20: 'Other standard safeguards' of the PPRA](#) when entering and searching premises and when seizing anything (see [s. 2.8: 'Entry, search and seizure' of this Manual](#)).

## Domestic violence protective assessment framework

The Protective Assessment Framework (PAF) is a decision-making framework designed to assist officers in assessing the protective needs of an aggrieved. Identifying the presence of risk factors and assessing the aggrieved's level of fear will assist in determining the required response. Officers are to conduct a protective assessment at all incidents or reports of domestic violence and utilise information gathered on risk factors in conjunction with their investigative skills, knowledge and experience to make an informed decision. Officers play a crucial role in identifying and responding to domestic violence and their actions and decisions can have a marked effect on future violence.

### 9.4.3 Police action to be taken where applying for a protection order, a police protection notice or temporary protection order is not appropriate

An officer who determines it is not appropriate to apply for a domestic violence order (DVO) due to:

- (i) insufficient evidence; or
- (ii) domestic violence (DV) has not occurred,

is to obtain authorisation from a supervising officer (see [s. 9.2.1: 'Definitions' of this chapter](#)) prior to finalising the investigation.

Supervising officers, prior to authorising an incident as a 'Domestic Violence – Other Action' or 'Domestic Violence – No DV' are to, where practicable:

- (i) attend the incident address; and
- (ii) overview the investigation,

to ensure the decision and reasons for not applying for an order are in the best interest of all persons involved.

The investigating officer is to include sufficient information in the DV occurrence, justifying why no action was taken prior to terminating duty.

### Where there is insufficient evidence to support a police application for a protection order

Where a relevant relationship (see [s. 13: 'Meaning of relevant relationship' of the DFVPA](#)) exists and, at the conclusion of an investigation, no action is taken due to insufficient evidence, the officer should:

- (i) advise the involved parties the process for making a private DVO application;
- (ii) seek approval from the person for the release of personal information for a police referral (see [Part 5A: 'Information sharing' of the DFVPA](#));
- (iii) obtain approval from a supervising officer to finalise the occurrence as 'Domestic Violence – Other Action'; and
- (iv) create a DV occurrence in QPRIME.

### Where domestic violence has not occurred

Where an alleged DV incident has been reported to police (see [s. 9.3.1: 'Procedures on receipt of a domestic violence report' of this chapter](#)) and, at the conclusion of an investigation, DV (see [s. 8: 'Meaning of domestic violence' of the DFVPA](#)) has not occurred (see [s. 13 of the DFVPA](#)) the officer is to seek approval from a supervising officer to finalise the incident as 'Domestic Violence – No DV' and create a DV occurrence on QPRIME.

Where one party of the relationship claims that a relevant relationship exists, police are to treat the relationship and investigation as if a relevant relationship does exist, unless proven otherwise.

Where supervisor approval is granted, the investigating officer is to specify to police communications the revised job activity code (e.g. 832 – DV Relationship – No DV) for the incident.

### Where a relevant relationship doesn't exist

Where an alleged DV incident has been reported to police (see [s. 9.3.1 of this chapter](#)) and, at the conclusion of an investigation, it is determined that a relevant relationship doesn't exist between the involved parties (see [s. 13 of the DFVPA](#)) the investigating officer is to specify to police communications the appropriate revised job code (e.g. 313, 504) for the incident.

Supervisor approval and the creation of a DV occurrence on QPRIME is not required.

### 9.4.4 Respondent continues to commit domestic violence before court order is issued

#### ORDER

If a private DV 01: 'Application for a Protection Order' has been served upon a respondent, and the respondent continues to commit further domestic violence before the application is heard by a court, the investigating officer is to:

- (i) if justified, take the respondent into custody (see [s. 9.5.1: 'Domestic violence custody' of this chapter](#)); and
- (ii) take out a domestic violence order (DVO), PPN or apply for a temporary protection order; and

(iii) consider any additional conditions to protect the aggrieved from further domestic violence (see [s. 106A: 'Other conditions' of the DFVPA](#)),

with appropriate conditions to immediately protect the aggrieved from further domestic violence.

### **Previous circumstances of domestic violence can be used to support a fresh application**

All circumstances of the initial and subsequent domestic violence incidents can be used to support a fresh domestic violence application or PPN.

#### **9.4.5 Where the order has been issued but is not yet served**

Officers are to ensure domestic violence (DV) applications and orders issued by the courts are served as soon as reasonably practicable (see [s. 9.6.4: 'Service of DV documents' of this chapter](#)).

If a respondent was not served a copy of or told of the existence of a domestic violence order (DVO) and commits further DV, the officer investigating the DV incident is to:

- (i) serve the order upon the respondent; or
- (ii) if the order is not readily available:
  - (a) tell the respondent of the order and its conditions (see subtitle 'Service of documents on the respondent' of [s. 9.6.4 of this chapter](#)) and record the notification in a supplementary report to the relevant QPRIME occurrence; or
  - (b) make arrangements for the service of the order on the respondent (see [s. 134A: 'Power to give direction' of the DFVPA](#));
- (iii) investigate the second incident to establish if an offence under [s. 177: 'Contravention of domestic violence order' of the DFVPA](#) was committed, taking into account the non-service of the order (see [s. 9.4.6: 'Contravention of domestic violence order, release conditions or police protection notice' of this chapter](#));
- (iv) prepare an application for the variation of the current order including any new conditions or named persons where appropriate; and
- (v) commence prosecution for any criminal offences (see [ss. 9.4.6 and 9.4.7: 'Prosecution of statutory offences' of this chapter](#)).

If a respondent has not been told or served with a DVO and is involved in another DV incident, an officer should:

- (i) complete the investigation for this incident; and
- (ii) modify the existing DV occurrence outlining action taken regarding the service of the order; and
- (iii) create an unfounded DV occurrence (see [s. 9.4.6 of this chapter](#)) to record enforcement act register entries (see [s. 9.10.6: 'Completion of QPRIME custody and search reports' of this chapter](#)). A Domestic Violence (Contravene DFVPA) occurrence should only be created if information is received from the person named in the order. However, if information is received from a third party and the investigation shows that domestic violence has not occurred, officers should finalise the report via a No DV occurrence with appropriate supervisor approval.

This does not preclude the officer investigating a separate criminal offence (e.g. assault, wilful damage) (see [s. 9.4.7: 'Prosecution of statutory offences' of this chapter](#)).

### **Direction to move or remain**

In accordance with [Part 4, Division 5: 'Power to direct person to remain, or move to and remain, at a place' of the DFVPA](#), an officer may, give a direction to a respondent in order to:

- (i) serve a previously issued application or DVO on the respondent;
- (ii) where the officer does not have possession of the order, tell the respondent about the order and its conditions; or
- (iii) issue and serve a QP 0899: 'Police Protection Notice' (PPN) on the respondent.

The direction may be to:

- (i) remain at an appropriate place at the current location; or
- (ii) where it is contrary to the interests of a person (including the respondent) to remain at the current location, to go to another appropriate location (e.g. police station, court house, shelter), which is a reasonable distance from the current location.

Whenever practicable, the aggrieved should be told of the direction given to the respondent.

When giving a direction to move or remain, the officer is to comply with [s. 134A: 'Power to give direction' of the DFVPA](#). [Section 134B: 'Limits on direction' of the DFVPA](#) provides the limitations of time the person may be directed to remain.

If a person fails to comply with a direction, whenever practicable the officer should:

- (i) repeat the direction to the respondent; and
- (ii) give the respondent a reasonable opportunity to comply with the direction (see [s. 134C: 'Offence warning' of the DFVPA](#)).

#### ORDER

An officer who gives a respondent a direction to remain or move to another location under [s. 134A of the DFVPA](#) is to:

- (i) remain in the presence of the respondent whilst the respondent moves to and remains at the nominated location (see [s. 134E: 'Responsibilities of police officer in relation to direction' of the DFVPA](#)) and is not to:
  - (a) question the respondent in relation to any other offence;
  - (b) generally search a respondent, unless the officer is investigating another offence with a search provision.
- (ii) create a QPRIME custody report and record the reason for giving the direction.

### 9.4.6 Contravention of domestic violence order, release conditions or police protection notice

A Queensland domestic violence order (DVO) made before the 25 November 2017 not declared under the National Domestic Violence Order Scheme remains enforceable in Queensland.

A respondent who contravenes a condition of a DVO (see [s. 9.2.1: 'Definitions' of this chapter](#)) or release conditions recognised under the provisions of the [DFVPA](#), other than by failing to appear before a court at a specified time and place, commits a criminal offence. Officers should approach a contravention of a DVO in the same manner as investigating any other criminal offence (see [Chapter 2: 'Investigative Process' of this Manual](#)).

#### Respondent arrested for a domestic related offence to show cause

Where an officer has arrested and taken a respondent into custody for a domestic violence offence and there is a risk of further or associated DV, the arresting officer is to complete an QP 0215: 'Bail affidavit' and QP 0215A: 'Bail Affidavit Annexure' (Adult) or, where relevant, a QP 0215B: 'Bail Affidavit Annexure' (Child).

See [s. 16.20.2: 'Prescribed police officer's \(PPO\) responsibilities' of this Manual](#).

#### Duration of police protection notice and release conditions

Where an officer commences a proceeding by:

- (i) QP 0899: 'Police Protection Notice' (PPN) (see [s. 113: 'Duration' of the DFVPA](#)); or
- (ii) QP 0937: 'Release from custody conditions' (see [s. 125\(5\): 'When police officer must release person on conditions' of the DFVPA](#)),

and a court makes a DVO (see [s. 9.2.1: 'Definitions' of this chapter](#)) the PPN or release from custody conditions remain in force until the order is served on the respondent or becomes enforceable.

If, within the last five years, the offender has been convicted (whether or not a conviction was recorded) of an offence:

- (i) where the charge states 'the offence is also a domestic violence offence'; or
- (ii) against [ss. 177: 'Contravention of domestic violence order'](#), [178: 'Contravention of police protection notice'](#) or [179: 'Contravention of release conditions' of the DFVPA](#),

the defendant should be charged with the indictable offence under [s. 177\(2\)\(a\) of the DFVPA](#).

Otherwise, the offender committing a breach of a DVO should be charged with the simpliciter offence against [s. 177\(2\)\(b\) of the DFVPA](#).

#### An aggrieved or other named persons do not commit an offence

If an officer is investigating a domestic violence incident where an aggrieved or other named persons in a DVO (see [s. 9.2.1: 'Definitions' of this chapter](#)) or release conditions aids, abets, counsels or procures a respondent to contravene one of the conditions in an order or release condition, the aggrieved or named person does not commit an offence (see [Part 7 of the DFVPA](#)) irrespective whether the person, encouraged, permitted or authorised conduct by the respondent to commit a domestic violence offence.

(see [s. 180: 'Aggrieved or named person not guilty of an offence' of the DFVPA](#)).

#### Domestic violence offence

Officers should take action for an offence against [Part 7 of the DFVPA](#) where a respondent contravenes a release condition (see [s. 179: 'Contravention of release conditions' of the DFVPA](#)) or DVO (see [s. 9.2.1: 'Definitions' of this chapter](#)) made under the [DFVPA](#), including a condition imposed by the order, if the order was properly served (see [s. 9.6.4: 'Service of domestic violence documents' of this chapter](#)).

### Notice to allege previous

Officers are to comply with [s. 3.5.18: 'Notices alleging previous criminal and traffic histories and circumstances of aggravation' of this Manual](#). A QP 041A: 'Notice of intention to allege previous conviction', for a charge under [s. 177\(2\) of the DFVPA](#), is to include offences which are a domestic violence offence (see 'Definitions' of this chapter) and any offence under [Part 7 of the DFVPA](#).

Officers are to comply with [s. 9.4.8: 'Recording domestic violence offence on a person's criminal history' of this chapter](#).

### Unfounded contravention of domestic violence order, release conditions or police protection notice

Where the contravention of domestic violence order, release conditions or police protection notice is unfounded an officer should:

- (i) complete the investigation for this incident; and
- (ii) create an unfounded domestic violence occurrence to record enforcement act register entries (see [s. 9.11.6: 'Completion of QPRIME custody and search reports' of this chapter](#)). A Domestic Violence (Contravene DFVPA) occurrence should only be created if information is received from person named in the order. However, if information is received from a third party that a Domestic Violence Order breach may have occurred, but there is no complaint by an involved person, or reasonable suspicion of a breach by the investigating officer, the DV occurrence should be a No DV occurrence entered into QPRIME by the officer.

### 9.4.7 Prosecution of statutory offences

Officers investigating domestic violence should consult with the aggrieved and named persons (where applicable) about the possibility of pursuing criminal charges where the acts of domestic violence amount to criminal acts (see [Criminal Law Bulletin No. 286.1: 'Ancillary Wording – "the offence is also a domestic violence offence"' available on the Prosecution Services webpage on the Service Intranet](#)).

If doubt arises whether proceedings should be initiated under another Act in addition to the [DFVPA](#), the investigating officer is to seek advice from a:

- (i) supervising officer;
- (ii) brief checker;
- (iii) their OIC;
- (iv) local police prosecutor; or
- (v) domestic family violence coordinator.

If an investigating officer believes it may not be in the public interest to proceed with an offence, the officer is to comply with [s. 3.4.2: 'The decision to institute proceedings' of this Manual](#) by referring the matter to their OIC for advice.

### Considerations when investigating domestic violence and criminal offences

Where an officer is investigating domestic violence and is considering issuing a QP 0899: 'Police Protection Notice' (PPN) or making a domestic violence application as well as proceeding with a criminal offence, the investigating officer is to determine whether the PPN or application should be finalised prior to the continuation or finalisation of the criminal investigation.

Whether action will be taken under the [DFVPA](#) or another Act first, will depend on:

- (i) the nature of the domestic violence;
- (ii) the nature, type and seriousness of the offence;
- (iii) the need to immediately investigate the criminal offence, e.g. to prevent the loss of evidence; and
- (iv) [s. 120: 'Person not to be questioned about offence' of the DFVPA](#), a person who has been taken into custody under the [DFVPA](#) cannot be interviewed in relation to offences under another Act (e.g. common assault under the [CC](#)).

### Respondent commits an offence under another act

Where an officer reasonably suspects a respondent has committed an offence under another Act, the officer should consider whether it is more appropriate to:

- (i) arrest the respondent under [s. 365\(1\): 'Arrest without warrant' of the PPRA](#); or
- (ii) in the case of an indictable offence, arrest the respondent for the offence for the purpose of questioning the respondent about the commission of the offence in accordance with [s. 365\(2\) of the PPRA](#),

in preference to taking the respondent into custody under [s. 116: 'Police officer may take person into custody' of the DFVPA](#).

If a person is in custody for an offence under another Act, and the officer identifies the person has committed domestic violence, the officer is to investigate whether this places the defendant in a show cause situation (see [s. 16.20.2 of this Manual](#)).

Arresting a respondent under another Act from a domestic violence incident is not an alternative to investigating the domestic violence and taking appropriate action under the [DFVPA](#) (see [s. 9.4.1: 'Police action re domestic violence' of this chapter](#)). An offence arising from a domestic violence incident may be a domestic violence offence (see [ss. 9.2.1: 'Definitions' and 9.4.8: 'Recording domestic violence offence on a person's criminal history' of this chapter](#)).

The onus rests on the investigating officer to properly investigate the incident and obtain all available evidence to support the commencement of proceedings under the [DFVPA](#) or another Act (see [Chapter 2: 'Investigative Process' of this Manual](#) and [s. 4.4: 'Body worn cameras' of the DERIE Manual](#)).

### Forms to be completed if granted bail

If bail is to be granted by the prescribed police officer, the arresting officer is to prepare and serve one of the following:

- (i) QP 0899: 'Police protection notice';
- (ii) temporary protection order; or
- (iii) domestic violence application (including release conditions),

prior to releasing the respondent from custody.

## 9.4.8 Recording domestic violence offence on a person's criminal history

### Domestic violence offence

Where an officer commences a proceeding for an offence against an Act other than the [DFVPA](#) which is also a domestic violence offence, they are to include as ancillary wording in the charge the offence is also a domestic violence offence (see [s. 9.2.1: 'Definitions' of this chapter](#)).

Where a defendant is found guilty, regardless of whether the conviction is recorded or not, if the court is satisfied the offence is also a domestic violence offence, the court will order the matter be recorded on the person's history as a domestic violence offence.

Where a court orders a matter be recorded on the person's criminal history as a domestic violence offence, or convicts an offender of an offence against [Part 7: 'Offences' of the DVFPA](#), prosecutors may apply to the court for an order, any previous offences identified as a domestic violence offence to be recorded as a domestic violence offence on the person's history (see [s. 12A: 'Convictions for domestic violence offences' of the \*Penalties and Sentences Act\*](#)).

### Identifying and recording a previous domestic violence offence on a person's criminal history

Districts should develop local instructions, identifying high risk or recidivist domestic violence respondents and make an application for an order to have all relevant previous convictions recorded as domestic violence offences.

When commencing a prosecution against a person for a domestic violence offence, officers should review the offender's previous criminal history, and where it is identified there are domestic violence offences, officers should complete documentation and provide evidence (e.g. previous court brief (QP9), witness statements etc.) to apply for the person's previous history to be recorded as a domestic violence offence.

Where it is identified a previous conviction may also be defined as a domestic violence offence, other than an offence under the [DFVPA](#), but is not recorded as a domestic violence offence on a defendant's criminal history, officers are to:

- (i) complete a Form 80: 'Application by Queensland Police Service for an order that previous offences were domestic violence offences'; and
- (ii) prepare a Form 81: 'Order of court that a previous offence is a domestic violence offence';
- (iii) attach any documentation and evidence (e.g. previous court brief (QP9), witness statements etc.) supporting the application to the Form 80, including QP1035: 'Form 80 Annexure' where practicable;
- (iv) where possible, serve a copy of the Form 80 and supporting documentation to the defendant or the defendant's legal representative at least 3 days before their court appearance and endorse a copy regarding service;
- (v) attach the above to the Court Brief (QP9) for the current charge; and
- (vi) attach all completed documents to the relevant QPRIME occurrence.

Where it is not practicable to serve the Form 80 and supporting documentation on the defendant or the defendant's legal representative prior to the defendant's court appearance, the documentation should still be attached to the Court Brief (QP9) for the prosecutor to serve on the defendant or the defendant's legal representative at court.



### 9.4.9 Domestic violence as a result of the injury or death of a child

#### ORDER

Where an officer is investigating the serious injury or death of a child by their parent/guardians and there is supporting evidence the incident was a domestic violence related (see [s. 8\(2\)\(e\): 'Meaning of domestic violence' of the DFVPA](#)), the officer is to make application for a domestic violence order against the relevant person who has harmed the child.

Where the officer cannot identify which parent/guardian was responsible for causing the child's injury or death, the officer is to:

- (i) make a cross application for domestic violence orders; or
- (ii) apply for a variation of any current domestic violence orders in place,

and include the injured children as 'named persons' against each respondent (see [s. 9.6.2: 'Application for a domestic violence protection order' of this chapter](#)).

### 9.4.10 Domestic violence referral agencies

The Service recognises an integrated approach to domestic violence across government and the community, is necessary for the effective application of legislation. Members should be aware of the vital roles carried out by government and non-government agencies in addressing domestic violence.

An officer who reasonably believes:

- (i) a person is experiencing domestic violence; or
- (ii) a respondent has committed domestic violence against another person,

is to offer the person a Police Referral (see [ss. 6.3.14: 'Police Referrals' of this Manual](#), [Police Referrals on the Service Intranet](#) and [s. 169B: 'Principles for sharing information' of the DFVPA](#)).

#### ORDER

The Department of Communities, Child Safety and Disability Services and Seniors are to be advised if a child requires support or protection as a result of being exposed to domestic violence (see 'Role of other agencies in relation to child harm' of [s. 7.3.1: 'Initial action for reports of child harm' of this Manual](#)). There is no authority under the [Child Protection Act](#) to refer a child to a non-government agency for support or counselling.

#### Employee Wellbeing

Members of the Service and their immediate families involved in domestic violence matters are encouraged to seek support through Employee Wellbeing or Employee Relations (see 'Supporting Members affected by Domestic and Family Violence Policy' on the [Service HR policy page](#)).

Officers dealing with domestic violence incidents involving members of the Service or their immediate families should advise both parties of the assistance provided by the respective region or command's Human Services Officer.

## 9.5 Domestic Violence Custody

### 9.5.1 Domestic violence custody

#### Power of detention under the Police Powers and Responsibilities Act

If an officer reasonably suspects domestic violence is occurring, or has occurred before the officer's arrival at the place, the officer may detain a person:

- (i) to prevent acts of violence or damage to property; and/or
- (ii) to search the person for anything that may be, or has been used to cause injury or damage or for an act of domestic violence (see [s. 609: 'Entry of place to prevent offence, injury or domestic violence' of the PPRA](#)).

Officers should be aware detention under [s. 609](#) of the [PPRA](#) is not the same as taking a person into custody under [s. 116: 'Police officer may take person into custody' of the DFVPA](#). Where an officer has taken a person into custody under [s. 116 of the DFVPA](#), the officer is first to 'un-detain' the person under the [PPRA](#) prior to taking the person into custody under the [DFVPA](#).

Detention under the [PPRA](#) is to be recorded as a separate enforcement act in QPRIME to the person's custody under the [DFVPA](#).

## ORDER

An officer is not to return a surrendered weapon seized under [s. 27A: 'Effect of temporary protection order, police protection notice or release conditions on licence' of the Weapons Act \(WA\)](#) unless formally advised by Weapon Licensing.

**Special case (protection order not determined within 3 months)**

Where a protection order in respect to a respondent is not determined within a period of 3 months after a weapon has been:

- (i) seized from a respondent under the provisions of [s. 27A of the WA](#); or
- (ii) surrendered under the provisions of [s. 29B: 'Arrangements for surrender of suspended or revoked licences and weapons' of the WA](#) upon the service of or being named in of a police protection notice, domestic violence order or temporary protection order;

an application should be made and forwarded through the normal chain of command to the Commissioner, requesting the weapon or other thing not be forfeited to the State until the application is determined by a court.

## 9.10 QPRIME Domestic violence occurrences

### 9.10.1 Responsibilities of an OIC to ensure domestic violence entries are entered into QPRIME

The OIC of a station or establishment has overall responsibility for ensuring all domestic violence entries are entered into QPRIME within the required time frames.

Officers should use QPRIME to record relevant details including:

- (i) the service of any orders; and
- (ii) whether or not the respondent was present in court at the time the order was issued.

This provides important information to police prosecutors and other officers receiving subsequent reports of domestic violence.

Officers in charge of a station or establishment are to ensure regular checks are conducted by the station domestic and family violence liaison officer, at least monthly, to ensure officers at their station or establishment are complying with the requirements of this section.

Officers in charge are to ensure all:

- (i) nationally recognised interstate orders;
- (ii) registered foreign (New Zealand) orders;
- (iii) private applications for domestic violence orders (DVO) and any other orders (see [s. 9.11.3: 'Responsibilities of police prosecutors \(police and private applications\)' of this chapter](#)); and
- (iv) intervention orders,

received from a court, are entered into QPRIME.

If a member enters a DVO or application into QPRIME, the OIC is to check to ensure the entry has been made correctly.

### 9.10.2 Responsibilities of an officer taking action against a respondent for a contravention of a domestic violence order

Officers investigating an offence under the provisions of the [DFVPA](#), are to ensure the incident is recorded on QPRIME by Policelink operators.

### 9.10.3 Responsibilities of releasing officers prior to releasing respondents from custody

## ORDER

Before a respondent is released from custody, the releasing police officer (see [s. 9.2.1: 'Definitions' of this chapter](#)) is to ensure the release or police protection notice conditions are entered onto the relevant QPRIME occurrence.

### 9.10.4 Authorisation to receive documents

The [DFVPA](#) requires courts to deliver copies of documents to the Service. In accordance with:

- (i) [s. 33: 'Fixing of date, time and place for hearing'](#) (application for a protection order); and
- (ii) [s. 87: 'Fixing of date, time and place for hearing'](#) (application for a variation of a protection order),

The court is to deliver a copy of the relevant documents to the OIC of the police station nearest the place where the respondent lives or was last known to live.

The [Domestic and Family Violence Protection Rules \(DFVPR\)](#) requires courts to deliver copies of documents to the Service.

In accordance with:

- (i) [r. 10: 'Change of address for service or email to be filed in DFVP court registry'](#); and
- (ii) [r. 19: 'Obligation to inform police commissioner if suspended domestic violence order is to be revived'](#),

of the [DFVPR](#), the court is to deliver a copy of the relevant documents to the OIC of the police station nearest the place where the respondent lives or was last known to live.

An OIC of:

- (i) a police station or establishment; or
- (ii) the police prosecution corps appearing at the magistrate's court where the matter is being heard,

have been authorised to accept delivery of documents to be given to the Commissioner for the purposes of the [DFVPA](#) and [DFVPR](#) (see [Delegations D 18.17](#) and [D 18.18](#)).

### **9.10.5 Responsibilities of officers in charge of stations or establishments receiving domestic violence documents**

ORDER

An OIC of a station or establishment receiving domestic violence documents are to ensure they are entered on QPRIME on the same day as the documents are received.

### **9.10.6 Completion of QPRIME custody and search reports**

#### **Entry of a place etc. under s. 609 of the Police Powers and Responsibilities Act**

Officers who enter a place to investigate a domestic violence incident under [s. 609: 'Entry of a place to prevent offence, injury or domestic violence' of the PPRA](#) are to complete a register entry into QPRIME (see [s. 2.1.2: 'Registers required to be kept' of this Manual](#)).

#### **Taking a person into custody under s. 116 of the Domestic and Family Violence Protection Act**

When officers take a person into custody under [s. 116: 'Police officer may take person into custody' of the DFVPA](#), they are to enter the detention into a custody register (see [s. 9.5.3: 'Watchhouse/holding cell procedures – search and release' of this chapter](#)).

ORDER

Officers who take a respondent into custody under [s. 116 of the DFVPA](#) are to record a Custody Report (Full) against the person.

#### **Officer directing to remain or move to complete a custody report**

ORDER

An officer who directs a person to remain at or move to another place under [s. 134A: 'Powers to give direction' of the DFVPA](#) is to record a Custody Report against the person prior to the termination of the shift.

(see [s. 9.6.5: 'Power to give a direction to remain or move to another location' of this chapter](#)).

## **9.11 Prosecuting domestic violence**

### **9.11.1 Police prosecutor's role in private applications**

#### **Provision of Service information to the court**

[Section 146 of the DFVPA: 'Right of appearance and representation'](#) provides that a police officer or service legal officer may appear in any proceeding under the Act.

Where a court is hearing a private application for a protection order or an application to vary a protection order, and has cause to suspect the Service has information pertaining to the application that may assist the court in the proper administration of justice, the court may request assistance of a police prosecutor to provide that information.

A police prosecutor requested by a court to provide Service information pertaining to a private application is to:

- (i) request the court to provide:
  - (a) identifying details of the parties;
  - (b) any details of the application considered necessary to assist in searching for relevant information; and
  - (c) the nature of the information sought;