



Response to draft Victoria Police:
Code of Practice for the Investigation of
Family Violence

Acknowledgment of Country

No to Violence acknowledges First Nations Peoples across these lands; the Traditional Custodians of the lands and waters. We pay respect to all Elders, past, present and emerging. We acknowledge a deep connection with country which has existed over 60,000 years. We acknowledge that sovereignty was never ceded, and this was and always will be First Nation's land



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Dear Assistant Commissioner,

Thank you for the opportunity to provide feedback on the *Code of Practice for the Investigation of Family Violence (the Code)*.

No to Violence is Australia's largest peak body representing organisations and individuals working with men to end family violence, as well as the operator of the Men's Referral Service – a telephone and online counselling and referral service to link men with longer term support. We have operated in Victoria for over 25 years.

Since the tabling of the Royal Commission report in March 2016, the Victorian family violence sector has come a long way and No to Violence commends the work of our colleagues across the sector and government. We understand that Victoria Police have played a large role in reform efforts, and we are keen for No to Violence and Victoria Police to continue working closely together to improve outcomes for victim-survivors and reduce violence against women and children.

In developing our feedback on the Code, No to Violence has consulted internally with the Men's Referral Service – people who work directly with men who use family violence every day. We have also consulted with our member agencies who work to deliver interventions for men using violence. Unfortunately, due to the short timeframe we were not able to include the voices of as many member agencies as we would have liked.

In addition to feedback provided on the Code, we would like to highlight the need for a similar resource for people who use violence. Police are often the first 'interruption' point with men who use violence and are uniquely placed to engage and encourage men in help seeking behaviours.

Having clear and easily accessible information for men using violence about police processes and referral pathways is crucial. It has the potential to significantly contribute to increasing accountability, accessibility to and engagement with services, keeping a man in view, improving court experiences and supporting the early resolution of family violence court matters.

Please find attached a summary document of our feedback and recommended revisions.

We would welcome the opportunity to discuss this further. For information or to discuss further, please contact our Head of Sector Development, Lizette Twisleton lizettet@ntv.org.au.

Yours sincerely,

Jacqui Watt
Chief Executive Officer

General feedback on the Code

No to Violence endorses the feedback provided by Domestic Violence Victoria, Women's Legal Services, Victorian Legal Aid, and the Federation of Community Legal Centres.

Purpose of the Code

No to Violence would like to emphasise the need to clarify the purpose of the Code. Specifically, who it is intended for, how it differs from the Victorian Police Manual, and the significance of the document in guiding the investigation of family violence.

Background information about the Code, including its aims and why it was developed, have been omitted from this version. No to Violence feels this information is crucial in the framing of the document and should be retained.

Gendered nature of family violence

No to Violence notes that there are fewer references to the gendered nature of family violence in the updated version of the Code. The importance of expressing the need for gender-sensitive assessment throughout this document cannot be overstated.

There is a wealth of evidence showing that domestic violence is gendered, that most victims are women, and that women – especially Aboriginal and Torres Strait Islander women – are being misidentified as perpetrators (see [ANROWS, 2020](#)).

No to Violence recommends that the document clearly state police responsibilities to:

- Understand that in occasions where female victim-survivors are reported as using force, they are often doing so in response to family violence including non-physical forms such as emotional abuse or coercive control; and as a response to power imbalances;
- Consider self-defence, resistance to uphold dignity and safety and assess the history of violence before arresting a party for family violence.
- Police consider not only the violence used in a specific incident but also the context in which it occurred;
- Have an understanding of fear experienced by victims that are reacting to the violence of their perpetrator;
- Account for the gendered, powered, patterned and relational contexts in which family violence occurs.

Predominant aggressor and misidentification

No to Violence acknowledges that Victoria Police are improving processes around misidentification of the predominant aggressor (as stated in Section 2.1.5.3 of the Code). However, the Code requires more prescriptive information about actions that must be taken to identify the predominant aggressor – and processes to follow when misidentification

occurs. The Code should also acknowledge the various impacts of misidentification on the victim, including:

- Criminalisation and wrongful imprisonment
- Child removal/loss of custody (in line with the conditions of a FVIO or criminal proceedings)
- Limiting access to services (e.g.: family violence services)
- Exposure to further harm.

Victim survivors' engagement with police

No to Violence would like to reiterate feedback provided in a previous submission on the Family Violence Response Booklet (Jan 2021): the Code assumes Victoria Police are perceived by victim-survivors as accessible and approachable. A significant body of research has found that victim-survivors are often reluctant to engage police for a variety of reasons including (but not limited to): fear of not being believed, discrimination, and fear that police intervention will escalate the abuse. This is particularly true for members of what section 2.3 calls 'priority populations': Aboriginal communities, multicultural communities, LGBTIQ communities, and people with disabilities.

It is important that Victoria Police acknowledge that fear of police causes under-reporting of domestic violence. Unfortunately, too many women believe that reporting to police is at best pointless and at worst dangerous. This means that Victoria Police must undertake significant work to increase community trust in police and policing, especially with communities who are currently reluctant to engage with police.

Police accountability

No to Violence sees opportunities in the Code to expand on and address *how* police perform their role in family violence. We have noticed a shift in language away from "police must", "police needs/must be..." and "police are responsible for" in the previous version towards "police are sensitive to" and "police will do...". This weakening of language undermines the obligations and duties on the police when responding to family violence and lessens police accountability. No To Violence recommends the weakened language is changed back to highlight the significant responsibility of police in ensuring the safety of women and children from family violence.

Specific feedback

The following feedback relates to specific sections of the Code.

Section 1: Introduction

No to Violence suggests that Section 1.2 from the previous iteration (“Aims of the Code of Practice”) is added back in to clarify the purpose of the document. This section also needs to include information about the history of the Code, who it is intended for, its significance and relationship to other documents, such as the Victorian Police Manual.

No to Violence recommends that Section 1.3 should include references to systems abuse and an acknowledgement that adolescents who use violence in the home are often victims of violence themselves.

References to people as ‘vulnerable’ should be changed to ‘at risk’ - as per feedback from Women with Disabilities Victoria that the ‘protection’ of women with disabilities who are labelled as vulnerable can reinforce the violence itself and enable perpetrators of violence to be viewed as protectors.

In relation to the note on language (Section 1.6), No to Violence advocates for the inclusion of a line acknowledging that Victoria Police use some language that directly relates to police practice. For example, “Victoria Police use the term ‘victim’ to describe the person impacted by family violence, however we acknowledge that victims are also resilient survivors with expertise in their own safety and risk”.

Our members suggest that the introduction should also include a statement encouraging police to work collaboratively with specialist family violence services to fulfil our common purpose of supporting women and children impacted by family violence.

Section 2: Initial Police Action

No to Violence advises that Section 2.1.1 must clearly set out the responsibilities and obligations of police in each scenario. In particular, the below section is unclear and requires clarification:

“Police 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.”

In relation to the timeliness of police response (Section 2.1.2), the previous version of the Code stated that: “police must respond and take action in accordance with this code of practice.” This is an important positive duty on police to respond and should be retained.

In Section 2.1.4, we recommend that it be reframed as a *requirement* for police officers to separate the people present (in all cases) and speak to them alone. This should include speaking to children. Police should ensure that conversations take place *outside the perpetrator’s line of vision and hearing*, knowing that intimidation and control can be

conveyed through a look and will impact the victim-survivors' willingness to talk. Police should also actively consider whether one party may be attempting to misidentify another party as the predominant aggressor. In relation to use of interpreters (Section 2.1.4.4) we recommend rephrasing to "Victoria Police will not use children as interpreters for their family, recognising that this is an inappropriate burden on children".

No To Violence recommends using the following definition of predominant aggressor (Section 2.1.5):

The predominant aggressor is the term used to describe the person who is exerting the greatest amount of harm and control over their partner or family member. This could be through any number of abusive behaviours including physical and sexual violence, coercive control, threats, intimidation, emotional abuse, stalking and isolation.¹

No To Violence and its members would also like to see a line acknowledging that "Victoria Police are committed to continuous practice improvement to reduce the likelihood of misidentification of the predominant aggressor" at the end of Section 2.1.5.2.

In Section 2.2, No to Violence recommends that more detail be included about the impact of exposure to family violence on children and young peoples' wellbeing.

It is encouraging to see that Section 2.2.1 recognises that adolescents who use family violence are often victims of violence themselves. No to Violence suggests that this section could be expanded to include an acknowledgement that adolescents are at a critical stage of development where family relationships and connection are vital – and that interventions should aim to focus on maintaining family connections, wherever possible and appropriate. There also needs to be information outlining processes for when more serious incidents of adolescent family violence occur, or when adolescents refuse to engage with a therapeutic response.

In relation to responding to 'priority populations' (Section 2.3), No to Violence believes there needs to be a clarification of what it means to be "sensitive to" the unique needs of communities. As outlined in the general feedback section, it must also be acknowledged that people who experience discrimination are far less likely to trust police and report incidents of violence. No to Violence also suggests adding "in-law abuse" as a form of family violence that is particularly concerning for multicultural communities (Section 2.3.2).

In Section 2.4, the unique barriers faced by people experiencing family violence who work in the sex industry need to be explicitly stated. No to Violence suggests this section would benefit from further elaboration and community consultation.

¹ No to Violence's choice of definition considers research that victims of intimate partner violence are rarely passive to the abuse to which they are subjected, and may resist abuse in myriad ways, including violence, as a means of self-defence, defence of children, maintenance of dignity, or a result of trauma.

No to Violence strongly advocates that Section 2.5 includes clear processes for responding to collusion between police officers on family violence matters. This specifically refers to instances where current or former police officers are accused as perpetrators, and their colleagues collude with them in ways that prevent the help-seeking of victim-survivors and/or threatens their safety. In one recent example, Victoria Police was recently sued by a victim-survivor due to the wrongful conduct of police officers who breached her safety plan and chose not to act on or encourage further incidence reports. We acknowledge that Section 2.5.3 begins to touch on this point – however, it needs to be clearly articulated to ensure that Victorian officers are held accountable for this behaviour.

Section 3: The Family Violence Response Model

Overall, No to Violence is satisfied with the level of detail provided about the Family Violence Response Model.

We do have some minor feedback:

- In Section 3.2.1.1, there needs to be clarification around what it means to ‘sensitively engage’ with victims and witnesses.
- In Section 3.3, No to Violence would appreciate further explanation of the FVR and how it differs from the MARAM tools (i.e.: assessment of ‘recidivism’ vs assessment of ‘risk of serious harm or lethality’)

No to Violence suggests that Victoria Police consider an external evaluation of Case Prioritisation and Response Model, to determine its effectiveness in identifying the highest risk cases. We would also like to add that our organisation can offer bespoke training to Victoria Police officer. We would also like to add that our organisation can offer bespoke training in these areas to Victoria Police specialist and frontline police officers.

Section 4: Criminal Options

No to Violence are concerned about the lack of information regarding how victim-survivors are kept up to date about the perpetrator process (Section 4.2). This needs to be clearly stated to ensure standardisation of timeframes for communication across Victoria. Furthermore, in Section 4.2.4, police *must* advise the victim if their perpetrator is released on bail.

In relation to case conferences (Section 4.4) and case reviews (Section 4.5), No to Violence would appreciate a clarification on the difference between these two processes, including who is invited.

Section 5: Civil Options

No to Violence would like to note that some of the language used in this section could be more specific. For example, in Section 5.1, the code states that police will be “sensitive” to victim’s legitimate fears of consequences for reporting, like Child Protection removing their children. In Section 5.1, the code also specifies that police will “balance concerns for the

safety of victims”, and in Section 5.2.2.1, that “reasonable steps” will be taken regarding securing perpetrator accommodation. Instead, the language should showcase the actual processes which are undertaken to ensure these claims will be met. For example, in certain communities where the removal of children by child protection is more pervasive, like amongst First Nations peoples, victims require more feasible evidence (rather than vague promises) to trust that police will act in their interests.

Section 5.1 implies that police can accurately make assumptions and identify the predominant aggressor. However, anecdotes from victim-survivors throughout No to Violence’s consultations on coercive control highlight that this is not the case. This is particularly a concern for First Nation’s women, who are more likely to be misidentified as the predominant aggressor. It is recommended that this section highlight the specific actions VicPol are taking to unearth and deconstruct engrained biases that perpetuate misidentification.

Overall, No to Violence advocates that Section 5 should more specifically acknowledge the gendered nature of family violence, and the ways in which the gendered nature of family violence contribute to elevated risk: for instance, Section 5 includes significant detail on the issuing of FVSN and FVIOs. There is not, however, adequate recognition that it is during this time--when perpetrators face consequences for their violence-- when victims are most in danger. Perpetrators are more likely to escalate the severity and frequency of their abuse after facing opposition to regain their sense of power and control. The Code must recognise that it is this dichotomy of power and control, rooted in gender norms, that puts victims at risk of harm and increases the likelihood that civil orders will be breached.

Lastly, No to Violence notes the use of body worn cameras when serving civil orders, as outlined in Section 5.2.3. Users of violence can be master manipulators, able to twist the narrative and place the blame on the victim. Body worn cameras can provide additional evidence for victim-survivors to establish that family violence is occurring.

However, No to Violence advises some caution when using this technology, due to the potential for body-worn cameras to contribute to misidentification of the predominant aggressor. We encourage Victoria Police to seek consultation from specialist family violence service providers to guide their use in responding to family violence. No to Violence is interested in participating in these consultations, including those held in the process of conducting future evaluations of body worn cameras. We also recommend that any future evaluation of this technology is inclusive of the voices and experiences of victim-survivors.

Section 6: Referrals

No to Violence appreciates the emphasis in Section 6.1 on cross-sectoral collaboration as an integral part of a holistic response to family violence. In the same section, we also commend Victoria Police on noting that perpetrator interventions are an important focal point in breaking the cycle of family violence and ensuring the safety of adult and child victims.

In Section 6.1.2.1, No to Violence appreciates language that shows the disclosure processes are considerate of the nuances of family violence. For example, not sharing the location of victim and perpetrators to each other shows understanding of the often dangerous, complex, and coercive nature of their relationship.

In Section 6.2.2 No to Violence commends that the informal referral pathway process provides both the victim and the perpetrator with support services and encourages proactive contact.

It is also an important update that throughout section 6, it is evident that children who have experienced or witnessed family violence are viewed as victims in their own rights. For example, Section 6.3 on child safety explicitly states that children's wellbeing and safety are assessed separately to adult victims of family violence.

Section 6 provides comprehensive information on how Victoria Police addresses requests for information and how information is shared under applicable information sharing schemes. However, limited guidance is provided on the processes used when specialist family violence services share information with the police. Feedback from No to Violence's Men's Referral Service suggests there is currently no clear process for sharing information with Victoria Police, as the process appears to vary depending on the individual officer or station consulted. We advise including a comprehensive guide on the standard steps police officers should take when approached by a specialist family violence worker for the purposes of information sharing.

No to Violence also encourages a careful review of Section 6.1.1., where it is stated that the Family Violence Information Sharing Scheme and Child Information Scheme "enable Victoria Police to refer and share information with specialist family services, regardless of whether informed consent has been obtained from the victim or the perpetrator." We are concerned that this section of the Code may not reflect practice guidance included in the Multi-Agency Risk Assessment and Management (MARAM) Framework around victim-survivor consent. No to Violence encourages that Victoria Police double-check whether the Code reflects what is outlined in the MARAM Framework, and whether they are obligated to collect informed consent from victim-survivors prior to information sharing.

Section 6.3.2 outlines that police have an obligation to report to Child Protection any child that is at serious risk of, or needs protection from, physical and sexual violence. This limits the prerequisites of mandatory reporting to physical evidence of experiencing harm, such as injuries and evidence of physical or sexual abuse. Participants from No to Violence's consultations on coercive control strongly assert that abuse should not be viewed as a hierarchy, where physical and sexual abuse is at the top. No to Violence recommends that precursors to mandatory reporting place the same importance on other presentations of coercive control, such as psychological, financial, emotional and verbal abuse, as well as physical and sexual abuse.

No to Violence would also like to address that the distinction made between 'informal' and 'formal' referrals in Sections 6.2.1 and 6.2.2 requires further clarification. We recommend

greater transparency around how Victoria Police determines which type of referral is suitable for a family violence case, and more detail on the criteria and processes associated with the two types of referrals.

Section 7: Family Violence Related Homicides

No to Violence would like to note that the language used in Section 7.1 does not reflect the language conventions used in previous parts of the document. In particular, the terminology “victim and any children” does not recognise children as being victim-survivors of family violence in their own right. Instead, we suggest that this section should instead read “adult and child victims of abuse” to better honour these experiences and align with the Code’s previous phrasing.

Section 7 requires further contextualisation: while Section 7.1 states that Victoria Police are committed to “holding the perpetrator to account”, the processes by which this accountability is enforced are not sufficiently detailed or transparent. We suggest that Victoria Police provide a short summary of what these processes entail within this section, including for instance details of the Men’s Referral Service, as an after-hours service that engages with men and holds them accountable following the issuing of an L-17.

Similarly, the contextual information provided in Section 7.1 must better explain how the escalation of family violence can and does lead to homicide. No to Violence feels that it is important to include this contextual information because Australia’s police forces have historically struggled to identify and respond to patterns of abuse and coercive control that have pre-empted the murder of victim-survivors. For example, some victim-survivors experience no forms of threatened or actual physical violence in the lead-up to their murder.

There are additional known risk factors for family violence homicide that should be acknowledged in any description of its context. It is well recognised in the specialist family violence sector that victim-survivors are most at risk of being killed by their perpetrator during the following circumstances:

- During separation
- When they have experienced non-fatal strangulation by their perpetrator
- When the perpetrator has access to weapons such as firearms
- When the victim-survivor is pregnant
- When the perpetrator is engaging in stalking or other controlling, jealous or obsessive behaviours

No to Violence advises that instead of referring to family violence related homicide as happening only “in the most extreme and tragic of cases”, Victoria Police amend this section to reflect the complex contexts of family violence homicides and the frequency of their occurrence. According to national statistics recorded by the Australian Bureau of Statistics, there were 145 victims of family and domestic violence (FDV) related homicide recorded

nationally in 2020 (one murder every 2.5 days), with 36 homicides taking place in Victoria alone (one murder per 10 days). No to Violence includes this statistic to highlight that family violence homicides, while tragic, are neither uncommon, nor are they always preceded by 'extreme' circumstances.

We advise that this current description is removed, and replaced with factual information that recognises:

- Current statistics on family violence homicides in Victoria, and Australia more broadly
- An explanation of how the escalation of abusive behaviour can lead to family violence homicide, including emphasis on circumstances where physical violence or threats are not apparent
- An overview of the most high-risk periods for domestic violence homicides

In Section 7.1.1., No to Violence recommends a brief explanation of how presenting risk factors will be assessed in the Death Notification Report, or adequate signposting if the risk assessment process is outlined in another part of the document.

Regarding Section. 7.1.2, we noted that the Family Death Assessment includes analysis of "proactive engagement with the perpetrator to reduce likelihood of repeat attendance". At this time, it is unclear what is meant by the term "proactive engagement". No to Violence advises that examples are included to clarify what direct actions are taken by attending officers, such as providing referrals to men's specialist family violence services or specific criminal sanctions.

We also recommend similar clarification of what is meant by "engagement with agencies external to Victoria police", especially if this refers implicitly to services that provide support to victim-survivors and perpetrators.

Section 8

No to Violence notes that the list of services provided in Section 8 are comprehensive, and we commend the inclusion of services specific to First Nations, multicultural and LGBTIQ communities, and services aimed at children, older people and perpetrators of abuse. However, there are still areas of this section that require some improvement.

Specifically, we recommend the inclusion of a placeholder entry for the soon-to-be implemented Orange Door service in Western Melbourne. No to Violence and its members believe it is important to reference this as services will commence in 2022. We recommended linking to the Orange Door [Find A Service Near You](#) web page, with placeholder text to read "The Orange Door in Western Melbourne. Services will be commenced in 2022". This placeholder should be updated as soon as possible once this service goes live.

In Section 8.2 on state-wide and national services, we recommend that these services are separated into further sub-categories to ensure the correct referral information is easier to

find. We suggest organising services by separating them into distinct groups of individuals seeking help, such as:

- Adult victim-survivors
- Children and adolescents who are victim-survivors and/or perpetrators
- Perpetrators of violence
- Aboriginal and Torres Strait Islander people
- People from migrant or refugee backgrounds, including people on temporary visas
- LGBTIQ people
- People experiencing elder abuse

Importantly, No to Violence and our members who were consulted in the authoring of this submission have noticed a specific absence of services that provide support to people with disabilities. In Section 8.5, which currently contains details of interpreter services for clients who are not fluent in English, we advise adding contact details for interpreter services for people whose ability to communicate is affected by their disability (e.g. someone who is Deaf or hard of hearing). Examples of what services should be referenced include:

- The [National Relay Service](#), which provides a relay officer to assist people who are Deaf, hard of hearing or who have a speech impairment and need to communicate over the phone.
- [Auslan Connections](#), which provides access to Auslan interpreters in after-hours emergency situations, involving police and hospitals.

We also recommend that Section 8.5 include sub-sections to signpost multilingual interpreter services and services for people living with disability, instead of creating confusion by grouping these services together.