



FORCE CIRCULAR MEMO

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Legislation and Policy Division
Research and Development Department
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These guidelines are issued pursuant to the powers of the Chief Commissioner under the Police Regulation Act 1958 and in the exercise of his Office under the Public Service Act 1958.

They will remain in force until 31 December 1993 unless earlier revoked or incorporated in Standing Orders or the Police Manual.

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**PROTOCOL FOR INVESTIGATION OF CHILD ABUSE
AND RELATED CRIMINAL OFFENCES**

Introduction

1. From 18 March 1992 a statewide "single track" system commenced whereby Community Services Victoria (CSV) assumed the role of lead agency for child protection.
2. Police are still legislatively empowered to initiate Protection Applications and so have a responsibility to act in urgent cases. However, Protection Applications should not normally be taken out except in consultation with CSV.

Protocol

3. A comprehensive set of guidelines have been co-produced by CSV and CPS Co-ordinator's staff. These guidelines form a protocol that has been agreed to and signed by Assistant Commissioner (Operations).
4. Members who become aware of a child in need of protection or that possible criminal offences have occurred which would render the child in need of protection are to follow the guidelines in the protocol. The Protocol has been re-produced as **APPENDIX A.**

Advice.

5. Members requiring assistance or advice should contact their local CPS or the CPS Co-ordination office on telephone (03) 655 9339/9341.



John Frame
DEPUTY COMMISSIONER (Operations)

APPENDIX A

PROTOCOL BETWEEN COMMUNITY SERVICES VICTORIA (CSV)

AND VICTORIA POLICE IN REGARD TO

PROTECTIVE SERVICES FOR CHILDREN AND YOUNG PEOPLE

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**PROTOCOL BETWEEN COMMUNITY SERVICES VICTORIA (CSV)
AND VICTORIA POLICE IN REGARD TO
PROTECTIVE SERVICES FOR CHILDREN AND YOUNG PEOPLE**

1. INTRODUCTION

This protocol has been agreed to by Community Services Victoria and Victoria Police. It has been established to provide guidance for CSV workers and police where joint investigations are required where criminal offences are present in relation to the maltreatment of children and young people.

This Protocol is based on the principle that the welfare of the child is paramount.

1.1 CSV Mission Statement for the protection of children and young people.

Protective services are provided to children and young people and their families in order to protect children and young people from significant harm resulting from abuse and neglect within the custodial family unit.

Protective Services for children and young people are based on the principle that, generally speaking, the best protection for children is within the family. A broad range of services provided or funded by Community Services Victoria aims to strengthen families so that children can develop within a safe physical and emotional environment.

Where a child/young person is thought to be at risk within the family, Protective Services in the first instance will, in accordance with the law, take every reasonable step to enable the child/young person to remain in the care of his/her family by strengthening the family's capacity to protect him or her. In some cases this may entail removal of the perpetrator.

Where, even with support, a child/young person is not safe within the family, Protective Services will intervene and remove the child/young person until the parents are able to resume their custodial responsibilities and provide adequate care and protection.

1.2 Defining child abuse and neglect.

Practice Definition Child maltreatment is any act of omission or commission by parents or caregivers which endangers a child/young person's physical or emotional health or development. By definition, the injury or harm is not an accident, but neither is it always the intention of the caregiver of the child/young person to inflict harm or injury. The specific definitions of maltreatment which would involve CSV reporting the matter to the police for possible criminal investigation are outlined in Section 5 of these protocols.

1.3 **Protective intervention.**

The legislation directs that:

- *"intervention into family life should be to the minimum extent that is necessary to secure the protection of the child". C&YP Act S 87 (a)*
and
- *"all reasonable steps (must be) taken by the Director-General to provide the services necessary to enable the child to remain in the custody of his/her parents". C&YP Act S 86 (2)(b)*

It is only when, despite the above, the child continues to be at a "significant risk of harm" that protective intervention through the Children's Court is warranted. Such intervention is an option of last resort.

1.4 **Adolescents at risk**

The protective grounds of the *Children and Young Persons Act* specifically direct protective workers to assess and respond to the harm or likely harm to the young person, not to the young person's behaviour per se.

It is only when the young person is at "significant risk of harm", that protective intervention through the Children's Court is warranted.

2. **TRAINING**

2.1 Victoria Police and CSV agree to co-operate in relation to training in order that both services gain a mutual understanding of philosophies, policies and methods of operation.

2.2 As part of such co-operation between the organisations:-

- Members of the Community Policing Squad may spend time participating in the work of CSV Protective Services in their district.
- CSV Protective Workers may spend time participating in the work of the Community Policing Squad in their region.

Details of such exchanges will be worked out at the local level between the Officer-in-Charge (Community Policing Squad) Victoria Police and CSV Manager (SOC-4) of Protective Services.

3. **INFORMATION EXCHANGE**

3.1 **Access to Victoria Police Information Bureau of Records (IBR)**

CSV Protective Services workers will, from time to time, require information on whether criminal records exist in relation to notified families and potential caregivers. This information is necessary for consideration of worker and placement safety issues which sometimes arise as well as in cases for which histories of violence or past criminal behaviour are particularly pertinent to the assessment.

All SOC-3 level officers at CSV regional centres will be authorised to request and receive IBR information.

- 3.2 Members of Community Policing Squads may contact regional CSV Protective Services to ascertain from relevant records whether the program has had involvement with certain families and relevant information pertaining to such involvement.
- 3.3 CSV Protective Services workers may contact the appropriate Community Policing Squad to ascertain whether certain notified families have been known to them and any relevant information pertaining to such involvement.

4. REFERRALS OF CASES OF CHILD MALTREATMENT BY VICTORIA POLICE TO CSV

- 4.1 Child Protective Services are delivered as a welfare based system by CSV.
- 4.2 Police, if receiving a direct referral of a child/ young person considered in need of protection for reasons outlined in Section 63 of the *Children & Young Persons Act (CYPA) 1989* will direct the notifier to CSV Protective Services. Police will also contact CSV, with details of the notification. The notifier must be told that this will happen. CSV will then deal with the notification and assess what action is required.
- 4.3 If police receive a referral of child abuse where a criminal offence may also have occurred, police must notify CSV Protective Services of the referral immediately so that both agencies can plan their investigations, prior to any visits to the family. Planning should include clarifying relative priorities and need for information sharing. See also Section 6 of this protocol, for specific details about planning.
- 4.4 If police, are unsure of the need to refer a matter to CSV Protective Services, they shall notify Protective Services immediately they receive information. CSV will then deal with the notification and assess what action is required.
- 4.5 Critical Protective Cases Police are legislatively authorised to apprehend a child or young person but shall do so only when the child/young person's well being is under immediate and serious threat. Such action must be limited to those situations in which police judge that the time involved in organising a welfare protective response would leave the child/young person at unacceptable risk of harm.
 - 4.5.1 Any member of the Police Force who apprehends a child or young person due to protective concerns is required under Section 68 (1) (a) of the *CYPA 1989* to make a Protection Application to a children's court.
 - 4.5.2 The police member shall inform CSV Protective Services of the apprehension and Protection Application as soon as the child is removed from danger. This will enable information sharing and place the CSV Protective Service in a better position in the event of the court requesting dispositional advice.

- 4.6 Non Critical Protective Cases Where urgency considerations are not overwhelming, situations shall be dealt with by police notifying CSV Protective Services of the situation. CSV will assume responsibility for the protective investigation.

5. REPORTING OFFENCES TO POLICE

- 5.1 Where reasonable grounds exist for believing that a child has been sexually assaulted or where significant harm as a result of physical injury has occurred, CSV Protective Services must report the matter to police immediately for possible criminal investigation. This requirement ensures the separation of the response to possible criminal actions of parents/caregivers from the welfare response of Protective Services.
- 5.2 Actions which can cause significant harm through physical injury include hitting, throwing or shaking, suffocation, strangulation, poisoning and mutilation. Significant harm as a result of physical injury includes haematoma, internal injuries, dislocated or broken bones, severe bruising, welts or burns.
- 5.3 Action constituting sexual assault includes sexual penetration, sexual molestation including sexualised touching and indecent exposure, and sexual exploitation; associated harm includes internal injuries and sexually transmitted diseases, and long term disruption to the psychological health of the child.
- 5.4 Where either of the criteria in 5.1 is met, the reporting of matters to police must occur upon acceptance of the notification and prior to Protective Services interviewing any family members. The purpose of this discussion is to assist both agencies plan any necessary investigations including clarifying relative priorities and need for information sharing, taking into account the longer term interests of the child or young person (see also Section 6 for specific details regarding planning).
- 5.5 In the apparently more minor instances of physical injury as a result of physical abuse, an indication of the need to report to police would be where the injury requires, or would have required, some degree of medical attention or where a series of injuries has occurred over a period of time.
- 5.6 In cases where it is unclear as to the extent of the abuse police may give consideration to CSV visiting alone to make an initial assessment. If this occurs CSV must immediately report back the information obtained to the police.
- 5.7 Where a Protective Services worker, in the course of investigating some other matter, becomes aware that either of the criteria in 5.1 is met, they must advise police immediately.
- 5.8 A CSV Protective Services worker does not have the responsibility of determining whether or not any criminal offence has occurred. It is the worker's responsibility to alert police to the situation, immediately a worker suspects a criminal offence has occurred, so that police can determine whether or not an offence has occurred and what criminal investigation response is necessary.
- 5.9 A criminal offence is likely to have occurred if a case clearly involves the failure to protect a child from significant harm as described in Sections 261 & 262 of the CYPA.

- 5.10 CSV and police must take care to ensure that they do not make commitments, agreements or arrangements about the likely actions or role of the other agency.

6. MEDICAL EXAMINATION

- 6.1 Where either police or CSV Protective Services believes a medical examination is required in cases outlined in 4.3 or 5.1, it is preferable that the examination is conducted by a full time medical doctor from the Police Forensic Medical Office or a paediatrician from the Royal Children's Hospital or Monash Medical Centre.
- 6.2 CSV Protective Services or police must contact the other agency prior to proceeding with the medical examination to enable both child protection and criminal investigation matters to be taken into account.

7. COOPERATIVE PARALLEL INVESTIGATION

- 7.1 CSV and Victoria Police must work together cooperatively and flexibly to manage both the protection and criminal aspects of investigations concerning children and young people. CSV have responsibility for Child Protection. Victoria Police have responsibility for criminal investigations.

7.2 **Investigation of the notification where both CSV and police are involved**

Good preparation and detailed liaison are essential. CSV and police must have contact with each other, on the same day the notification is received to plan the investigation.

Planning must include:

- * who to interview.
- * where to do interviews.
- * when to do interviews.
- * who should be present during interviews.
- * when the alleged non-offending parent should be first contacted/formally interviewed.
- * when the alleged offending parent should be interviewed.
- * what areas each will want to cover in the interviews.

- 7.2.1 The child or young person should be interviewed within 24 hours of the notification being received. This time period should only be exceeded if the child's immediate safety is not an issue.

Negotiation between CSV and police regarding the timing of the investigation should be based on the principal that the child's safety is paramount.

- 7.2.2 Where a time frame and investigation plan have been jointly agreed to, neither agency should deviate from this without discussing it first with the other agency.
- 7.2.3 If either CSV or the police are unable to attend the arranged interview within the initial negotiated time frame, subject to further negotiation, either service can attend without the other. Immediate liaison between the services must occur following this.

7.2.4 Ongoing mutual liaison between CSV and police must occur throughout the investigative process. Each agency must keep each other informed of their current and proposed future actions in relation to the child protection and criminal matters.

7.2.5 If after a joint investigation no criminal issues are indicated police involvement is then terminated.

7.3 The child/young person

Planning between CSV and police for the interviewing of the child or young person should be based on the principles of:

- minimisation of the number of times a child is interviewed.
- maximisation of the child's welfare.

7.3.1 To reduce the need for the child to be submitted to multiple interviews and interviewers, where possible joint interviews should occur involving only one police member and one CSV Worker.

7.3.2 There are 3 main stages in the investigative process. These are:

1. Establishment of rapport between the interviewer and child;
2. Eliciting details of the abuse;
3. Termination of the interview and reassurance of the child;

7.3.3 The interview should be fully and exactly recorded in writing or by tape recording. The use of videotaped interviews is supported.

To strengthen the chances of criminal prosecution, the police must record the child's statement of complaint. The CSV Protective Services Worker is not to question the child or young person during this part of the interview whilst statement of complaint is being taken, unless requested to do so by the police Officer. Counselling and support should be offered to the child as a routine.

7.4 The alleged non-offending parent(s)

In the longer term interests of the child, involvement of the alleged non-offending parent(s) should occur as early as possible, taking into consideration their role in the abuse and the likelihood of them informing the alleged perpetrator of any information.

7.4.1 If the parent(s) have not been present for the interview with their child, the CSV worker and police must immediately interview the alleged non-offending parent(s). Where possible this interview should be a joint one between CSV and police. If a police officer is present the evidentiary part of the interview should be recorded by them in the form of a written statement and signed.

If police are not present during the interview the CSV Protective Worker must contact the police as soon as possible to inform them of information obtained during the interview in relation to the abuse.

- 7.4.2 The parent(s) ability and willingness to protect the child must be assessed and is the responsibility of the CSV Protective Worker.

Support and information should be offered and a referral made, if appropriate, for counselling.

7.5 Interview of the alleged offender

- 7.5.1 Initial contact with the alleged offender should be made as soon as possible, and in a manner determined by the police officer.

- 7.5.2 Because of evidential requirements, the police officer alone must conduct the interview with the alleged offender, unless it is negotiated that the CSV protective worker be present during the interview.

- 7.5.3 Prior to the police interviews the designated Protective Services Worker should avoid any discussion with the alleged offender about the incident. However, it is acknowledged that at times it is necessary for CSV to have contact with the alleged offender particularly if the child has been removed. In this situation discussion between CSV and police must occur to determine how any contact with the alleged offender can be managed without jeopardising the criminal investigation.

- 7.5.4 Immediate liaison between police and CSV should occur after the alleged offender has been interviewed by police if the CSV worker was not present and needs to cover the following areas:

- what was the alleged offender's response to the allegations?
- is the alleged offender to be charged: if so with what?
- if so, is he/she to be bailed or kept in custody?
- if bailed, to where and under what conditions?
- does the alleged offender have relevant previous convictions?

7.6 Protection of the child

- 7.6.1 Where the alleged abuse has occurred within the family and where it is established that the non-offending parent(s) is in support of the child or young person, and where it is deemed necessary to separate the offender and victim, every effort should be made to remove the offender from the home rather than the child or young person eg. Restraining or Intervention Order.

- 7.6.2 In some circumstances a temporary, removal of the child or young person from the home, may be appropriate for stabilisation, assessment and/or protection. Where the non-offending parent(s) is supportive and when removal for protection is no longer required, the child or young person should be returned home as soon as possible.

7.7 Disputes regarding the timing of Investigations.

Where the police request a deferment of the protective investigation the protective worker has a responsibility to assess the likely impact of the deferment on the child and to advise the police accordingly. In cases where the protective worker decides that immediate protective intervention is required, and a deferment thus not acceptable, he or she should inform the police of this decision and of the reasons why protective intervention is considered urgent.

7.7.1 If a dispute arises in relation to the timing of the protective or criminal investigation and the protective worker and police officer can not reach agreement, the following procedure is to be adopted:

- a) the protective worker discusses the case with the senior protective worker;
- b) the senior protective worker discusses the issue with the Officer-In-Charge of the police unit involved.
- c) If agreement is not reached at this level, the senior protective worker discusses the case with the Regional Director CSV, who will liaise and negotiate with the District Superintendent of Police.

The outcome of this procedure must be recorded on the case file. Throughout this process the principle that "the welfare of the child is paramount", must be adhered to.

7.8 **Bail Justices.**

In accordance with Section 69 (5) of the *CYPA 1989* families must be informed of their right to go before a Bail Justice for an Interim Accommodation Order hearing if their child is removed, and the matter is unable to be brought before the Children's Court within 24 hours.

7.8.1 If police are involved in relation to criminal matters, there is a need for close coordination between CSV and police to ensure solid evidence for Interim Accommodation Order hearings.

7.8.2 CSV will make every attempt not to release information in an Interim Accommodation Order hearing that will detrimentally effect police proceedings.

8. **WARRANTS**

8.1 The two main areas where Warrants may be required are for the apprehension of a child/young person under the supervision or guardianship of the CSV Director General and where a Protective Services worker must enter a premises in order to apprehend the child/young person *C & YP Act* S 69 (1)(b). Procedures for the issuing of Warrants for apprehension of a child/young person under the Director General's guardianship have been developed (see Section 6.1.3 of the CSV Interim Practice Manual). The issuing of a Warrant is a very serious matter and is not to be used purely to effect the transportation of children/young people to a placement, unless there are specific security issues.

8.2 Procedures for obtaining and executing a Warrant under Section 69(1)(b) and (2) *C & YP Act*.

- **Before seeking this Warrant from a magistrate** the Protective Services worker must contact the local Community Policing Squad to discuss the situation and ascertain the name of a member of the Community Policing Squad who will accompany the Protective Services worker and execute the Warrant.

- If no member of the Community Policing Squad is available, then the Community Policing Squad will assist the Protective Services worker in arranging for a member from another squad or station to accompany the worker and execute the Warrant.
- After hours contact, when members of the local or central Community Policing Squad are not on duty, will be made through Police Communications D.24.
- Upon execution of the Warrant, the Protective Services worker will transport the child, lodge the Protection Application and arrange for the placement of the child. Police assistance may be requested in situations where there are specific security issues.

8.3 Every entry into a premises must be planned, and the Protective Services worker must fully consider the circumstances of the case before contacting police to discuss the possibility of seeking authority to enter. Internal police instructions require that certain information is gathered and issues examined prior to the execution of a Search Warrant. In effect, the Protective Services worker will need to provide information to police to address the following questions:

- a) Is it necessary to enter the premises or could the child/young person be apprehended elsewhere?
- b) What are the likely risks involved in entering the premises (Including details of any prior history of violence, presence of firearms, and any other indications concerning the degree of resistance which may be expected.)
- c) What is the most appropriate time to enter the premises? (With a view to minimising any resistance and achieving the desired outcome.)
- d) Is the address of the premises correct? (If unsure, police may be required to take verifying action of their own.)
- e) Given all the circumstances of the case, including the difficulties and risks involved in conducting the search, is the Warrant necessary?

8.4 Prior to any entry into a premises which requires police attendance (with or without a warrant), police members will comply with the requirements of the appropriate Force Circular Memo.

The safety and welfare of the public, police, Protective Services workers and the child/young person is paramount. To that end, police have full control and responsibility over every entry into premises which requires police attendance.

9. CONSULTATION BETWEEN VICTORIA POLICE AND CSV

9.1 Victoria Police have knowledge and experience in criminal law and the legal system and can provide advice to CSV Protective Services workers. CSV Protective Services workers also have access to lawyers outposted to CSV from Victorian Government Solicitor's Office.

10. POLICE ASSISTANCE

- 10.1 Where there is a threat of physical violence, or in other extreme circumstances, CSV Protective Services may request the assistance of Victoria Police to accompany the Protective Services worker. Victoria Police will endeavour to provide such assistance.

11. AFTER HOURS SERVICE

- 11.1 The After Hours Protective Service is an extension of the protective services for children and young people provided in normal office hours by CSV through its regional work units.
- 11.2 Police will notify the After Hours Protective Service to discuss any case where a child or young person is considered at significant and immediate protective risk outside of normal office hours. CSV will assume responsibility for managing the protective aspects of the situation and will determine what action is required.

12. REQUIREMENT UNDER SECTION 261(2) & 262 (2)(b) C & YP Act 1989.

- 12.1 Under the above sections of the C & YP Act before proceeding with charges against parents for child maltreatment and neglect, police are required to consult with the Director-General, CSV.
- 12.2 Accordingly, the Director-General's function under Sections 261 & 262 has been delegated to the Manager, Protective Services (SOC-4) in the 13 regions.

Procedures to be followed are:

- When making a charge under Sections 261 and 262, OICs of Community Policing Squads will forward a copy of the relevant information to the appropriate Manager, Protective Services (SOC-4).
- In cases of an urgent nature, consultation may take the form of verbal advice.
- The Manager, Protective Services (SOC-4) will conduct an investigation of the ramifications for the child and family of the charge, and reply in writing to police within 14 days indicating his/her opinion regarding the prosecution.
- The decision to prosecute rests with Victoria Police.

13. COMPLAINTS

- 13.1 Procedures for the handling of complaints by one service about the practice of the other will be as follows:-
- In the first instance, the concern must be dealt with at the district/regional level.

- Only if the problem cannot be resolved at the district/regional level, should the matter be referred higher.
- Depending on the nature of the complaint, contact will be made either verbally or in writing between the Manager of Protective Services (SOC-4) and the OIC Community Policing Squad.
- The aim of the contact will be resolution of the problems.
- If the problem cannot be resolved by the SOC-4 and OIC Community Policing Squad, the complaint shall be directed in either the CSV Regional Director or Police Superintendent.

- If the problem cannot be resolved by the CSV Regional Director and Police Superintendent, the complaint shall be directed to the Director, Protective Services for Children and Young People CSV or Co-ordinator of Community Policing Squads, depending on which party is aggrieved.
- The Director, Protective Services for Children and Young People CSV and Co-ordinator of Community Policing Squads will then decide on a course of action to resolve the problem.

(CRB File 51-493)
