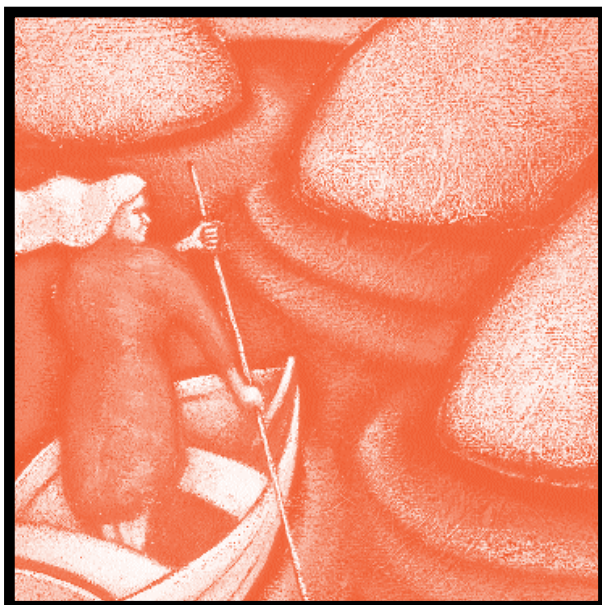


WOMEN & VIOLENCE



**WHAT YOU CAN DO IF YOU EXPERIENCE
DOMESTIC VIOLENCE**

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Acknowledgments

The author would like to thank all staff of the Domestic Violence Advocacy Service for their advice, support and suggestions in the writing of this publication. The author also acknowledges the work undertaken by the authors of *Domestic Violence: You don't have to put up with it*, last published by the Department for Women in 1996.

Disclaimer

This booklet does not provide legal advice. It only describes laws and legal services available. If you need legal help, you should seek legal advice. The publisher and author exclude liability for loss suffered by any person resulting in any way from the use of, or reliance on this publication.

Produced by the Department for Women for the State Management Group, Violence Against Women Unit, Attorney General's Department. Funding was provided by four member agencies of the State Management Group – NSW Health, the Department of Community Services, the NSW Police Service and the Attorney General's Department. A Steering Committee made up of representatives from these agencies, and the Department for Women, also contributed to the development of the booklet, thereby ensuring a whole of government approach.

First published April 2000

Online version updated October 2001, March 2002

Reprinted March 2002

ISBN 0 7310 5237 4

ISBN 0 7310 5264 1 (PDF on-line version)

Contact the Department for Women for copyright information.

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Printed and bound in Australia by Pirie Printers, Canberra ACT.

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Part One – Domestic violence and you

About this booklet

Many women experience domestic violence in their relationships. Domestic violence can occur in marriage, de facto, and other relationships. It is often very difficult to talk about your experiences because you may feel ashamed, afraid or worried that no one will believe you.

This booklet helps women who are victims of domestic violence. It tells you:

- what domestic violence means
- who domestic violence happens to
- myths about domestic violence
- how to get legal help
- what happens at court
- accommodation and financial assistance

The booklet looks at how women feel when they're in abusive relationships and what their options are, both legal and non-legal. This booklet also lists the agencies that can help you or someone else you know who is in a domestic violence situation.

Use of interpreters



You may need the help of an interpreter. You can do this through contacting either the Ethnic Affairs Commission or the Telephone Interpreter Service (see Contacts list at the end of this booklet).

What is domestic violence?

Domestic violence occurs in lots of relationships. It can include a range of acts, not just physical violence. Domestic violence includes emotional, financial, social, sexual and physical abuse. It occurs in all kinds of cultures, races, backgrounds, income levels and age groups.

Domestic violence is behaviour that is used to control and intimidate someone.

This booklet refers to offenders as 'he' and victims as 'she'. This is because domestic violence is usually by men against women. Sometimes, women in lesbian relationships are violent towards their partners; sometimes men in gay relationships may be the victim of domestic violence in their relationship. But most acts of domestic violence are committed by men against women.

Domestic violence may include the following sorts of behaviour:

Physical abuse

This can include many things such as pushing, kicking, hitting, punching, throwing objects, using and threatening to use weapons, inflicting burns and or other injuries.

Sexual abuse

This includes any sexual act or behaviour that is forced upon you or that you don't consent to – for example, being made to have sex when you don't want to, performing humiliating acts, having pain inflicted upon you during sex, or being forced to view pornography.

Psychological abuse

This behaviour can cause you to live in constant fear. It includes living with constant put-downs, often in front of the children, other family members or friends. It includes being told that you're fat, ugly, lazy, stupid, a bad mother and a lousy housewife. It may include threats to hurt the children or your pets, or destroy your favourite possessions. It includes threats to take the children if you do anything about the situation, or to stop them seeing you if you leave.

Social abuse

Your partner may keep you from seeing your friends and family. He may also tell you that you're not allowed to visit anyone at all. If you try to, you're made to feel guilty. Social abuse includes constant questioning about where

you've been, and why it took you so long to go to the shops. Some men lock their partners at home all day while they go to work. Others constantly check phone messages and bills or even disconnect the phone altogether. Or he may stop you from practising your religion or socialising with your cultural group.

Financial abuse

This includes your partner taking control over financial affairs to the point where you have no money for yourself. It includes being asked constantly what you've spent and why. Your partner may insist on keeping receipts of everything you've purchased. It includes opening your mail to check your bank statements and then asking you about them. It also includes not being given sufficient grocery money so that you can buy enough food for the family and yourself. Often women are told that if they leave, they'll get no money.

Harassment, stalking and intimidation

Harassment includes making lots of phone calls to you when you don't want them, writing you letters that are threatening or 'love letters' when you've told someone you don't want to

Edith moved in with Mark soon after they started going out together. At first Mark was very kind to her. Then he started to tell her that she shouldn't go out or visit her friends. If she did he would punish her by locking her in the house when he left for work. Sometimes he would give her no money to live on. If she asked him for money he would shout at her and tell her she was only interested in his money. He also told her he would send her back to the India if she didn't do what he said. One day when Mark was out, Edith phoned a friend of hers who told her about an Indian worker at the local women's health centre. Edith rang the centre and organised to see the worker to talk about her problems with Mark. Just talking to someone made her realise that she wasn't the one to blame for Mark's behaviour. She realised that Mark's behaviour was domestic violence.

see him. He might tell you what you wore to work today and where you went for lunch. Stalking includes following you around, including when you go to work or waiting for you at places he knows you'll go, like the train station. He might just wait outside your house for you but say that he's visiting friends. Intimidation includes harassment and also behaviour that makes you fearful. He might send you photographs and threaten to send them to other people; he might slash your tyres or damage your property. He might threaten to hurt friends who are helping you to get away from him.

How serious is the problem of domestic violence?

Domestic violence is a hidden problem within Australian society. Nearly one in four women experience violence in a marriage or marriage-like relationship.¹ It is also estimated that each year the cost of domestic violence is \$8.1 billion in Australia.²

Who does domestic violence happen to?

Domestic violence is the most common form of assault in Australia. Women are most often the victims. Lesbians may also be subject to domestic violence from their partners. However, it is a fact that most domestic violence is done by men. A recent survey indicated that nearly one in four women in married, de facto or other intimate relationships experience violence at the hands of their partners or former partners. Most men who are violent to women are not violent to other people, such as their friends or work colleagues.

A great deal of police time is spent on domestic violence. We also know that domestic violence may worsen over time.

Feelings about domestic violence

Lots of women feel unable to speak about the situation they're in. They think no one will believe them. Often women are told that if they speak out

1 Australian component of the International Violence Against Women survey (IVAWS), 2003

2 Access Economics Pty Ltd, The Cost of Domestic Violence to the Australian Economy: Part 1 and Part 2 (Statistics for 2002-03)

people will think they're lying. Women also spend a lot of their time hiding the abuse from friends and family. They might wear clothes to hide injuries and bruises. Sometimes they might not even tell the doctor how they got the injuries. Women do this for many reasons, often because they're embarrassed and feel ashamed.

Many women feel the abuse they suffer is their fault. They want to protect their children and think that keeping the family together is the best way to do that. They worry that their children will suffer if they leave. Women often believe the threats that they or their children will be hurt.

Everyone's experience is different. Each time, the man might apologise to you and promise that it won't happen again. He might give you presents to make up for his behaviour. He might give you chocolates or bring home flowers and tell you that he's going to change. You may believe that the man will change. Or you may know that he won't but are afraid to leave because of his threats. Sometimes your own family can tell you that you should stay with your man. They may have the attitude that 'you made your bed, you lie in it' and tell you that you shouldn't talk to the police about the trouble because the man will end up in gaol and that will split up the community.



You have the right to live in a safe and secure environment.

Sometimes it helps just to talk to other women in similar situations. Often women's health or neighbourhood centres run support groups for women in domestic violence situations. You can always find support at such centres from social workers and specially trained workers in domestic violence. It can be helpful just to discuss your situation with someone who won't blame you for your partner or ex-partner's behaviour. You may decide to get legal advice on the issue. There are community legal centres, legal aid offices and private solicitors who can assist you with this. It helps to know what your options are so that you can make your own choice about what you do. You may decide to do any number of things to help yourself. Your decision may include legal and non-legal options or a combination of both.



The effects of domestic violence on children

Children experience domestic violence in many ways. They may see it, be direct victims of it, be hurt while it happens to someone else, or hear it occurring while they are in the house. However it happens to them, children are severely affected by domestic violence in many different ways and must always be protected from domestic violence. The NSW Department of Community Services (DOCS) should be notified where there is a risk of immediate or ongoing physical and emotional harm to children. This includes when children witness domestic violence between their parents or other adults in the family.

Common questions about domestic violence

Women face many pressures when they are in a domestic violence situation. Some of these pressures are because of the many misleading ideas that exist in the community about domestic violence and its causes. These ideas or myths often blame women for the violence. Here are some common questions.

If a woman doesn't like it, why doesn't she leave?

Often women find it very difficult to leave. Many women leave and are coerced back by threats, promises and because the man says he'll die if she leaves him. So, the women then feel responsible for the person who's hurt them. For some women there are other things that stop them from leaving such as money, housing, shame, lack of faith in the legal and welfare system and fear of what will happen to the children. Some women feel the community will shun them if they leave.

Don't most women provoke violence?

Women usually do everything they can to minimise violent outbursts from their partners and ex-partners. Women should not be made to feel that they have to accept responsibility for the actions of a violent partner or ex-

partner. Men have to learn to accept responsibility for their own behaviour.

Isn't domestic violence caused by alcohol?

Domestic violence is about exerting power and control over someone. Many women say that alcohol was not even present when they were attacked. Drunkenness is no excuse for violent behaviour.

Isn't it just a cultural or religious problem?

Domestic violence happens in all cultures. Domestic violence is not an issue of someone's culture or religion, but their violent behaviour. Blaming culture is just an excuse.

If you are a woman from a non-English speaking background and you would prefer to talk to someone from your own culture, you need to ask where how you can access this sort of support.



Leila is hearing impaired and has been married to Bob for 25 years. Over the years, Bob used to tell her that she was useless and stupid. Leila went with her daughter to a women's support group at the local community health centre. The centre organised to speak to Leila through an Auslan interpreter. The social worker told Leila about protection orders and how they could help. Leila couldn't believe that there was help for her and that Bob's abuse was not her responsibility. Leila's thinking about using the court process if Bob's behaviour doesn't improve. She said just telling Bob that she would do something about the abuse had helped. His behaviour has actually improved.

Part Two – Domestic violence and the law

Violence between two people in a relationship is just as unacceptable as violence between strangers. Just because you have or used to have a relationship with someone doesn't mean it's acceptable for him to hit or abuse you.



If you need protection from violence and want to show the offender that his violence is unacceptable there are two ways to do this:

- you or the police can apply for an Apprehended Violence Order; and/or
- the police can lay criminal charges.

Apprehended Violence Orders (AVOs)

Domestic violence laws were made to ensure the safety and protection of all women and children who experience domestic violence.

AVOs are orders made by the court that protect you for the future. They basically tell the man what he is not to do. They can be made if you are worried that your partner or ex partner will assault, molest, harass, intimidate or stalk you. The court can make these orders even if the man has not been charged with a criminal offence.

AVOs do not give the man a criminal record. But, if he breaks the order then he can be arrested and charged, and may get a criminal record if he is found guilty.

Who can get an AVO?

Anyone over the age of 16 years can apply for an AVO. A person under the age of 16 years can be included on an adult's AVO if they are all at risk. Only the police can apply for an AVO for a person under the age of 16 years where they are the person in need of protection.

What do you need to prove to get an AVO?

The important thing to know is that you don't need to have been physically hurt to get an AVO. You need to prove that you are fearful of the man, and that your fear is reasonable. You may be fearful of the following:

- violence, such as assault; or
- harassment or molestation; or
- intimidation or stalking; or
- destruction or damage to your property.

If you are under the age of 16 or have an intellectual disability, the court only needs to believe that your fear is 'reasonable', that is, that any person in your situation would be scared.

What can an AVO do?

An AVO tells the man he is not allowed to do certain things. It tells him that he is not to stalk or intimidate you. An AVO can be made to suit your circumstances. You can have an AVO and still live with the man or you can have an AVO which tells him he is not allowed to contact you at all. For example it may tell the man he is:

- not to assault you;
- not to threaten you;
- not to go to your house;
- not to go to your work;
- not to contact or try to contact you;
- not to consume alcohol before seeing you;
- not to possess firearms.

You may have heard of an 'exclusion order'. This is another order which prohibits the man from living with you, even if you share a house which is in his name. If the man does not know where you live, it is possible to get an order which says he is not to go to any place where you may reside, without actually specifying an address. You can ask for your own orders to suit your needs. The magistrate will decide whether they are appropriate. If you have

orders made under the Family Law Act you must tell the magistrate before the AVO is made, so that he or she can decide whether the children's contact with their father should continue.

How to get an AVO

There are two ways to get an AVO. Either the police can take out an AVO for you or you can do it yourself through the chamber registrar your nearest Local Court.

Police taking out an AVO

If you call the police to attend a domestic incident they must take out an AVO on your behalf, unless they see there is a good reason not to. If the police decide not to take out an AVO for you, you may still apply for one through the chamber registrar. When the police apply for an order on your behalf, you are referred to as 'the person in need of protection' (PINOP). The person you are taking the order out against is referred to as 'the defendant'.

If you live in a rural area where courts don't sit often, or it is after hours or the weekend, you can ask the police to take out a temporary telephone AVO. These are called Telephone Interim Orders (TIOs). A

Debra is an Aboriginal woman. She and her partner Greg have two kids. Greg can be violent sometimes. He hits Debra and sometimes punches her. One day she was talking to a friend of hers who told her there was an Aboriginal women's group started up in town and that she should have a talk to them. Debra went and heard how the police could take out an AVO for her. There were lots of women just like her talking about their problems with their men and how to get help. One of the women suggested she stay for a while at the local women's refuge and talk to one of the workers there. Debra decided to go through with an AVO. Now that she has the AVO things have changed a lot. A lot of people in the community did support her, even the police. Her kids are happy now and Debra feels safer.



TIO lasts up to 14 days and will contain a summons for the man to appear in court on a certain day. The court will then consider the application for the AVO and decide whether or not to make a final AVO, or put off the case if necessary.

Applying for an AVO through the chamber registrar

If you require legal advice or information in relation to going to court, you may contact either the Domestic Violence Advocacy Service or the Department of Community Services Domestic Violence Line (see the Contacts list at the back of this booklet).

You may apply for an AVO yourself by going to your nearest Local Court and making a complaint to the chamber registrar. You should ring the Local Court first to see whether you can make an appointment to see the chamber registrar. If your situation is urgent the chamber registrar should make an appointment for you as soon as possible, sometimes on the same day. You may also like to take a friend or worker with you for support. If you need an interpreter you should tell the court staff so they can organise one for you when you visit the chamber registrar. Courts pay for interpreters for making complaints and for other court proceedings. Applying for an AVO is free.

When you talk to the chamber registrar about your experience the chamber registrar will write it down on an application called a complaint. Because you are the person making the complaint, you are referred to in the complaint as 'the complainant'. The person who you are taking the order against is referred to in the complaint as 'the defendant'. The complaint is then put together with a summons to make up your application. This complaint and summons is then given to (served on) the man by the police. Once this happens the case can be processed urgently, or in the usual way. Both processes are explained below.

Urgent/interim order

If you are scared that the man will become more violent once he finds out that you have taken action, you can ask to go into court immediately to

apply for an interim AVO. The chamber registrar will direct you to the courtroom where you need to speak to the magistrate about your fears. The magistrate will read your complaint and then you may be asked to give further evidence. Usually this is just for the magistrate to clear up anything the magistrate doesn't know or understand about your circumstances. You will be asked about what is happening, and about your fears of the man. The man will not usually know about the order and so will not be at court. If the magistrate is satisfied that it is necessary and appropriate in your case, then he or she will make the interim order. The order does not take effect until the police give (serve) a copy to the man.

The man will be served with a copy of the order and with the summons to come to court for the AVO. The first court date is usually 2 to 3 weeks from the day you see the chamber magistrate. You need to go to court on that day. If the man doesn't come to court on that day, you can still get an order in his absence (known as an 'ex parte order'). But it won't take effect until he is served with it – that is, until the police actually give him a copy of the order.

Usual AVO process

If you don't think it is urgent, then the chamber registrar will organise for a summons to be sent to the man, requiring him to come to court in the next couple of weeks. The summons is attached to the complaint. It is important to have the address of the man, or to know where he might be so that he can receive the summons and complaint. You can give the chamber registrar details of where he might be staying, where he works, or the pub, if he goes there a lot. The chamber registrar will then arrange for the summons and complaint to be given to (served on) the man by the police.

You will have to go to court on the date of the summons too. If the man has been served and doesn't show up to court on the day, you can get an AVO made in his absence (an 'ex parte order'). Just as with an interim AVO, this AVO doesn't take effect until he is served with it.

With both the interim order and the usual AVO process, if the man comes to court he can either agree to the order being made or ask for it to be set down for a hearing. Most of the time men agree to orders being made against them, because they can consent to the orders without admitting that they did anything wrong. If he does agree then both of you will need to go into court to tell the magistrate. The magistrate will ask the man whether he understands that he has to obey the order. The magistrate will then explain that if he 'breaches' – that is, doesn't obey – the order he can be arrested and go to gaol or be fined.

If the man hasn't been served with the summons then the case will be adjourned (put off to another day) to give the police more time to serve the summons. It is at this stage that it is important to give the police every possible address where he can be served. If the police can't serve him after trying a few times, the court may issue a warrant for his arrest to bring him to court.

If the man does not agree to the order being made then the case will be adjourned for a hearing. You will need to give evidence.

The hearing

A hearing of an AVO is when both you and the man give evidence in court before the magistrate. You may also have witnesses to help prove your case. There may be other evidence such as medical reports, photographs or even experts to give evidence on your behalf. Remember, evidence is just information that helps the magistrate make a decision about whether or not to make your AVO. It must be made under oath or by you giving an affirmation that it is true and correct information.

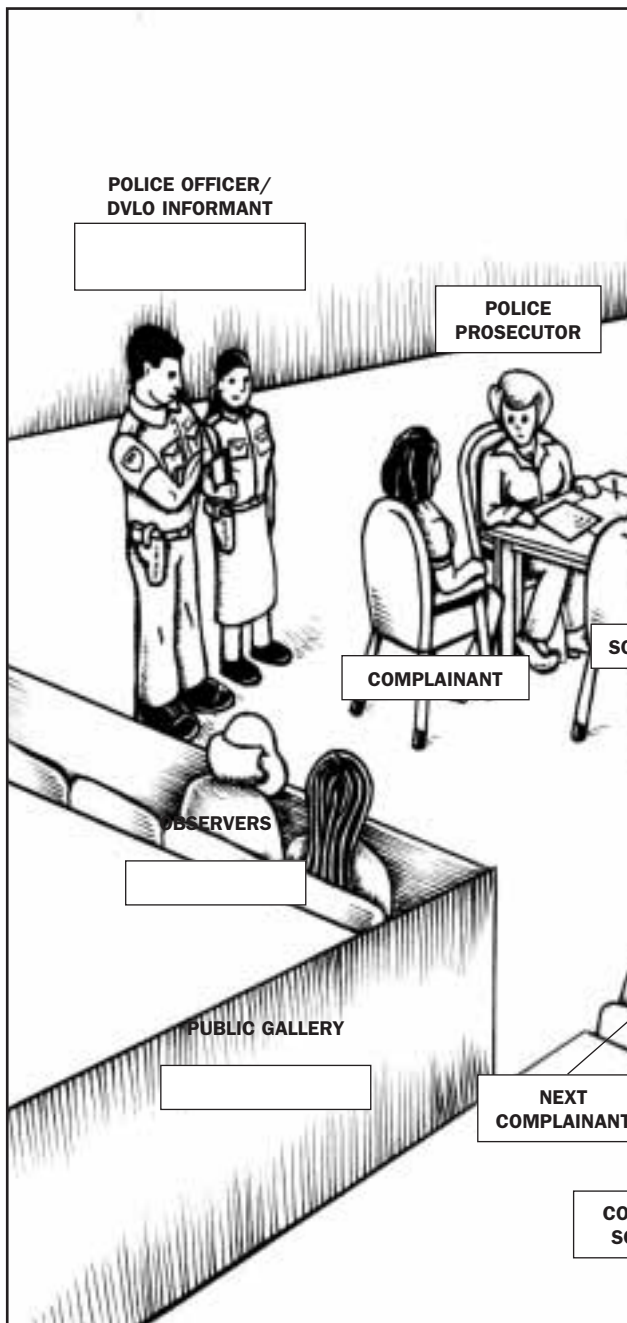
At the hearing of an AVO, you have the right to have a support person with you when you are giving your evidence. This person cannot be one of your witnesses, but they could be a relative or a friend, or a support worker. It is important to remember that your support person can't tell you what evidence to give, or remind you if you have left something out. But that

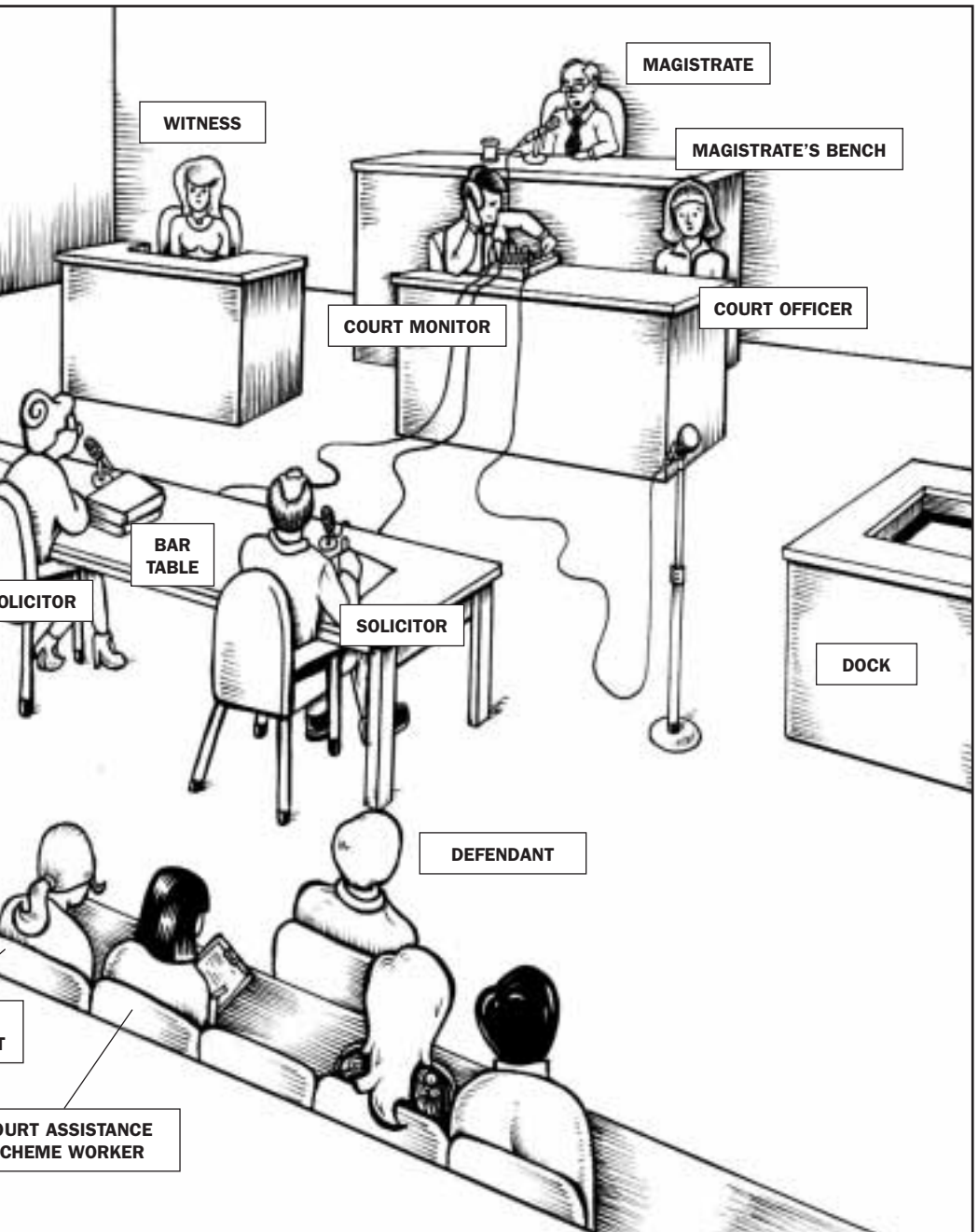
person can sit with you and that often makes giving evidence easier for some women.

The man will also have the right to a support person while he is giving his evidence, although he is not allowed to have his witnesses as support people. If, for some reason, you feel uncomfortable or unsafe with his support person, you can tell the police prosecutor, your lawyer or the magistrate and they will do what they can to make you feel more comfortable and safe.

There is no rule as to how long a hearing will take. That really depends on the number of witnesses both you and the man call. If you are successful in your hearing then you can ask for your witnesses expenses, including any reasonable travel and accommodation expenses. You might be able to claim your own expenses.

When it comes to give evidence, there will be a number of people in Courtroom. The magistrate sits facing the court. The following diagram shows an example of where people might sit.





Women's Domestic Violence Court Assistance Schemes

The NSW Government funds Women's Domestic Violence Court Assistance Schemes throughout the State. The schemes are set up to give women legal advice and support while they are at court. If you have applied for an AVO, you can use the scheme. The schemes sometimes have a separate room inside the courthouse for you to use while you are waiting for your case to come up, so that you don't have to wait in the same place as the man you're taking the order out against. You still have to go into the courtroom itself though. You should ask the chamber registrar at the Local Court if there is a scheme operating at your court.

After the order is made

When the court has finished with your case, the magistrate will send the papers into the court office so that the final order can be typed up. If the man was present in court he will be asked to sign the order. The order is considered as having already been served on the man

Dinh's husband verbally abused her on many occasions and threatened to strangle her. Dinh rang the local community legal centre, which organised an interpreter for her. The solicitor told Dinh about AVOs and how they could help her to protect herself. Through an interpreter that the court organised, Dinh told the chamber registrar that she didn't want to leave her husband, but that she didn't want him to abuse her or threaten her anymore. The chamber registrar told Dinh to come back to court in one week. He told her about the Court Assistance Scheme that could provide her with a solicitor and support worker on the day. He also organised a Vietnamese interpreter for her. The interpreter was waiting in the Court Assistance Scheme room for her. When Dinh went into the courtroom the magistrate told her husband that he had no right to bully and threaten Dinh just because she was his wife. The magistrate told her husband that the AVO didn't give him a criminal record, but that if he broke the conditions he could get one. Dinh's husband agreed to the AVO being made. The magistrate then made the AVO for two years.

because he was in the court room when it was made. If he wasn't in court when it was made then the orders will need to be served on him by the police. If he was at court both you and he will need to be given a copy of the order. However, you don't need to stay in the office with him. You can collect the order once he has gone, or you can ask the court to send it to you.

It is important that you keep a copy of the order with you at all times. If the man disobeys (breaches) any of the conditions on the order you can take your copy of the order to the police and tell them they should charge him. The court also sends the police a copy of the order. This information goes into the police computer records so that they know an AVO has been made against the man. All police in NSW have access to this information.

How long do AVOs last?

An AVO will last for as long as the court thinks is necessary. If the court does not state how long the order is to last, it will remain in place for six months. Most AVOs are made for either one or two years. The AVO will stop being in force if it runs out or is 'revoked' – that is, cancelled. You cannot do anything to prevent the order from being in force, unless you revoke it through the court. If you think you need help after the order has expired, you can apply to the court for another order. Even if you revoke an order, but find out that you again need protection, you can apply to the court again for another order.

Variation/revocation/extension

If at a later date you feel that you would like to change some of the conditions of the order, you should go back to the chamber registrar or the police. When you apply to change the conditions of the order, it is called applying for a variation of the order. If you don't want the order any more, you need to apply to revoke the order through either the chamber registrar or the police. When you make an application to change or revoke the order, you will need to tell the chamber registrar or the police the

reasons why you need the changes to be made. You will usually have to show there is some change in your circumstances since the order was made, for example, the defendant has moved to a house near where you live, you have got back together with the defendant, or you've started at a new workplace and he's been hanging around there.

The court process involved in these applications is similar to that involved in getting the order. You need to have the man served with the application to vary or revoke the order and then you both need to go to court to change or revoke the order. If he attends court, he can agree to the variation or the order being revoked, or he can ask for a hearing date. If he doesn't attend court and has been served, the magistrate can deal with your application while he's not there (*ex parte*).

If you think you might need to extend the order, you should see the chamber registrar to make an application to extend your AVO. You should do this at least 21 days before your original order is due to expire, but it's probably best to go about one month beforehand.

If the police are having difficulty serving the man, the magistrate can extend your order on a short term basis without the man being in court. This is called an interim *ex parte* extension, and it will need to be served on the man for it to be effective.

If you think you might need to extend the order you need to apply for an extension about one month before the original order is due to expire.

Protection from guns

If an interim order is made, the man will have his gun license suspended. If an AVO has been made on a final basis the man loses his gun license for ten years, and will not be able to apply for a new license for ten years. This is the case as long as the AVO has not been revoked. He is not allowed to be in possession of guns for ten years either. When the AVO is being made, if you are aware that he has guns, you should ask for a condition on your order to state that this is prohibited.

When the police attend a domestic incident they must ask whether any guns are present. If they think there are guns on the premises they can search for them with a warrant. Once they find any guns on the premises they have the power to take them away.

Child protection

Children can also get protection with an AVO. They may be included on your AVO, or the police may apply for them on their behalf. In fact, the police must make an application for an AVO for a child under 16 years of age when an act of domestic violence, or an offence of stalking, intimidation, or child abuse (Children and Young Persons (Care and Protection) Act 1998 S.227. has happened, or is likely to happen. There are no exceptions to this. You can also seek assistance from the Department of Community Services (DOCS), the Legal Aid Commission and community legal centres. Family support services are also available to help you protect your child from domestic violence. It is important to remember that children who experience domestic violence are always harmed by it and should always be protected from it.

There are also laws protecting a child's privacy during and after AVO proceedings.

Registration of interstate orders

If you have a protection order from another state or territory or from New Zealand, you can register it in NSW. You don't need to go before the magistrate to do this. You just need to take a copy of your interstate order to your nearest Local Court. You then need to complete an application form to have the order registered. You don't need to tell the man that you have moved to NSW in order to register your order.

If you are leaving NSW you may be able to register your AVO in other states and territories. You should get some legal advice about doing this either before you leave the state or upon your arrival. Community legal centres exist in other states to help you with this information.

Criminal charges

Criminal charges send a clear message to the man that violence is a crime. It is against the law to hit, push, grab, slap or even threaten to do these things. It is against the law for a man to make repeated telephone calls to you or to watch you and follow you around. It's also against the law for him to do something to make you think that he will hurt you. Being charged with a criminal offence punishes the man for having done any or all of these things. The section on Apprehended Violence Orders explains how to protect yourself against these things in the future.

The best thing to do if you want the police to charge the man is to make a report to the police station nearest you as soon as possible. If you report the violence the police can then charge the offender. If the police charge him you cannot then withdraw the charge, it must go to court. When you report the violence to police they take a statement from you about what happened. The man may then be taken to the police station and charged with an offence. Once he is charged the man may then be released by the police on what is known as bail. Bail allows the man to be freed as long as he promises to come to court to face the charge. If the violence is more serious the police will keep the man at the police station until the next day, when he can go to court.

Bail conditions can also protect you from the man. For example, the following conditions can be put on a man's bail, telling him he is not to do certain things:

- not to assault or molest you
- not to harass or intimidate you
- not to drink alcohol
- not to go to your house, work or relative's house
- not to contact or attempt to contact you

If the police give the man bail, they should contact you to tell you. It's good idea to let the police know how to contact you so that they can keep you up to date about what's happening. When the man has to go to court, you

should too. This will help you to know exactly what's going on with the case. If you are not happy with the way the case is being handled by the police, you can speak to the officer who took your statement. There are also domestic violence liaison officers (DVLOs) who have training in domestic violence issues. Most police stations have a DVLO you can speak to. If they don't have one, you can ask to speak to the supervising sergeant or the patrol commander.

What happens at court?

When the case comes to court the charges will be read out. The police prosecutor acts as your legal representative. The police speak to the prosecutor for you. The magistrate speaks to the police prosecutor directly in court, not to you. You are a witness for the police.

Once the charges against the man have been read out, the man then has to say whether he pleads guilty or not guilty. The man might say that he needs time to get advice before he pleads. If he does, the matter will be 'adjourned' – that is, delayed – for one to three weeks for him to get legal advice. If the man pleads guilty the case can be dealt with on the day.

If the man pleads not guilty then the case will be given a date for a full hearing. This will be some time in the future and depends on how busy the courthouse is with other cases. Usually, the delay is anything between two and six months.

If the case is going to come back to court, the magistrate will look at the man's bail conditions. If you want extra or different conditions added, you should tell the police so they can tell the prosecutor to ask for them on your behalf. The police and courts must consider your safety when making bail conditions. Once the court sets their bail conditions, the bail conditions set by the police no longer apply.

Sometimes if your case is a very serious one, the matter will be referred to the District Court for a hearing before a judge and jury. But most cases are heard fully at the Local Court.

Do I have to give evidence?

As the person who was the victim of the crime, you have to give evidence in court. You are the police witness. Whatever your relationship to the offender, you are expected to give evidence. It used to be that wives did not have to give evidence against their husbands, but this is no longer the case.

If the man is found guilty or pleads guilty when he comes back to court then he will be sentenced. Sentences range from a bond or a fine to a term of imprisonment. If the courts find a man guilty of a domestic violence offence, the magistrate must make an AVO for your protection. If the court doesn't ask the prosecutor if you want an AVO, you can always ask the magistrate for it yourself.

Giving evidence

A court hearing is broken up into three different stages of giving evidence. Each witness (including you and the man) go through examination-in-chief, cross-examination and re-examination.

You give evidence first because it is your complaint, and you are the first witness in your case. To give evidence you will need to enter the witness box. The court officer will show you where to sit. At this stage you are asked to take an 'oath' – that is, promise – to give truthful evidence. Don't forget that you can have a support person with you when you are in the witness box.

Sheila broke up with Chris because of his violent behaviour. When Sheila told Chris about her decision to leave him, he punched her. She reported the matter to the local police who charged Chris with assault and placed him on bail conditions. The conditions of his bail were that he was not to assault, or contact Sheila and not to go to her house. When the matter came to court, Chris pleaded guilty to the charge of assault. Sheila was at court and was pleased that she didn't have to give evidence. Sheila is glad she went ahead with the charges. Chris had to learn that his behaviour was criminal.

Examination-in-chief outlines your case against the man. This is the first part of your evidence. You tell the court what happened and why you want an AVO against the man. You will be asked to go into a bit more detail than you did in your complaint. You will be asked if the man has done anything else to you since you took out your original complaint.

You will then be cross-examined about the evidence you just gave to the court. Either the man's lawyer or the man himself will ask you questions about what you've just said. This gives the man or his lawyer the chance to test your version of the events before he gives his evidence.

Finally you may be re-examined. This will give you a chance to explain anything you said during the cross-examination that might have sounded unfavourable to your case.

This process is repeated with all of your witnesses. When they have all finished, the man and his witnesses will go through examination-in-chief, cross-examination and re-examination by the police prosecutors.

The decision

At the end of the process, the magistrate has to decide whether or not to make the order. All that you have to prove is that you are afraid the man will assault, molest or harass you, intimidate or stalk you and that your fear is reasonable.

If you have asked the court to make an order to exclude the man from your home, the court must consider your needs, your children's and your ex-partner's needs, and the consequences for both you and the children if the order is not granted. If the court decides not to make an exclusion order, then it must give reasons for making that decision. This is the only type of condition where the magistrate must state his reasons for not making the order.

Legal representation

It always helps to have a lawyer run your case. If there isn't a Court Assistance Scheme provided at your Local Court then you can contact:

- the Domestic Violence Advocacy Service;
- your local community legal centre, if there is one;
- the Legal Aid Commission;
- a private solicitor

If the police have taken out the order for you then the police prosecutor will represent you at court. You should talk to the police officer who first helped you and he/she can explain your situation and your needs to the police prosecutor. If the police officer is not at court then you will need to speak to the police prosecutor yourself either before or on the day at court. Sometimes police prosecutors will help you even if the police didn't apply for the order on your behalf, because the New South Wales Police Service recommends that police assist unrepresented women.

Legal Aid Commission solicitors can also help you. But to be eligible for Legal Aid, you must pass a merit test, and be on a low income. If the Legal Aid solicitor is in attendance then he/she can represent you.

Family law

Family law covers issues regarding your marriage, relationship, your children and your property.

Divorce

If you want a divorce, you need to be separated for twelve months before you can lodge your divorce application. The Legal Aid Commission and community legal centres run classes to show you how to fill out divorce forms. If you need further advice contact your local Legal Aid office or community legal centre. These are listed in your local telephone directory.

Children & Parenting Orders

All applications about children go to the Local or Family Court whether you are married or in a de facto relationship.

You may be familiar with the terms 'custody' and 'access' or residence and

contact aren't used by the courts now. They use the terms "parenting orders", "living with", "spending time" with and "specific issues orders" instead.

Parenting orders cover things like where the children live and how often, if at all, they will see the other parent. They cover all the orders concerning children, including:

- Orders stating where the children are to live. For example, an order may state that the children are to live with you.
- Orders stating how often your ex-partner is to see the children. For example, an order may state that the children see their father every other weekend from Friday 5.00 pm to Sunday 5.00 pm.
- Specific issues orders cover the day-to-day, and long-term decisions about the children. For example, a specific issues order may state that your child is to attend the local high school, and that any change to this plan needs to be discussed between you and your ex-partner.

If your children are taken by their father without the court's permission, the court can make orders to help you to get your children back.

Location orders allow the Family Court to get information about where a person is living. This may be obtained through Centrelink or the Australian Tax Office.

Recovery orders are like a warrant and allow the police in any state or territory to find and return your children to you.

It is important to know that these orders are also available to your children's father. If you have left the family home due to violence and live in a refuge, you should go to the Family Court to obtain a residence order and an order to prevent the court from telling the father where you and the children are living.

The Family Court & family violence

The Family Court must be told about any family violence that involves a child or a member of the child's family. The Family Court always has to act in the child's best interests. In order to determine that, the court needs to

know whether or not any protection order has been made. It may be an AVO or another type of protection order if it was made in another state.

When you apply for parenting orders in the Family Court or Local Court, it is important to show the court any AVO in existence and to tell the court of any violence that has involved the child. This includes any violence the child may be aware of, or may have seen.

Property

Leaving your husband does not affect your right to a share of the family property. You do not have to be divorced to start your property settlement. You may begin your property settlement as soon as you separate. Once you are divorced, you have twelve months to lodge your application for property settlement. If you were married your property matter will be heard in either the Family Court or Local Court. If you were in a de facto relationship then the application for property settlement must be lodged within two years of the date of your separation. If you are in a de facto relationship, your property dispute will be heard in the Local, District or Supreme Court.

Family law is a very confusing area of law. You should always get advice from a lawyer before you agree to anything that might affect you, your children or your property.

For further information and advice in relation to family law, contact your local Legal Aid office, local community legal centre, the Domestic Violence Advocacy Service or the Women's Legal Resources Centre. There is a useful publication called *Women and Family Law*, which is available through the Women's Legal Resources Centre (see the Contact list at the back of this booklet).

Part Three – Other types of assistance

Victims compensation

You may be eligible for compensation if you are a victim of domestic violence. This is paid by the Victims Compensation Tribunal. To be eligible you must apply within two years of the violent act having occurred. If more than two years has passed, you may apply to the Tribunal to have the matter heard 'out of time'. It is not necessary for the offender to have been convicted of the violent offence against you. You must show that you co-operated with the police, which usually means that you reported the matter to the police. Lawyers are not allowed to charge fees for this work. The Tribunal pays the lawyers directly.

Recently arrived migrant women

There are special rules for recently arrived migrant woman in a domestic violence situation. If someone who is violent to you has sponsored you to this country, then you may not have to stay with him for the required two-year period. You will need some evidence to show the Department of Immigration and Multicultural Affairs that you have been in a domestic violence situation.

Evidence may include the following:

- an AVO or other protection order;
- an injunction under the Family Law Act;
- a conviction of your sponsor for assaulting you;
- joint court undertakings concerning the domestic violence;
- evidence about the domestic violence from two people from the list of 'acceptable' people nominated by the Department of Immigration and Multicultural Affairs (eg. a doctor, nurse, refuge co-ordinator, or Family Court counsellor).

If you are in this sort of situation you should get advice from a registered migration agent as soon as possible. Organisations that can assist you are contained in the Contacts list at the back of this booklet.

Housing: emergency and long-term

Refuges/emergencies

If you need emergency accommodation you can often stay at a refuge for up to three months. A refuge is usually a house where you can stay with your children. Some refuges have policies that they will not take boys over the age of twelve. It is best to contact Homeless Persons Information Centre or Department of Community Services (DOCS) Domestic Violence Line for information about refuge availability. DOCS can also give you financial assistance until other arrangements can be made. See the Contact list at the back of this booklet.

Department of Housing

The Department of Housing can help you in a number of ways if you are experiencing domestic violence. You should go to your nearest DOH office to find out whether you can get help.

Relocation

If you are already a tenant of the Department of Housing and you fear further violence, then you may apply for immediate relocation. This is generally for women who need to be relocated due to a life-threatening situation.

Priority housing

The list for priority housing is a very long one. Sometimes you can wait as long as two years to get to the top of it. The Department has a priority housing scheme to help women in domestic violence situations. The Regional Office of the Department of Housing considers cases of special need and can approve immediate permanent housing.

Rental Assistance Scheme

The Department may also be able to help you with bond money and other relocation costs under its Rental Assistance Scheme.

Crisis Housing Scheme

There is also a Crisis Housing Scheme that provides temporary accommodation for people who are homeless or about to be homeless.

Financial assistance

Centrelink can provide Sole Parent Pension payments to you if you have children and are separated from your partner. Other urgent financial assistance may be obtained from Centrelink. It is now possible for women experiencing domestic violence to obtain financial assistance from Centrelink. It is best to contact your local Centrelink office for advice about payments you can get. DOCs can also help you with details of other organisations to help you with emergency financial assistance. See the Contacts list at the end of this booklet.

Complaints against police and other service providers

It is important to know that you can make complaints against police and other service providers if you feel unhappy with how you have been treated by them. Complaints against the police may be made to the individual officer, the Domestic Violence Liaison Officer (DVLO), the shift supervisor, the local area commander and the regional commander. You can also make a complaint to the NSW Police Customer Assistance Unit or to the Ombudsman's Office which investigates complaints against government departments, including the NSW Police Service.

If you wish to make a complaint against solicitors, you can write a complaint to the Office of the Legal Services Commissioner or the Law Society. Complaints against barristers can also be made about to the NSW Bar Association.

You may also wish to make complaints against chamber registrars and/or court staff. This can be done by writing to the Attorney-General's Department, Community Relations Division. To make a complaint against a magistrate you need to write a complaint to the NSW Judicial Commission.

You should always make your complaint in writing and keep a copy of the complaint for your own records. If you need help to do this you should contact your local community legal centre for assistance.

Someone to talk to



As mentioned earlier, women's refuges, women's health centres, local family support services, community health centres and government services can all help you if you have experienced domestic violence. The Women's Information and Referral Service (WIRS) can assist you in locating services that can offer support. The phone number for WIRS is listed under Contacts at the back of this booklet.

Glossary

Adjournment: Putting off a court hearing until a later date.

Bail: This allows a person to be released from custody. The person has to promise to come back to court on the specified date and in the meantime, to obey certain conditions. The police or court may require the person or a friend of the person to deposit money which they can get back when the person on bail turns up at court.

Chamber registrar: A person who is available at the Local Court to give free legal information and assistance in completing documents and forms.

Complainant: a person who makes a complaint to the chamber registrar for an AVO.

De facto: Living together as husband and wife, but not legally married.

Defendant: The person against whom the AVO is to be made.

Ex parte: The case is heard without the defendant being present.

Final Order: The AVO is granted by the court on a final basis.

Hearing: The day at court when both you and the man give evidence before the magistrate. Both sides give their evidence, along with their witnesses. The magistrate then has to decide whether to make an AVO or not.

Injunction: An order which prohibits or restricts certain behaviour.

Interim Order: An order for an AVO that is temporary. It still tells the man what he is not to do. If he breaks the order after he has been served with it, he still suffers the same penalty as if it were a final order.

Magistrate: The person who makes decisions in the Local Court.

Order: A decision made by a court. The person who receives an order must obey it.

Registered migration agent: A person who is registered by the Migration Agents Registration Authority to give advice about migration issues.

Revocation: An order which is revoked or cancelled.

Summons: A document from the court which tells a person to attend court at a certain time and place.

Telephone Interim Order: An interim or temporary AVO made by the police when the court is not sitting. It lasts up to fourteen days.

Undertaking: A promise you make to the court about what you will do in the future.

Warrant: A document from a magistrate which requires the police to arrest a person and bring them before the court.

Witness: A person who gives evidence in court.

Contacts

In an emergency call 000 and ask for the police.

Department of Community Services

Domestic Violence Counselling and Advice Line

1800 656 463

TTY 1800 671 442 (if you are deaf, or hearing or speech impaired)

Domestic Violence Advocacy Service, Womens Legal Services NSW

(02) 8745 6999

1800 810 784

TTY 1800 626 267 (if you are deaf, or hearing or speech impaired)

Women's Legal Resources Centre, Womens Legal Services NSW

(02) 9749 5533

1800 801 501

TTY 1800 674 333 (if you are deaf, or hearing or speech impaired)

Indigenous Women's Contact Line, Women's Legal Services NSW

1800 639 784

TTY 1800 674 333 (if you are deaf, or hearing or speech impaired)

Wirringa Baiya Aboriginal Women's Legal Centre

(02) 9569 3847

1800 686 587

**Community Relations Commission
for a Multicultural NSW**

Head Office

(02) 8255 6767

TTY 8255 7658 (if you are deaf, or hearing or speech impaired)

24 Hour Victims Support Line

(02) 9374 3000

TTY 9374 3175

TTY 8255 7658 (if you are deaf, or hearing or speech impaired)

Immigrant Women's Speakout

(02) 9635 8022

Immigration Advice and Rights Centre

(02) 9281 8355

Victims Compensation Tribunal

(02) 9374 3111

24 Hour Victims Support Line (02) 9374 3000

1800 633 063

TTY 9374 3175 TTY 8255 7658 (if you are deaf, or hearing or speech impaired)

Women's Information and Referral Service

Provided by LawAccess

1800 817 227

www.lawaccess.nsw.gov.au



Government of South Wales
LAWYERS