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Tēnā koe Zoie

Request for information

Thank you for your Official Information Act 1982 (OIA) request of 29 August 2024. On 17 September 2024, you refined your request to the following:

please supply the following documents linked in the Family Harm Policy Police Instruction manual (that "Family harm policy and procedures"... Page 7:- Charging Decisions Information Sharing Guidelines- Family Harm Page 26:- The dynamic risk questions police use regarding a family harm callout with the person at risk, about the person posing risk. Page 43:- Response to the Frontline Safety Plan Page 46:- Police Family Violence Death Review

These documents are attached in a combined PDF for your convenience.

Please note that the Frontline Safety Plan is included within the Dynamic Risk Assessment.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

Nāku noa, nā



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Charging decisions

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Policy statement and principles

What

A good charging decision is made when the charges chosen adequately reflect the nature and extent of the criminal conduct (disclosed by the evidence) and provide the court with an appropriate basis for sentence.

This chapter:

- provides guidance and creates a process for making good charging decisions
- ensures that nationally consistent charging decisions are made
- must be read in conjunction with the [Formal warnings](#) and [Criminal procedure](#) chapters.

Why

Making a good charging decision from the beginning ensures that matters proceed efficiently through the court.

How

To ensure good charging decisions Police will follow the process set out below in accordance with the [Solicitor General's Prosecution Guidelines 2013](#).

Process for making good charging decisions

Use this table as a guide to ensure good charging decisions are made.

Answer these questions...	Then these actions follow...
<ul style="list-style-type: none"> - What evidence do you have? - Has an offence been committed? - Is a formal warning appropriate? - Have you considered current strategic policy? - Is prosecution required? - Which charge(s) should be filed? - How many charges should be filed? - Is the Attorney-General's consent required? - Should you arrest or summons the suspect? 	<ul style="list-style-type: none"> - Decision is checked by a supervisor - File is reviewed by Prosecutions

What evidence do you have?

Once the initial investigation is complete, look objectively at all the information you have obtained. What can you prove the suspect has done? When contemplating charges you can only rely on admissible evidence. Suspicions and inadmissible evidence cannot be taken into account. If you are unsure whether something is likely to be admitted, seek guidance from your Police Prosecution Service (PPS) or Legal Services team.

If you identify evidential weaknesses, seek to rectify these before determining whether or which charges can be filed.

Has an offence been committed?

Consider whether the evidence you have obtained discloses an offence. Before filing a charge, you must be able to prove each element of the offence. If you need assistance identifying the elements of an offence, the [legislation commentary](#) will be useful.

The [Legislative Reference Table \(LRT\)](#) also helps to clarify the elements of the offence.

In other circumstances the legislation governing the offence may be administered by another agency. For example, benefit fraud is investigated and prosecuted by the Ministry of Social Development. In these circumstances, the most appropriate action may be to contact the relevant agency so they can investigate the offence.

Is a formal warning appropriate?

Once you've ascertained that an offence has been committed, consider what further action is required. See the [Formal warnings](#) chapter to determine whether a warning is the most appropriate outcome for the offence committed by the suspect. If the suspect has committed multiple offences it may be appropriate to 'warn' for some offences but not for others.

Have you considered current strategic policy?

Take into account any current strategic Police policy promoting prosecution in particular areas of focus. For example, although many offences involving liquor are not serious, they may be offences for which a District has, from time to time, a low tolerance for offending. It may be that liquor-related offending is identified as a high-prevalence offence where warnings or diversion should not be available for a specified period of time.

Another example is in relation to hate crimes. See the '[Hate crimes and hate incidents investigations](#)' chapter for information about recognising, recording and dealing appropriately with [hate crime](#), [hate incidents](#) and [hate speech](#) within the context of scene attendance, investigations, applying proportionality and using discretion.

Is prosecution required?

If an offence has been committed, and a warning is not appropriate, you must consider whether to commence prosecution (by filing charges). There are two steps required by the [Solicitor-General's Prosecution Guidelines](#) to make this determination:

Step	Test	Description
1	The evidential test	<p>Is the admissible evidence sufficient to provide a reasonable prospect of conviction?</p> <p>In other words, if a court (either judge or jury) was presented with all the admissible evidence, could they reasonably be expected to be satisfied beyond reasonable doubt that the individual who is prosecuted has committed the offence alleged?</p> <p>If the evidential test:</p> <ul style="list-style-type: none"> - is not met, the charge cannot be filed - is met, then the public interest test must next be considered.
2	The public interest test	<p>The prosecution is required in the public interest.</p> <p>It is not necessary or appropriate to prosecute all offences for which there is sufficient evidence. Police must exercise their discretion as to whether a prosecution is required in the public interest. Considering whether the public interest requires a prosecution is often difficult and requires considering a number of factors about the offender, the offence, and the victim.</p>

Factors to be considered when determining public interest

The [Solicitor-General's Prosecution Guidelines](#) list a number of factors to consider when determining whether prosecution is in the public interest. This list is not exhaustive, however it gives a good indication of what types of factors should be considered. Some of the main considerations are:

Factor	Comment
Seriousness of the offence	The more serious the offence, the more likely prosecution is required.
Likely penalty upon conviction	If it is a significant penalty including any confiscation order or disqualification, then there is a strong public interest for a prosecution. Similarly, where a reparation order is required and prosecution is the only way to recover the cost, this favours prosecution.
The circumstances of the defendant	If they have no previous convictions, are a child/young person or elderly, or were suffering mental illness at the time of the offence, there is a lesser public interest in prosecution. If the defendant: <ul style="list-style-type: none"> - was in a position of authority or trust, a ringleader or an organiser of the offence, or - has breached a protection or non-contact order, or - committed the offence whilst on bail, on probation, or subject to a sentence, or on parole this favours prosecution.
The likelihood of the offence being continued or repeated	Is there a history of recurring conduct or was the offence the result of a single incident, an error of judgement or a genuine mistake (e.g. careless driving)?
The circumstances of the victim	Is a prosecution likely to have a detrimental effect on their physical or mental health? What is the extent of loss or harm they have suffered?

Which charge(s) should be filed?

If prosecution is appropriate, the next consideration is which charge or charges to file. First identify what type of offence has been committed - for example, a property offence or a drug offence. This will help you to narrow the relevant legislation.

While the appropriate charge is sometimes obvious (e.g. driving whilst disqualified) there are often circumstances where an action could be reflected by a number of different charges. In these circumstances work is required to determine the most appropriate charge or charges. Consider the following:

- What did the suspect do?
- What was the suspect's intent?
- What was the result of the suspect's actions?

It is essential to consider all three factors before determining a charge as the same scenario with one factor altered can significantly affect the most appropriate charge. To illustrate this, consider this example:

Example

Scenario 1

The suspect is standing in the street flailing his fist round. He accidentally hits the victim in the head - the victim is not injured.

What did the suspect do?	He hit the victim in the head.
What was the suspect's intent?	As the suspect accidentally hit the victim, he had no intent to assault him.
What was the result of the suspect's actions?	The victim was not injured.
What is the appropriate charge?	As the suspect had no intent, no charge is warranted.

Scenario 2

The suspect is standing in the street flailing his fist around. He sees the victim and wants to frighten him. He hits the victim in the head as he walks past, breaking his nose.

What did the suspect do?	He hit the victim in the head.
What was the suspect's intent?	He wanted to frighten the victim.
What was the result of the suspect's actions?	The victim is injured.
What is the appropriate charge?	<p>Given the suspect only intended to frighten the victim, the most appropriate charge is s196 Crimes Act, common assault.</p> <p>If the suspect had intended to hurt the victim then injuring with intent to injure - s189 Crimes Act, would be warranted.</p> <p>If the victim had not been injured (as in scenario 1), Summary Offences Act assault would be the most appropriate charge.</p>

Scenario 3

The suspect is standing in the street flailing his fist around. He knows that the sick elderly victim is going to walk past shortly and he wants to kill him. He hits the victim in the head with his fist. The victim survives but suffers serious head injuries which require long term hospitalisation.

What did the suspect do?	He hit the victim in the head.
What was the suspect's intent?	He wanted to kill the victim.
What was the result of the suspect's actions?	The victim is seriously injured.
What is the appropriate charge?	<p>The charge which best reflects the action, intention and result is wounding with intent to cause grievous bodily harm - s188 Crimes Act. The maximum penalty of 14 years imprisonment is sufficient to allow the court to impose an adequate sentence.</p> <p>If the suspect had achieved his goal of killing the victim, the offence would be murder.</p>

As you can see from the example above, even though the action remains the same, changing the other factors results in the most appropriate offence ranging from a low level Summary Offences Act assault to murder. That is why it is important to look at the full evidence and consider all three factors before determining the most appropriate offence.

How many charges should be filed?

In determining the totality of charges to proceed, the selection of charges should seek to reflect the seriousness and the extent of the offending. It should also provide the court with adequate sentencing powers, and enable the case to be dealt with fairly and expeditiously according to law.

Consider the following when selecting the appropriate charge(s):

- the charge(s) should accurately reflect the extent of the suspect's alleged involvement and responsibility, allowing the courts the discretion to sentence appropriately

- the choice of charges should ensure the clear and simple presentation of the case particularly when there is more than one defendant
- there must never be overloading of charges by selecting more charges than are necessary just to encourage the suspect to plead guilty to a few, and
- there should be no overcharging by selecting a charge which is not supported by the evidence in order to encourage a plea to a lesser allegation.

In the ordinary course, the charge or charges filed will be the most serious disclosed by the evidence. The decision will also be weighted towards inclusion of charges where the alleged offences are to be filed against a member of an organised crime organisation.

Where the evidence supports multiple offences (e.g. assault, wilful damage, offensive behaviour, resisting arrest, obstruction and offensive language) it is not appropriate to file all possible charges unless this truly reflects the seriousness of the offending. In these circumstances the charges chosen should show the seriousness of the incident in relation to other comparable incidents. Consider whether:

- the charge should contain alternatives (s19 CPA), or
- a representative charge is appropriate (s20 CPA).

Charges should give the court adequate powers to sentence and impose appropriate post-conviction orders. For example, if the defendant should be disqualified from driving as part of their sentence, ensure the charges filed allow the court to make that order.

Some charges should be carefully considered for inclusion. As per the [Prosecuting family violence](#) policy, a breach of protection order should be filed where the evidence supports this charge. Another example is 'possession of an offensive weapon' (s202BA Crimes Act) which provides a mandatory prison sentence for a second s202A(4) offence within 2 years.

Is the Attorney-General's consent required?

There are certain charges which require the consent of the Attorney-General prior to the filing of a charging document. For example, bribery and corruption offences under the [Crimes Act 1961](#), inciting racial disharmony under the [Human Rights Act 1993](#), and extraterritorial firearms offences under the [Arms Act 1983](#). A full list of offences requiring consent of the Attorney-General is available [here](#).

It is the O/C case's responsibility to obtain the Attorney-General's consent prior to filing the charging document and they should liaise with Police Legal Services to do so. Likewise, if the O/C is unclear whether a charge requires the consent of Attorney-General, they should contact Legal Services.

The O/C should provide Legal Services with a draft copy of the charging document/s and sufficient material to allow the Attorney-General to properly consider the evidence and relevant circumstances of the alleged offence.

Although it is not a statutory requirement for proof of consent to be filed with the charging document, it is encouraged. The O/C should scan the document containing proof of consent and attach it under the Prosecution Case on NIA, so PPS can see that this procedural requirement has been complied with. A note to this effect should also be recorded in the POL258 report.

If proof of consent is not obtained before the charging document is filed, there is no jurisdiction for charges to be heard and the charge may be declared a nullity - this means that the charge may be dismissed by the Court.

Should you arrest or summons the suspect?

Once you have decided to commence prosecution you must decide whether to arrest or summons the suspect. Refer to the [Arrest and detention](#) chapter for assistance.

Decision checked by supervisor

If at any stage of the procedure you need guidance, seek the assistance of your supervisor. It is their responsibility to assist you and to check whether the number and types of charges you have selected are the most appropriate. The PPS is also able to assist you in making these decisions.

File review by Prosecutions

The decision to prosecute and the charges you have filed will be independently reviewed by PPS who have discretion to amend,

withdraw and file additional charges. Review is a continuing process and prosecutors must consider any change in circumstances that occurs as the case develops.

Where practicable, prosecutors will talk to the officer in charge first if they are considering amending or withdrawing the charges. Prosecutors and investigators work closely together, but the final responsibility for the decision whether or not a case should go ahead rests with PPS. If you do not understand any decision made by PPS you should discuss this with the prosecutor (or their District Prosecution Manager).

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Family harm: Information sharing guidelines

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Policy statement and principles

What

In the family harm context, a key objective for Police is to effectively engage in a collaborative inter-agency response to family harm. Police participation in this process requires us to share information with other agencies so that each agency may contribute to the sector objectives of reducing family harm episodes, promoting victim safety and holding offenders accountable.

Why

The effectiveness of agencies operating in the family harm sector is directly related to the information sharing processes that the key agencies adopt and use.

How

Police will use a consistent approach to sharing family harm information that adheres to the information privacy principles in the [Privacy Act 2020](#) (the Act) and other legislative obligations. In the family harm context, this relates to information sharing in the following ways:

- routine disclosures, where information is collected for the purpose of disclosing it, e.g., family harm investigation
- disclosure in response to a request, e.g., [Oranga Tamariki Act 1989](#) (s66), [Family Violence Act 2018](#), [Official Information Act 1982](#) and [Criminal Disclosure Act 2008](#)
- proactive disclosure of information, in the absence of a request, eg. pursuant to the exception in principle 11(e)(i) of the Act to avoid prejudice to the maintenance of the law
- disclosure under the Family Violence Information Disclosure Scheme (FVIDS), where Police may disclose, either proactively or reactively upon request, information about previous family violence committed by a person's partner where there is a 'serious threat' to a person's safety. See the [Family Violence Information Disclosure Scheme](#) chapter for more information.

Note: For photo or video information, Police must be able to articulate a reasonable possibility, based on more than mere conjecture, that the individual being photographed or videoed could be relevant to a specific family harm investigation. If Police are unable to articulate this, then the information must not be held and may not be available to disclose to agencies if requested.

Overview

Purpose

These guidelines:

- provide specific guidance for employees on sharing family harm related information with other agencies
- are intended to ensure Police:
 - adopt a nationally consistent approach to sharing family harm information
 - comply with its obligations under the [Privacy Act 2020](#), [Official Information Act 1982](#), [Family Violence Act 2018](#), [Criminal Disclosure Act 2008](#), and [Oranga Tamariki Act 1989](#) for collecting and sharing (in particular) family harm information.

Further information

This document is a 'guide' only. If you have any questions about information sharing not covered in this guide contact either:

- National Family Violence Co-ordinator
- the Justice Sector [Family Violence Act 2018 Information Sharing Guidance](#)
- [Legal Services](#).

Refer also to the '[Privacy and official information](#)' and '[Family Violence Information Disclosure Scheme](#)' Police Manual chapters for more detailed information about responding to requests for information under the Privacy Act or the Official Information Act 1982.

Related forms or templates

These templates are associated with this chapters:

- [Confidentiality Agreement](#)
- [Family harm information sharing matrix \(July 2019\)](#)
- [Section 20 FVA - Information requests, use and disclosure template](#)

Privacy Act - Application of information privacy principles

Introduction

Sharing information about identifiable individuals is governed by the [Privacy Act 2020](#) (the Act). The Act was introduced to promote and protect the privacy interests of individuals and regulates the collection, storage and security, access to and correction of information, accuracy and retention, and places restrictions on the use and disclosure of personal information.

[Schedule 4](#) of the Act also outlines what law enforcement information may be shared between government agencies listed in the schedule.

The following outlines the information privacy principles detailed in section [22](#) of the Act and any matters that Police must consider in relation to those principles in the context of family harm information.

Principles 1-4: the 'collection' principles

Principle 1

Principle 1 states that an agency shall not collect personal information unless the information is collected for a lawful purpose, connected with a function or activity of the agency and that the collection is **necessary** for that purpose.

Police is a law enforcement agency and the family harm investigation information collected in OnDuty, or information collected and recorded in other investigations, is collected for law enforcement purposes, recording an episode of family harm, and names of the primary victim, predominant aggressor and other parties involved. This may be used for the purpose of preventing further episodes, prosecuting the offender, or assisting the victim to keep themselves safe.

The issue for Police under principle 1 is whether collecting information in OnDuty or in other investigations is 'necessary'. There is no doubt that collecting family harm investigation information by Police is necessary to enable it to carry out its law enforcement function.

As a guiding rule, for retention and collection of photos or videos for an investigation, Police must be able to articulate a reasonable possibility, beyond more than mere conjecture, that the individual being photographed or videoed could be relevant to a specific investigation. This also extends to intelligence collection where the information must be relevant to a particular or likely investigation.

Principle 2

Principle 2 states that where an agency collects personal information the agency shall collect the information directly from the individual concerned.

Police are compliant with principle 2 when the dynamic assessment as part of a family harm investigation (if relevant) is filled out with the person at risk. In some situations, the person posing risk may not be present, but their details are recorded in the family harm or other investigation. There are exceptions to this principle that permit Police to collect information about the people involved in family harm episodes from others.

It is not necessary for an agency to comply with principle 2 if:

- non-compliance is necessary to avoid prejudice to the maintenance of the law, including the prevention, detection, investigation, prosecution and punishment of offences (principle 2(2)(d)(i))
- the agency believes, on reasonable grounds, that compliance is not reasonably practicable in the circumstances of the particular case (principle 2(2)(f)).

The absence of or the lack of co-operation by the parties involved in a family harm or other investigation would permit Police to rely on these exceptions and not collect information directly from them.

Principle 3

Where an agency collects information directly from the individual concerned it must make the individual aware of a number of matters. However, the Privacy Act recognises that there will be some situations where compliance with principle 3 is not required.

The individual must be made aware of the:

- fact that information is being collected
- purpose for which the information is being collected
- intended recipients of the information
- name of the agency collecting the information
- consequences (if any) for the individual of not supplying information
- rights of access to and correction of personal information provided by the privacy principles.

While the obligation to make the individual aware may appear onerous, it can assist Police to obtain the information it requires. If people understand why Police need the information they will often provide better information than if they do not understand why it is being collected, what it will be used for and who it may be disclosed to.

Compliance with principle 3 facilitates information sharing. Advising individuals at the time of a family harm or other investigation that their information will be disclosed to other agencies (to provide the individual with assistance) sets up a framework for information sharing to occur, without the need to seek the individual's authorisation or rely on another exception to the principle of non-disclosure in principle 11 of the Privacy Act. Also, through having a clear understanding as to why information is being collected, it becomes obvious that one of the purposes for collection is to disclose the information.

The Act is focussed on purpose and openness and encourages agencies to define and be clear about the purpose the information is required for and to inform the individual what that purpose is and what is going to happen to the information. Then if the agency uses and discloses the information for that purpose (or a directly related purpose) the individual will already be aware of the process and is more likely to accept any subsequent use or disclosure of the information.

Principle 3 has a direct link with [principle 11](#) and, theoretically, compliance with principle 3 sets up a framework for the routine disclosure of information for information sharing purposes. In the family harm context, Police collect information primarily for the purpose of sharing it as the Police role is just one part of a multi-agency approach to assist victims and prevent further offending. A multi-agency approach will only be effective if information can be shared and sharing implies a two- or three-way flow of information between agencies.

The Privacy Act recognises that there will be some situations where compliance with principle 3 is not required so there are several exceptions to the obligation to make an individual aware of the purpose of collecting their personal information. For example, principle 3(4) provides that it is not necessary for Police to comply with principle 3 if they believe on reasonable grounds that:

- non-compliance is necessary to avoid prejudice to the maintenance of the law, including the prevention, detection, investigation, prosecution and punishment of offences (principle 3(4)(c)(i))
- compliance would prejudice the purpose of collection (principle 3(4)(d))
- compliance is not reasonably practicable in the circumstances of the particular case (principle 3(4)(e)).

Principle 4

Principle 4 states that an agency must not collect information in a manner that is unlawful, unfair or is unreasonably intrusive.

This principle ensures that individuals are not coerced into providing information. It would be a breach of principle 4 to say to a victim that if they don't agree or cooperate in respect to charging the suspect, Police will not record the family harm episode. It would also be a breach of principle 4 to collect information by covertly recording a conversation on a mobile phone.

Conclusion regarding collection process

Collecting information in a family harm or other investigation is a lawful Police activity and its collection is necessary for Police to achieve its law enforcement functions in respect to family harm. Collecting information complies with principle [2](#) because the information is collected directly from the individual or is covered by an exception.

Compliance with principle [3](#) is the most important aspect of the collection and information sharing process and can be time consuming. Principle 3 provides that the individual is made aware that information is being collected, for what purpose and who it will be made available to.

As long as information gathering is not unfair, used as a mechanism for criticising, threatening or coercing the parties involved in a family harm or other investigation and complies with Principle 2 and 3, there are no issues under principle 4.

Principles 5-12: holding, accessing, correcting, using and disclosing

Principle 5

Principle 5 provides that an agency must have reasonable security safeguards to protect information it holds from loss and unauthorised access, use, modification and disclosure. Police already have policies in place to guard against unauthorised use and disclosure.

These guidelines reinforce the commitment by Police to ensure that family harm information is specifically protected from any unauthorised use or disclosure.

When sharing information, Police must ensure that any agency receiving information collected by Police:

- has reasonable security safeguards in place to ensure the information it receives is protected
- does not disclose the Police information to any other agency unless it has Police permission to do so.

Principles 6 and 7

Where an agency holds information about an identifiable individual the individual has the right to request:

- confirmation that the agency holds personal information about them
- access to that information and correction of it.

Principle 6 requires Police to provide individuals with any personal information Police holds about them unless good reasons exist to refuse the request. Some 'good reasons' to refuse a request are that disclosure would:

- be likely to prejudice the maintenance of the law (s53(c))
- be likely to endanger the safety of any individual (s49(1)(a)(I))
- would involve the unwarranted disclosure of the affairs of another individual (s53(b)(i)).

When a request is received by any agency, information sourced from Police and held by another agency or provided to Police by another agency may have to be considered for release to a requester.

When information provided to Police by another agency falls within the scope of the request:

- transfer the information received back to the agency that provided it to Police with a copy of the request
- the originating agency will decide whether the information is to be released and will respond directly to the requester. (See sample letters in Police Forms>Information Requests>Official Information and Privacy Act requests)
- ensure the requester is notified of the transfer, and complete Police's response to the requester in respect of any other Police-held information within the scope of the request.

There are several procedural provisions that must be complied with. Advice about the procedural requirements can be obtained from the National Family Violence Coordinator or a Legal Adviser.

Under principle 7, correction issues are usually not a problem for Police. If the information Police hold is factually incorrect it is usually corrected. If the information is considered by the requester to be incorrect but Police believe that it is correct at the time it was recorded on our information database, Police **do not** have to alter the information at issue. Instead, the requester has the right to have a statement of correction that they provide (or approve a brief statement prepared by Police) attached to the disputed information. Police must attach the statement in such a way that it is read in conjunction with the disputed information.

Police **cannot and should** not correct information provided to it by another agency under an information sharing arrangement. The information at issue should be returned to the agency that provided it to Police with a copy of the request for correction and the requester be advised accordingly. That agency must advise Police and any other agency they shared the information with about the steps taken in response to the request for correction.

Principle 8

Principle 8 requires an agency that holds personal information to ensure that they, having regard to the purpose for which the information is used, take reasonable steps in the circumstances to ensure the information is **accurate, up to date, complete, relevant and not misleading**. The intention of this principle is that information should be checked before it is used, for example, by disclosing it

to another agency.

Under principle 8, 'use' encompasses situations where disclosure is a use of the information and therefore applies to the routine disclosure of family harm or other investigation information by Police to other agencies.

This principle requires Police to take reasonable steps to include appropriate context, balance, and details to ensure that the information obtained in a family harm or other investigation is accurate etc before it is shared.

Where Police are disclosing information to an external party that may result in an 'adverse consequence' more care must be taken before the information is disclosed to ensure that:

- the information disclosed is about the correct individual
- the information is necessary and/or relevant to the functions of the receiving party
- only the information required is disclosed and no gratuitous disclosure is made.

Principle 9

Principle 9 states that an agency that holds personal information shall not keep it for longer than is required for the purposes for which it may lawfully be used.

All family harm information is currently retained in NIA. Information on NIA should only be retained until they are administratively no longer required unless that information is of 'high value' (such as violent offence case files).

Note: this is not to be confused with financial information that is required to be held for at least 7 years or other 'high value' information such as governance data or liaison with our partners, that need to be held for 20 years.

Principles 10 and 11

Principles 10 and 11 prohibit personal information that was collected for one purpose being used or disclosed for another purpose unless the agency believes on reasonable grounds that the use or disclosure is permitted by one of the stated exceptions.

The most likely issue to arise under these principles is due to individuals not realising or expecting that information about them will be disclosed to another agency.

This issue can be addressed by clarifying the purpose for collecting family harm information, and whenever practicable, advising the affected individual what it will be used for, and in what circumstances and to whom it will be disclosed - principle 3 compliance.

If it is necessary to make a proactive disclosure of information, the exception that is most likely to permit such a disclosure is found in principle 11(e)(i) of the Act. This exception permits, if Police believe, on reasonable grounds, that the disclosure is necessary to avoid prejudice to the maintenance of the law, including the prevention, detection, investigation, punishment or prosecution of offending. It is probable that a proactive disclosure will be made to **prevent** further offending.

It may be necessary to disclose information in the context of court proceedings such as in affidavit form or to counsel for the child in custody and access proceedings. If the information is requested from Police, the Official Information Act 1982 applies and will govern Police's response. In such cases, it is necessary for Police to turn its mind to any privacy interests that could be affected by the disclosure. The privacy interests must be considered against the public interest that would be served by the disclosure. The public interest in respect of court proceedings is principally that the court must be fully informed about the matter before it and it is unlikely that any privacy interests would outweigh such a public interest consideration.

Police may also disclose information proactively for the purpose of court proceedings. Principle 11(e)(iv) permits an agency to disclose information if it believes on reasonable grounds, that the disclosure is necessary for proceedings before a court or tribunal that have either been commenced or are reasonably in contemplation.

The difference between the application of the Official Information Act 1982 and the Act is that, under the Official Information Act 1982, Police are required to provide the information requested, unless it has good reasons not to, whereas a proactive disclosure under

principle 11 of the Privacy Act is discretionary, i.e., Police have a **choice** whether it discloses the information.

It is also worth noting that any disclosure in response to an Official Information Act request, if it is processed in accordance with the provisions in the Official Information Act and the information is disclosed in good faith, section 48 of that Act provides that no civil or criminal proceedings will lie against the agency as a result of making the information available. No such protection applies in respect to a proactive disclosure of information under the Act.

Principle 12

Principle 12 is concerned with unique identifiers and is not relevant to this protocol.

Principle 13

Principle 13 relates to unique identifiers such as a PRN that is issued when a person is first charged with an offence, IRD numbers, bank customer numbers, driver's license, and passport numbers. These must not be assigned to individuals unless it is necessary for the organisation concerned to carry out its functions efficiently.

Police may come across some of this information during a family harm event when identifying a related party, however, as per principle 11 this information is not to be gathered unless it was obtained for the purpose of how it was obtained and cannot be shared.

During a family harm investigation, unless proven justifiable that this information should be collected, or it has been agreed with other agencies that these unique identifiers should be collected for a defined purpose, this information must not be collected nor shared.

Schedule 4

The Act applies sets out what information held by a public sector agency may be accessed by another public sector agency.

Schedule 4 only applies to 'law enforcement information' defined in section 171 as 'any information that -

(a) is about an identifiable individual; and

(b) is specified in Schedule 4 to this Act'

Section 172 states that an accessing agency may have access to law enforcement information held by a holder agency if such access is authorised by the provisions in Schedule 4. The effect of Schedule 4 is that the Police disclosure of law enforcement information that an accessing agency is entitled to access under the schedule does not raise any privacy issues.

Sharing information under the Oranga Tamariki Act

Requests under s66 Oranga Tamariki Act 1989

Section [66](#) of the Oranga Tamariki Act 1989 requires agencies to make available to care and protection co-ordinators, Oranga Tamariki's Chief Executive or a Police constable any information held by the agency that may relate to or affect the safety or well-being of a child or young person if the information is required for the purposes of determining whether that child or young person is **in need of care and protection** or assistance under section 17(2) and (2A), or where it is required for care or protection proceedings (including a family group conference).

Note: the definition of **in need of care or protection** (in [s14](#) and [s14AA](#)) includes a child or young person who has been exposed to family violence (within the meaning of section 9 of the Family Violence Act 2018) ([s14AA\(2\)\(b\)](#)).

The Chief Executive of Oranga Tamariki or a constable may disclose information obtained under section 66 to a child welfare and protection agency (defined in section 2 to include Education, Health and Ministry of Justice) or "independent persons" (also defined in [s 2](#)) where they reasonably believe that providing the information will fulfil one of the purposes in section [66A\(1\)\(a\)-\(f\)](#). These purposes include preventing or reducing the risk of harm, ill-treatment, abuse, neglect or deprivation to a child or young person (disclosure under [s 66A](#)).

Note: As per [s66B](#) the CE or constable cannot disclose information under [s66A](#) where it would put the party that supplied that information in breach of the party's duty of confidence under the rules of their agency. Nor can the CE or constable disclose that information if they have made reasonable inquiries and discovered that it would involve a breach of a duty of confidence for the other party. The person or party (or a representative) whose information has been disclosed must consent.

Under the circumstances set out in [s66C](#), information held by a child welfare protection agency (including Police) or an "independent person" relating to a child or young person may, be **used** and **disclosed**.

A person carrying out functions under the Oranga Tamariki Act 1989 information sharing provisions (currently [s 66 - s 66D](#)) must have regard to the principle that the well-being and best interests of any child or young person, take precedence over any duty of confidentiality owed by any person in relation to or any person who is a family member or in a family relationship with the child or young person (under section 12 Family Violence Act 2018)(see section [65A](#)).

It is best practice for Police to always ensure that the request is made by Oranga Tamariki **in writing** and that a copy of the request and any information disclosed by Police in response to a section 66 request is retained on a 2D (Official Request for Information) file. Similarly, written records should be kept of information disclosure under section 66A and use and disclosure under section 66C.

Section 66 can assist Police in relation to obtaining and sharing information about family harm as it protects other agencies holding information relating to the care and protection of any children involved in a family harm episode who may be concerned that disclosing the information may breach principle 11 of the Act. This section may also assist in obtaining information from health agencies and education sector agencies.

Requests from counsel for child

Requests from counsel for the child or young person are treated as Official Information Act requests and must therefore be processed in accordance with the Official Information Act 1989. Ensure the request is entered into the [information request system](#) and a file created (either by Ministerial Services or districts).

Note: care must be taken to ensure that information subject to a suppression order is not released to a lawyer for the child.

Information subject to suppression orders must be provided directly to the Family Court.

Information sharing under the Family Violence Act 2018

Information sharing in a family harm context

[Section 18](#) of the Family Violence Act 2018 sets out the purpose of information sharing within the Family Violence/Harm context.

The purpose of information sharing under the Family Violence Act is to encourage collaboration between family violence agencies and social services practitioners to identify, stop, prevent, and otherwise respond to family violence. To help achieve that purpose, the information sharing provisions-

- enable family violence agencies and social services practitioners to request, use, or disclose personal information for purposes related to family violence; and
- require family violence agencies and social services practitioners, in certain circumstances, to consider disclosing personal information for those purposes.

[Part 2](#) of the Family Violence Act 2018 enables [family violence agencies](#) (including Police) and [social service practitioners](#) to request, use, or disclose personal information for purposes related to family violence or to consider disclosing personal information in certain circumstances.

For more information, refer to the Ministry of Justice's [Family Violence Act 2018 information sharing guidelines](#).

Section [19](#) of the Family Violence Act 2018 defines certain groups that can share information. These are a family violence agency, a social service practitioner and a specified Government agency (these terms are defined further below).

Authority for agencies and practitioners to request, use and disclose personal information

Information requests - permitted purposes (s20(1))

A family violence agency or a social service practitioner *may* request personal information about a victim or perpetrator of family violence from another family violence agency or social services practitioner to use or disclose for the following purposes ("the permitted purposes"):

- to make, or contribute to, a [family violence risk or need assessment](#)
- to make, or contribute to the making or carrying out of, a decision or plan that is related to, or that arises from or responds to, family violence
- to help ensure that a victim is protected from family violence.

Information use and disclosure - permitted purposes (s20(3) & (4))

A family violence agency or social service practitioner who holds personal information is able to use it for the permitted purposes (the Family Violence Act 2018 describes them as a holder agency or practitioner).

The holder agency or practitioner may also disclose the personal information to a recipient agency or practitioner if it believes on reasonable grounds that the disclosure *will* or *may* help the recipient agency or practitioner to use the personal information for the purposes permitted in s20(1)

Note: Disclosure of information held by Police may be given to an agency or practitioner without a request if it is for the permitted purposes outlined in s20(1).

Guiding principle for section 20 disclosure (s21)

In making a decision about whether or not to disclose information under section 20 the holder agency/practitioner must have regard to the principle that helping to ensure that a victim is protected from family violence should usually take precedence over both:

- any applicable duty to keep the information confidential; and
- any applicable limit under information privacy principle 11 in section [22](#) of the Privacy Act 2020 on disclosure of the information.

Holder agencies and practitioners who disclose information under section 20 are protected from civil, criminal or disciplinary proceedings in respect of that disclosure, or the manner of that disclosure, so long as any information was not disclosed in bad faith (s25).

Duty to consider information disclosure (s 24)

Section 20 authorises information use and disclosure but does not require it.

However, a holder agency or practitioner *must consider* disclosing personal information about a victim or perpetrator of family violence under section 20 to a recipient agency or practitioner if the holder agency or practitioner -

- believes on reasonable grounds that disclosure to the recipient agency or practitioner will or may help ensure that a victim is protected from family violence; or
- receives from the recipient agency or practitioner a request to disclose personal information of that kind or description to the recipient agency or practitioner for use for all or any of the above permitted purposes.

Thus, if Police hold personal information that it believes will or may help keep a victim safe from family violence or if Police receive a request to disclose such personal information from an agency or practitioner for use for a permitted purpose, then it must consider disclosing the personal information.

You must consider whether to share information even if:

- the personal information is confidential; or
- the person concerned has not given their consent to the information being shared.

Recording information requests, use and disclosure under section 20

You should record your decision to share (or not to share) information under section 20, including details of the request, your response to it, and whether or not you obtained consent to share. This will ensure you can answer questions confidently and provide evidence in support of your decision in the future if required.

Download the template below to record your decision.

-

 [Section 20 FVA - Information requests, use and disclosure template](#)

48.59 KB

Definitions

Family violence agency

A family violence agency means any of the following:

- a specified government agency (as defined in this section):
- any non-governmental organisation that is funded wholly or in part by government, and that exercises powers, performs functions, or provides services, for 1 or both of the following purposes:
 - to protect, or otherwise help, victims of family violence:
 - to help people to stop their inflicting of family violence:
- any school board:
- any licensed early childhood service

Specified government agency

A specified government agency means any of the following:

- Accident Compensation Corporation
- Department of Corrections
- Ministry of Education
- Ministry of Health
- any DHB (that is, an organisation established as a district health board by or under section 19 of the New Zealand Public Health

and Disability Act 2000)

- Housing New Zealand Corporation
- every registered community housing provider (as defined in section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992)
- the part of the Ministry of Business, Innovation, and Employment referred to as Immigration New Zealand
- Ministry of Justice
- New Zealand Police
- Oranga Tamariki - Ministry for Children
- Ministry of Social Development
- any government agency established in substitution for, or set up to take over any relevant function of, the departments and agencies listed in paragraphs (a) to (l)
(See [Part 2](#) of the Act).

Social services practitioner

A social services practitioner means an individual who is providing education, health, or other social services as all or any of the following:

- a holder of a teacher's practising certificate, or a limited authority to teach, under the [Education Act 1989](#),
- a person who is, or is deemed to be, registered with an authority as a practitioner of a particular health profession under the [Health Practitioners Competence Assurance Act 2003](#),
- a registered social worker (as defined in section 4 of the Social Workers Registration Act 2003)
(See [Part 2](#) of the Act).

Multi-agency considerations when sharing

Confidentiality

The multi-agency table case management process is an arrangement whereby a combination of government and non-government agencies meet to discuss family harm matters in their respective areas. The case management process is also a principal information sharing process for the purpose of this protocol. Ask all representatives of participating agencies to sign an agreement about the purpose for the meeting and information sharing that may occur.

In areas where agencies regularly meet to discuss problem families it is important that the participating agencies are in common agreement about the matters that will be discussed at the meeting and the need for confidentiality.

Download an example of a **confidentiality agreement** below. Or an alternative to a confidentiality agreement is for districts to enter into [local level agreements](#) with the agencies involved.

-

 Confidentiality agreement (family harm).doc

36 KB

Police

Police are usually the agency that has first contact with a primary victim and/or predominant aggressor. It is therefore the responsibility of Police to accurately record what occurred, who was present etc. in accordance with a family harm or other investigation. This is done using OnDuty for family harm investigations.

As the initial and primary information collecting agency, Police must collect the information needed to fill out the family harm investigation in OnDuty, or other investigation, in accordance with the Privacy Act (guidance on the Privacy Act is set out earlier in this chapter). Ensure that you explain to the primary victim that Police will pass some limited information to a local support agency or group who will then contact them to offer support.

The flow of information between agencies should be efficient so that the receiving agency receives the information it requires to carry out its role in preventing further instances of family harm.

In the family harm context, a key objective for Police is to effectively engage in a collaborative inter-agency response to family harm. Pursuant to the [Family Violence Act 2018](#) Police have a duty to consider sharing information with other agencies so that each agency may contribute to the sector objectives of reducing family harm episodes, promoting victim safety and holding offenders accountable. That means the information we record and share will have a wide audience.

Police will use a consistent approach to sharing family harm information that adheres to the [key principles for collecting, recording and sharing information](#), [Privacy Act 2020 Principles](#) and other legislative obligations. In the family harm context this relates to information sharing in the following ways:

- Routine disclosures, where information is collected for the purpose of disclosing it, e.g. family harm investigation pursuant to the Family Violence Act 2018 information sharing provisions
- Disclosure in response to a request, e.g. Oranga Tamariki Act 1989 (s66), Official Information Act 1982 and Criminal Disclosure Act 2008.
- Voluntary disclosure of information, in the absence of a request, e.g. pursuant to the exception in principle 11(e)(i) of the Privacy Act 2020 to avoid prejudice to the maintenance of the law.

Purpose of sharing information from the family harm or other investigation

The family harm investigation is used to record:

- context and circumstances of the family harm episode
- the parties involved and their roles
- interviews
- a quality narrative of what has occurred
- date, time, place
- who attended

- the results of a dynamic assessment of risk
- the total concern for safety
- a frontline safety plan for the first 72 hours after an episode.

This table identifies the purpose of sharing the family harm or other investigation information with other agencies.

	<ul style="list-style-type: none"> - To provide support and alternative accommodation for female victims (and children) - To assist in developing a longer term safety plan as part of multi-agency tables.
Oranga Tamariki	<ul style="list-style-type: none"> - To ensure that if there are any care and protection issues involving children they are addressed - To prevent any offending that may involve any child - To assist Oranga Tamariki to ensure that any children involved in family harm episodes are not put at risk.
Ministry of Social Development	<ul style="list-style-type: none"> - For the purpose of relocating a victim out of New Zealand. - For the purpose of re-establishing a victim elsewhere in New Zealand.
Family Court	<ul style="list-style-type: none"> - For custody and access proceedings.
Other agencies	<ul style="list-style-type: none"> - For the purpose of preparing a longer term safety plan on a case by case basis.

What can be shared and with whom?

This table details what can be shared where this is authorised by the Family Violence Act 2018, Privacy Act 2020 or other legislation:

Details	Disclosure
Victim details	Can be shared with all other agencies for the purpose of assisting the victim.
Aggressor details	<p>Can be shared with any other agency that should be informed that an aggressor poses a risk to any individual. The agencies that aggressor information may be disclosed to are:</p> <ul style="list-style-type: none"> - Women's Refuge - Oranga Tamariki - Department of Corrections - educational institutions (if child is at risk) - health and mental health providers (if victim/aggressor or child require treatment) - Ministry of Social Development - for purpose of relocating victim out of New Zealand or re-establishing elsewhere in New Zealand - longer term safety plan multi-agency planning.
Children details	<p>Can be disclosed to:</p> <ul style="list-style-type: none"> - Oranga Tamariki - Women's Refuge (or equivalent service provider) - educational institutions if there is risk of the aggressor arriving at school or to assist with counselling/support for child(ren) - longer term safety plan multi-agency planning - Ministry of Social Development - relocation or re-establishment of victim and children.

Criminal history - offender	<p>Information can be disclosed in general terms to indicate to a third party (see below) that the offender has a history of violent offending if the disclosure is necessary to ensure the safety of the victim and any children:</p> <ul style="list-style-type: none"> - Women's Refuge - Oranga Tamariki - educational institutions - Ministry of Social Development for relocation or re-establishment of victim and/or child - lawyer for child - Family Court. <p>Notes:</p> <ol style="list-style-type: none"> 1. Disclose only relevant convictions. 2. Check that the Criminal Records (Clean Slate) Act 2004 does not prevent disclosure of the criminal record - see Applying the Criminal Records (Clean Slate) Act 2004 and obtain a clean slate eligibility check. 3. Check that no suppression orders are in place to prevent disclosure
Protection orders	<p>Can be disclosed to:</p> <ul style="list-style-type: none"> - Women's Refuge (or equivalent service provider) - Oranga Tamariki - Department of Corrections - educational institutions - Ministry of Social Development for relocation or re-establishment of victim and children - longer term safety plan multi agency planning.
NIA information	<p>Very rarely, if necessary, intelligence information can be released to:</p> <ul style="list-style-type: none"> - Oranga Tamariki - Department of Corrections. <p>NOTE: Seek advice from district Police legal services</p>

Duty to consider sharing information

Police have a duty to and must consider sharing information under the Family Violence Act 2018 when it may help protect the victim's safety.

Note that a "victim" here means a person who-

- has experienced, is experiencing, or may experience family violence (even if no offence involving the violence was, is, or is to be admitted or prosecuted); or
- is, has been, or may be affected by family violence (even if no offence involving the violence was, is, or is to be admitted or prosecuted).

While you need to consider sharing, nothing in the Family Violence Act 2018 forces you to share personal information. If you decide not to share information, even though one of the purposes applies, keep a note of why you made that decision.

If one of the [permitted purposes](#) in section 20 applies, then the starting point is that you should share the information. Only then do you consider whether there's a good reason not to share the information. (Section 20 authorises but does not require information sharing).

Use the **information sharing matrix below** as a quick reference tool to assist you to share information efficiently and by category of information. Consider the full content of the entire document that you wish to share and whether there are any redactions that might be required.

If the category of information and the agency you want to share it with is marked with an 'X' on the information sharing matrix and you

believe it is necessary to share the information, it is advisable to obtain legal advice or speak to the National Family Violence Coordinator at Police National Headquarters before you disclose the information.

-

 [Information sharing matrix \(July 2019\)](#)

72.5 KB

Where Police want to make a proactive disclosure, the disclosure **must** be considered on a case-by-case basis, and legal advice may be sought and obtained **prior to** any disclosure. If the disclosure is necessary and there is no other option available to Police to prevent further offending, the exception in principle 11(e)(i) may permit the disclosure. See [Family Violence Information Disclosure Scheme](#) chapter.

Note: Staff need to exercise caution when responding to requests for information in relation to family harm episodes, particularly when approached by lawyers to assist with a protection order application process. In all cases when information requests are made in writing, or otherwise, to Police, these need to be entered into the [information request database](#) and a file created (either by Ministerial Services or districts). Refer [Protection and related property orders](#).

In all cases when information requests are made in writing, or otherwise, to Police, these will be entered into the [information request database](#) and a file created (either by Ministerial Services or districts). Sample letters are available in Police Forms> Information Requests > Official Information and Privacy Act 2020 requests. See also [Privacy and official information](#) in the Police Manual. Various templates are available for use in different situations (e.g., where all information is provided, some or all information is withheld or when time extensions are required). Using the available templates help to ensure officers do not provide unnecessary material about their experience or opinion (which is not permitted).

The 'test' to share

The test for information sharing is 'what information does the agency need to carry out its functions'. It is expected that the information each agency receives from Police will differ depending upon the agency's role in the family harm context.

Administratively it is more efficient to provide the same information to each agency but that carries a degree of risk if the receiving agency does not have a legitimate purpose for obtaining/receiving the information. For example, it may not be appropriate for Victim Support to receive information about a predominant aggressor so that it may provide support to a victim unless there are safety issues regarding the aggressor.

Agencies must only use the information for the purpose or a directly related purpose for which the information was obtained. The purpose for information sharing must therefore be clearly defined and all participating agencies must agree to their common purpose.

Family Violence Act interactions with other Acts

The information sharing provisions in the Family Violence Act 2018 work alongside other pieces of legislation that enable, require or prohibit information sharing. Police must be cognisant of the '[key principles](#)' collecting and recording information in Family Harm Investigations.

Privacy Act 2020

Anyone involved in the episode can request to see the information held about them. (Principle [6](#) - Privacy Act 2020). Anyone involved in the episode chooses to 'on-share' information held about them, they could. Essentially this means that the audience is far wider than the intended audience, depending on what people choose to share.

If anyone involved in the episode had children, school boards and early childhood services would also have access to the information through [FVIARS](#), or [SAM](#) tables.

The media and New Zealand public could also request information held by Police relating to any Family Harm Investigation, under the Official information Act 1982. (pursuant to withholding grounds [s6](#) and [s9](#) Official Information Act 1982)

Criminal Disclosure Act 2008

Should the Family Harm Investigation result in charges being filed, the [Criminal Disclosure Act 2008](#) and the [Criminal Procedure Act 2011](#) are triggered, the information reaches wider audiences within the justice sector. The defendant and their lawyer will have access to the information we captured in OnDuty. In any criminal proceeding, information may be shared, and people attending the hearing will be exposed to the information collected in the Family Harm Investigation.

Social Services Practitioners

Social services practitioners could access the information, i.e. registered health professionals (under the [Health Practitioners' Competence Assurance Act 2003](#)) and registered social workers (under the [Social Workers Registration Act 2003](#)), by requesting this information under s 20 of the Family Violence Act 2018.

Key principles for collecting, recording and sharing information

Remember to apply the basic information sharing practices:

- Quality
- Consistency
- Professionalism
- Transparency

Quality

The data you record needs to be clear, concise, relevant and accurate. Remember that many different agencies and/or individuals may have access to the information. Refer to principles [1](#) - [4](#) the 'collection principles'

- Keep to the facts - information is accurate, up to date, complete, relevant and not misleading (who, what, where, when, and how)
- Use your knowledge about the dynamics of family harm to capture context, meaning and intent within your family harm investigation
- Be concise - review what you've written to remove any unnecessary words or information.
- Avoid vague or ambiguous statements
- Consider your audience - will they understand any acronyms or jargon you've used? If in doubt, spell these out and always use plain English.
- Avoid judgement statements and labelling
- Use short sentences - these are easier to read and interpret
- Review your work before you save or submit it

Family violence homicides trigger a [Family Violence Death Review](#) report to be furnished to the National Family Violence Death Review Committee. When collecting and recording information, be mindful that your work is subject to critical review.

Consistency

It is important for Police to have national consistency in Family Harm Investigation reports. Mitigate organisational risk by adhering to consistent robust practices in accordance with national policy and the collection principles in the Privacy Act 2020 and Family Violence Act 2018.

The information Police collect and share has to be part of a wider consistent process.

Collecting information in a Family Harm Investigation is a lawful Police activity and its collection is necessary for Police to achieve its law enforcement functions in respect of family harm. Principle [3](#) provides that the individual is made aware that information is being collected, for what purpose and who it will be made available to. The benefit of compliance is that it sets up a framework to share information. Using that framework assists developing a better relationship of trust between victims and the agencies involved through a 'no surprises' approach.

Become familiar with what information is required and where it is recorded in OnDuty, so that you use the correct fields to collect quality information. Use standard family harm terminology in all records (e.g. person at risk, person posing risk, predominant aggressor, primary victim).

Professionalism

The vision of the New Zealand Police is to have trust and confidence of all. Professionalism within Family Harm Investigations, across the sector is central in achieving *Our Business*.

Police staff must be professional in how they record information about families and whanau.

- Avoid being subjective or judgemental
- Check spelling and grammar
- Keep the information private and confidential - the Privacy Act Principles apply.

Note: Think 'Would I be comfortable with this information being seen by the subjects, our partners or the media?' If the answer is 'no', consider rewording or editing it.

Transparency

The implication of transparency is that your actions will affect the reputation of the Police therefore your decision making must be able to withstand public scrutiny.

Within your Family Harm Investigation the parties will see you recording information and may have questions about where it is going and who will have access to it. Principle 8 requires an agency that holds personal information to ensure that they, having regard to the purpose for which the information is used, take reasonable steps to ensure the information is accurate, up to date, complete, relevant and not misleading.

It is expected that the information each agency receives from Police will differ depending upon the agency's role in the family harm context. Refer to the '[test to share](#)'

Be upfront and transparent with the family about where the information you record will go and for what purpose, before any questions are asked.

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Dynamic Risk Assessment and Frontline Safety Plan

Category: family Harm

Tags: on duty, concern, safety, safvr, question

Skip headings:

- Dynamic Questions
- Total Level of Concern for Safety
- Frontline Safety Plan Considerations

Dynamic Questions

Tinted box

- **High** = 4+ or if red questions (2,4,12) are answered YES
- **Moderate** = 2 or 3 questions are answered YES
- **Low** = 0-1 questions are answered YES

End tinted box

Ask in all cases about person posing risk:

1. Is there anything currently causing ___ a lot of stress?
2. **Is ___ deliberately harming anyone in the family? ***
3. Is ___ deliberately harming anyone vulnerable in the family?
4. **Is ___'s deliberately harmful behaviour escalating? ***
5. Do you think ___ will deliberately harm anyone in the family in the future?
6. Is ___ regularly abusing alcohol or drugs?
7. Is ___ jealous or controlling?
8. Is ___ mentally unwell?
9. Has ___ recently threatened to self-harm, or commit suicide?
10. Is ___ currently breaching any Police, Court or Corrections order?

Ask when person posing risk and person at risk are intimate partners:

11. Are you separated from, or thinking of leaving ___?
12. **Has ___ ever tried to restrict your breathing? ***

Ask if children or young persons normally reside at this address:

13. Has ___ ever failed to provide for a child's basic needs?
14. Are any of the children normally residing at the address not ___'s?
15. Are any of the children normally residing at the address displaying problem behaviours?

Total Level of Concern for Safety

Determine the total level of concern for safety (if you have SAFVR measure from Comms via radio)

SAFVR		Dynamic		Total Concern
High	+	High	=	High
High	+	Moderate	=	High
High	+	Low	=	Moderate
Moderate	+	High	=	High
Moderate	+	Moderate	=	Moderate
Moderate	+	Low	=	Low
Low	+	High	=	High
Low	+	Moderate	=	Low
Low	+	Low	=	Low

Frontline Safety Plan Considerations

Ensure you have informed the primary contact that information collected through the process of the investigation will be shared with partner agencies to enable joint safety planning.

Contact

- Does [Primary Contact] have a working phone?
- Is [Primary Contact] prepared to call Police for help? If no, explain why.
- Have neighbours been spoken to? If yes, state whether they are prepared to notify Police to help [Primary Contact] and any children present.

Action Taken

- Will an arrest be made? If yes, state whether bail will be opposed and why. What are the victim's views on bail?
- Will a PSO be issued to [Person Posing Risk]? If yes, note down PSO number.
- Is there a 'perpetrator service' available for [Person Posing Risk] to go to? If yes, state how [Person Posing Risk] will get to that service.
- Will [Primary Contact] and children reside at their home address? If no, state where they will reside.
- Do you believe [Primary Contact] and children are safe to stay at home?
- Has there been a direct offence (physical/sexual) against a child/young person present? If yes, complete the CPP referral.
- Do you believe the children/young persons present are suffering from neglect and have immediate safety concerns for the child/young person? If yes, complete the CPP referral.

- Where there are immediate safety concerns for the child/young person as a result of a direct offence or neglect, call Ministry for Children, Oranga Tamariki 0508 FAMILY and your local Child Protection team if available. PHONE: 0508326459
- Have you spoken to [Primary Contact] about your concerns for safety? If yes, what is [Primary Contact]'s response?
- Is an alert required? If yes, enter Vol, Pol, Lol in NIA.
- Has a FLINT been requested?
- Is there a local refuge [Primary Contact] and the children are prepared to go to and stay at? (phone refuge to confirm).
 - Women's Refuge PHONE: 0800733843
 - Oranga Tamariki PHONE: 0508326459

Support

- Has [Primary Contact] been given information about support services for themselves and their children? If yes, state who will call a support agency?
- Has [Person Posing Risk] been given information about support services?
- Has a safe person/ family member been called to assist [Primary Contact]? If yes, state the name of the safe person/ family member and phone number.
- If the safe person/ family member has been contacted, are they coming to stay with [Primary Contact] or other victims? If no, what support has been provided by the safe person/ family member?
- Has a scheduled task for prevention/ safety check with [Primary Contact] been created? This is required within the next 72 hours.
- Has a Special Situation Report been sent through to Comms to identify HIGH RISK victims and concerns for safety? If yes, ensure you submit the report to Comms.
- Has a victim safety alarm been requested for installation at [Primary Contact]'s house? If yes, state why this is required.

Family harm: Police family violence death reviews

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Introduction

This chapter:

- details the process for undertaking a Police family violence death review (PFVDR)
- outlines how Police family violence death reviews fit within the wider interagency reviews undertaken by the [Family Violence Death Review Committee](#).

What is a family violence death?

For the purposes of a Police family violence death review a 'family violence death' means:

"the unnatural death of a person (adult or child) where the suspected perpetrator is a family or extended family member, caregiver, intimate partner, previous partner of the victim, or previous partner of the victim's current partner."

Exceptions

These categories of deaths are initially excluded from this definition:

- suicides
- assisted suicide (based on pact)
- deaths from chronic illness resulting from sustained family violence
- accidental deaths related to family violence incidents.

Purpose of Police family violence death reviews

The purpose of a Police family violence death review is ultimately to assist in the prevention of future family violence deaths. The review will constructively analyse the family violence history known by Police relating to the victim, the offender and their families for the purpose of identifying and assessing any omissions, actions and/ or interventions taken to address any family violence related concerns.

The analysis of this information is intended to highlight areas where improved responses might have assisted in the prevention of a death and to consider whether these findings should result in changes to current practices and procedures.

The review will also consider the interaction of Police with external agencies. However, it must not examine the practices of those other agencies apart from their engagement with us and their known interaction with the parties involved, if relevant.

Any agency engaged with parties involved in a family violence death will also be required to participate in the [Family Violence Death Review Committee's](#) review process and this is the appropriate forum for the analysis and review of other agencies' practices.

We must be mindful that any material held in the Police Family violence death review will be made available to the other agencies when the Family Violence Death Review Committee reviews the death. Apply the Police organisational values and use SELF CHECK to test your decision making and communication.

The Police family violence death review is not a review of the criminal investigation and should not provide commentary on any aspect of that enquiry.

Initial notifications of death

This table outlines the initial notification requirements following a possible family violence death.

Step	Action
1	The Director: National Criminal Investigation Group (NCIG) must be informed of all homicides and suspected homicides by District Commanders within 24 hours of the incident being discovered.
2	If a family violence death is suspected, you must submit a 'Family Violence Death Notification'. (Form available on TEN ONE).
3	The 'Family Violence Death Notifications' will be automatically received in the PNHQ Family Violence mailbox where they are retrieved and checked to see if the death is, or may be, a family violence related death . If it is not clear at the time of either notification if the death is family violence, the National Family Violence Coordinator flags the notification and checks it again after a further 60 days to determine whether or not it is a family violence death.
4	Within seven days of the death being recorded as a family violence death, the National Family Violence Coordinator: contacts the O/C homicide and the district / area family violence coordinator to: <ul style="list-style-type: none"> - provide information about the review process and reporting template - ensure the review process is commenced notifies the Family Violence Death Review Committee of the death enabling it to begin collecting information and to commence their own review processes.
5	The O/C homicide and the district / area family violence co-ordinator should engage and discuss the process and their respective responsibilities as soon as possible to ensure that the Police family violence death review can be completed within the required timeframes .

Responsibilities for conducting the Police review

In every family violence death, the O/C homicide and the district / area family violence coordinator are jointly responsible for conducting the Police family violence death review and for completing the final report.

This table outlines the responsibilities of those conducting the review.

Role	Responsible for...
District / area family violence coordinator	<ul style="list-style-type: none"> - collecting, collating, analysing and summarising all family violence information and known background in relation to the victim, offender and their families, and - identifying any known interventions or actions taken by Police and any collaboration with other agencies in relation to the family violence issues.
<u>O/C</u> homicide	<ul style="list-style-type: none"> - providing a factual summary of: <ul style="list-style-type: none"> - the homicide - medical information - the status and nature of charges (if any) against the offender(s) - providing any other information they think is relevant to the review that has arisen out of the criminal investigation. This is because statements gathered from the investigation phase often contain information of unreported Family Harm episodes, intergenerational violence and a history of the person's upbringing and touch points with other agencies.
District / area family violence coordinator and <u>O/C</u> homicide jointly	<ul style="list-style-type: none"> - ensuring that the report is fully completed with all relevant information within the required timeframe (120 days), unless there are exceptional circumstances. For example, exceptional circumstances arise when it is not possible for the review to be completed due to the status and progress of the investigation (i.e. the death cannot be confirmed as suspicious). <p>Note: Where exceptional circumstances exist, the reason for this must be reported to the National Family Violence Coordinator within the required timeframe for completing the report so that non-compliance with timeframes can be explained in the quarterly reports.</p>

The review report

Follow the [Police family violence death review reporting template](#) when completing the review report. This template sets out the minimum details to be provided in the final report.

Along with the information to be provided by the district / area family violence coordinator and O/C homicide, the report must also include the required introductory information and victim, family and offender details.

The district / area family violence coordinator and O/C homicide must also discuss their findings and agree commentary around these and any recommendations made.

Recommendations should be practical, clear and achievable, and support the analysis and findings set out in the report.

Recommendations can be local and / or national, can relate to internal Police practice and policy, and may include Police procedures and practices with Government and other agencies.

The Police family violence death review report will be disclosed to the [Family Violence Death Review Committee](#).

Sources of information

The review should consider all information held by Police about the engagement and interaction with the individuals involved, along with information about and analysis of the functionality of collaborative working relationships between Police and external agencies and NGO's.

The majority of the information for the review will be located within NIA, FSS (Family Safety System) and on the homicide investigation file.

Review timeframes

Family violence deaths have consistently been reported as over 40% of all homicides in New Zealand. Family violence death reviews are completed internationally as part of best practice to prevent and reduce the occurrence of family violence homicides.

The Government is concerned about the high incidence of these deaths. In the past there has been some criticism of Police for not completing the reviews and/or failing to do so within the required timeframes. Accordingly, there is increased scrutiny on the quality of and timely completion of Police family violence death reviews.

As a result, the Family Violence Death Review Committee have agreed to extend the timeframes for report completion to 120 days.

Timely submission of these reports allows Police to make appropriate changes if there are learnings identified with our response. This will allow time to prepare a response for the public so that we maintain the trust and confidence of all.

This table details the timeframes for various aspects of the [Police family violence death review process](#) that must be complied with.

Person responsible	must...
National Family Violence Coordinator	<ul style="list-style-type: none"> - notify those responsible for commencing the review within 7 days of the death being recorded as a family violence death - monitor and report on compliance with the Police family violence death review process - report on proposed actions and outcomes as a result of the review. - forward PFVDR report to the Family Violence Death Review Committee.
Family violence coordinator and O/C homicide	<ul style="list-style-type: none"> - complete the Police family violence death review report in compliance with template requirements and submit it through their District Commander and Regional Detective Superintendent to the National Family Violence Coordinator within 120 days - if there are exceptional circumstances preventing the report from being completed (see 'Conducting the review' above), report the fact and reason for the delay and likely timeframes for completion to the National Family Violence Coordinator within the 120-day period.

Link with Family Violence Death Review Committee

The Family Violence Death Review Committee (FVDRC) is an independent body. It is one of three Ministerial Mortality Review Committees set up under the [New Zealand Health and Disability Act 2000](#).

The role of the committee is to review and report to the Minister of Health on family violence deaths with a view to reducing the number of those deaths.

The review by the committee is much wider than that of the Police family violence death review and consists of a systematic analysis of the lives of victims, perpetrators, and their families as well as the events leading up to and factors surrounding the death(s). They will request information from a wide range of agencies and disciplines as part of their processes.

The operation of the committee is defined by statute and is protected by strict confidentiality requirements. The committee has specific powers to collect information. This includes the ability to engage relevant people as agents of the committee to provide information about their particular agency in a confidential setting. There are statutory penalties for the wrongful disclosure of information received as part of the committee's processes.

The National Family Violence Coordinator is an agent of the committee and is responsible for facilitating and providing information about Police family violence deaths to the committee at a national level.

The committee has the power to set up local standing committees and will from time to time seek to contract a Police agent to assist them with their review of family violence deaths in that part of New Zealand.

The Police family violence death review report will be disclosed to the committee and is an important source of information for them in conducting their wider review process.

Reporting template for Police family violence death reviews

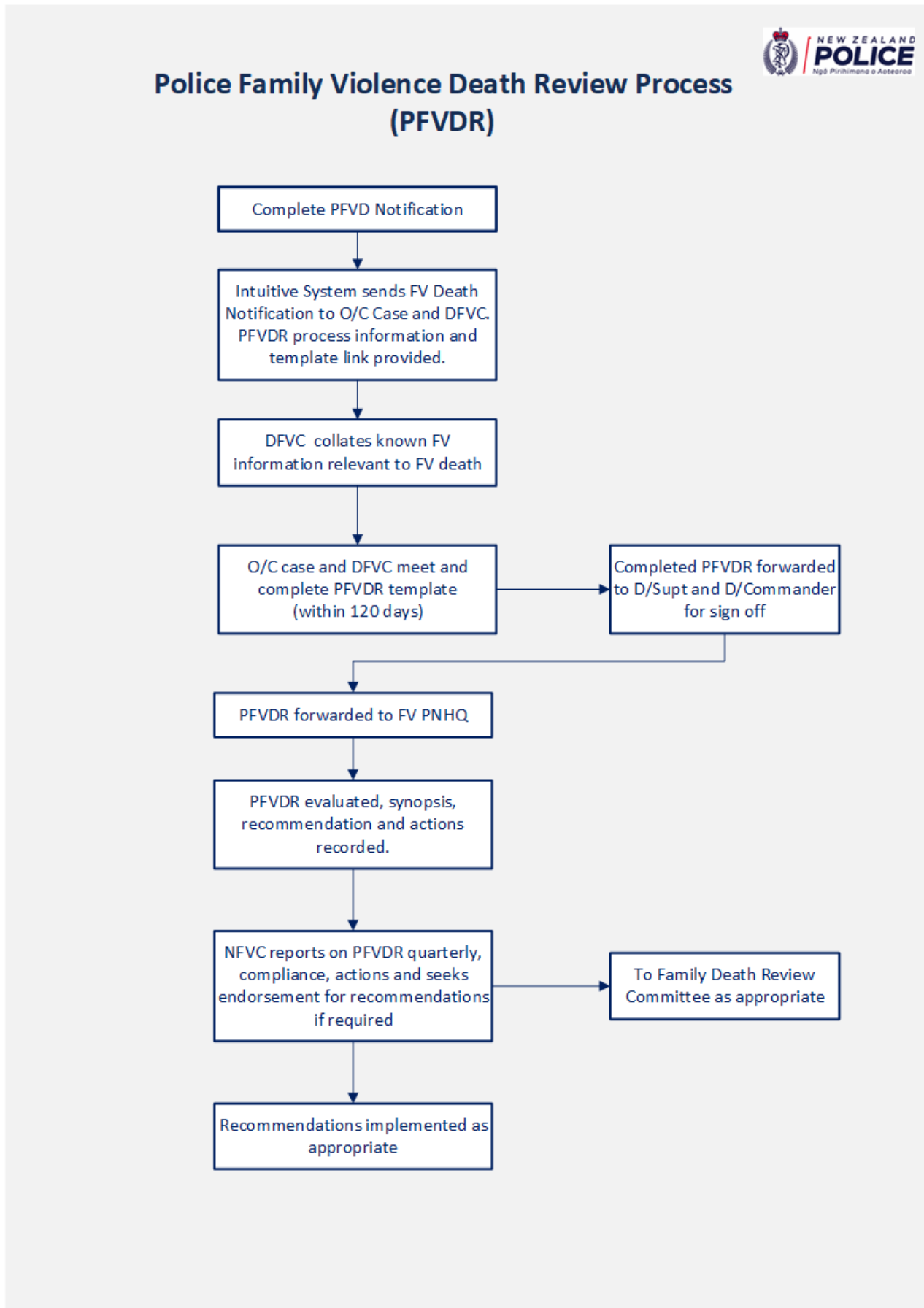
Download the death review reporting template.

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 [PFVDR Template as at 23.10.2020](#)

69 KB

Flowchart - Police family violence death review process



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