

APPENDIX E

[Furnished 20 October 2003; amended 1 June 2007]

[Guideline 19]

ODPP PROTOCOL FOR REVIEWING DOMESTIC VIOLENCE OFFENCES

1. Domestic violence includes a range of violent and abusive behaviours perpetrated by one person against another. It occurs within married and de facto relationships, between family members, couples who are separated or divorced, and within shared households.
 - 1.1 Domestic violence has a profound effect on children and constitutes a form of child abuse. Children can be affected by being exposed to violence in the parental relationship, by becoming the victims of violence, or a combination of the two.
 - 1.2 Domestic violence offences and personal violence offences are defined in s562A of the Crimes Act 1900
2. It is not uncommon for victims of domestic violence to request that the prosecution be discontinued. This may happen for various reasons:
 - the relationship between the victim and the accused resumes
 - the victim forgives the accused
 - the victim is financially dependant on the accused
 - the accused agrees to seek counselling
 - threats, harassment or intimidation by the accused; and
 - disillusionment with the criminal justice system.
 - 2.1 Prosecutors must determine the basis for the victim's wish to not proceed. This should involve making a detailed appraisal of all the circumstances of the case.
 - The prosecutor should take the following steps:
 - hold a conference with the victim
 - take a written statement from the victim explaining the reasons for not wishing to proceed
 - consult with the police OIC in order to obtain his or her views, as well as any relevant information or investigations required
 - consult with other relevant agencies
 - consult with a Witness Assistance Officer; and
 - prepare a comprehensive report as to recommendations.
 - 2.2 Where the prosecutor suspects that the victim has been frightened or coerced into withdrawing the complaint, the Police OIC should be immediately advised.
 - 2.3 If the victim wants to discontinue, the prosecutor should consider the

following factors when making an assessment of the circumstances of the case:

- the conduct or violence is of a minor or trivial nature and there is no prior history of similar conduct
- the victim has made an informed decision, free from threats, harassment or intimidation by any person
- the police and/or the victim agree
- the likelihood of the accused offending again
- the victim's continuing relationship with the accused
- the effect on that relationship of continuing with the case against the victim's wishes
- the history of the relationship, particularly if there has been any other violence in the past including sexual assault (ie past injuries and previous withdrawal of charges by the victim)
- where there have been repeated police callouts concerning incidents in the relationship
- the conduct involves premeditated violence, stalking, harassment or intimidation
- the seriousness of the offence
- where the conduct or violence was committed during the term of an Apprehended Domestic Violence Order (under Part 15A of the Crimes Act 1900) or recognisance involving the same victim or similar conduct or violence
- the victim's injuries
- if the accused used a weapon
- if the accused has made any threats since the offence; and
- the effect on any children living in the household.

2.4 Prosecutors should consult with the police, the Witness Assistance Service and any other relevant service providers (including the Department of Community Services where children are involved) in determining the appropriate course of action.

3. A victim's need or perceived need for protection should be put before a bail authority by the prosecutor in any bail application by the accused.

3.1 Victims should be informed about any special bail conditions imposed on the accused that are designed to protect the victim or victim's family, and the outcome of any bail application by the accused.

3.2 Prosecutors may institute and conduct, on behalf of the victim, proceedings for an Apprehended Domestic Violence Order or variation of an existing order under Part 15A of the *Crimes Act 1900* where necessary in order to protect the victim (see s 20A *DPP Act 1986*).