

DIRECTOR'S FAMILY VIOLENCE POLICY LAUNCH

**Director of Public Prosecutions
John Champion S.C.**

10 November 2011

It gives me great pleasure to be here to launch the policy.

It is particularly pleasing to see so many of you here today, representing a number of organisations concerned about the welfare of family violence victims.

I acknowledge the presence today of representatives of Domestic Violence Victoria, the Domestic Violence Resource Centre, Magistrates Cathy Lamble, Felicity Broughton and Kate Hawkins – who all had input into the policy, as well as Chief Crown Prosecutor Gavin Silbert, and solicitors and prosecutors from within the OPP.

I think this is a significant policy, and the attendance by you all here today reflects that.

What is the purpose of this policy? This policy, which has been 18 months in the making, reflects the OPP's commitment to treating victims and witnesses of family violence with dignity and respect.

It provides instructions for OPP solicitors and counsel about best practice for preparing and prosecuting family violence matters on behalf of the DPP. It outlines a number of priorities and principles to ensure consistency and fairness in the preparation and management of family violence prosecutions.

It is a significant policy because it focuses the minds of the prosecutors who deal with criminal matters every day on the needs specific to family violence matters.

The policy brings together the various steps that can be taken by our prosecutors to address the difficulties faced by victims of family violence.

All OPP solicitors and prosecutors – including those at the Victorian criminal bar – will be expected to be familiar with this new policy.

Complementing the introduction of the policy, about 40 OPP solicitors and prosecutors have undertaken training to help them to better understand the unique dynamics involved in family violence matters. The policy recognises the unique dynamics that a family violence matter brings to a prosecution and that each case is different and must be dealt with sensitively.

I will be writing to external barristers who prosecute on behalf of the DPP making them aware of the development of the policy, and the expectation that they will implement the best practice procedures.

These include how to deal with the right to object to giving evidence, dealing with a victim who retracts their complaint, alternative arrangements for giving evidence, and

the safety of victims and witnesses.

The policy also urges solicitors and prosecutors to give consideration to whether expert evidence should be called at trial to help explain some of the social, economic and psychological factors which operate in the context of family violence.

A significant aspect of the policy is that as cases come in to the OPP, there will be consideration as to whether family violence is involved.

As a result of this early identification, not only can the prosecution process reflect the unique dynamics of such matters but complainants can be directed to support if required.

That brings me to the role of the OPP's Witness Assistance Service.

As part of this policy, the Witness Assistance Service will be notified of each family violence matter so that they can determine the level of assistance required.

The Witness Assistance Service is available to support victims and witnesses throughout the court process. Family violence matters are a priority for WAS and each WAS member has a sound understanding of the key issues surrounding family violence.

If all victims and witnesses involved in family violence are referred to the Witness Assistance Service at an early stage, the OPP can more effectively provide appropriate support. It is extremely important that vulnerable victims be referred to the Witness Assistance Service as soon as possible.

Early engagement with the Witness Assistance Service is expected to help address witness safety issues which may lead to reluctance to proceed with a prosecution.

The safety of victims and witnesses is promoted in this policy, with solicitors encouraged to have discussions with Police Informants about the appropriateness of seeking an Intervention Order on behalf of a victim.

Early referral may also affect the outcome of a prosecution by helping to improve the quality of evidence given by a witness. If a witness feels supported, and is provided with the information they need to prepare themselves for giving evidence, they may perform this task better than someone who feels isolated and ill-informed about the court process.

The impacts of this policy are multi-layered, including witness safety and enhanced prosecutions.

We have certainly come a long way in this area and I was thinking this morning of two cases I have been involved in that reflect this.

The first case brought to mind is one that I prosecuted perhaps 15 or 20 years ago in the County Court of Victoria. It was a case concerning a woman who had been seriously assaulted by her partner, and what I remember particularly was that she had

a scar that ran from chin to ear across her face. It was a shocking injury that had been perpetrated by her partner and it was an injury that doubtless endured for the rest of her life. In those days, comparatively little was provided by way of support to people who were in her position. By the time we came to court on the Monday morning, when I met her for the first time, it was made clear to me that this woman was not prepared to give evidence in the case brought against her partner.

The reason for this appeared to be unexplained - all I knew was that she was not going to be available to the Crown case. She had changed her mind, and was, I believe, back living with her partner, the accused man, by the time of the trial. There was no other witness. Her reluctance to give evidence, in circumstances where she was still in the relationship with her partner, meant that without her evidence there was no Crown case, and that it would inevitably fail. As a result the case did not proceed and this woman who for me today is nameless, doubtless just disappeared into history as yet another victim of the time.

I compare that with a more recent experience I had when prosecuting a matter for this office a few years ago. This was an attempted murder heard in the Supreme Court and concerned an attack by a man on his wife, who was a refugee Somali woman who was effectively illiterate. This attack happened outside a police station just after a swap of children had occurred as a result of a previous custody battle, and arrangements made under an Intervention Order. This woman was subjected to a frightening and shocking attack with a knife in the open street and in circumstances where she came within a hair's breadth of losing her life.

The comparison I make with the previous case I was referring to was that in this instance things had moved on. She was given considerable support by members of this organisation, including I might say considerable support by solicitor Cate Taylor, as well as people from the Witness Assistance Service down stairs. She received significant encouragement in her preparation of the case, which included a number of conferences with myself as the trial prosecutor. By the time she came to court she had received assistance and encouragement and decided for herself that - contrary to her previous indications that she could not be in the same court room as her tormentor - she was prepared to stand in the witness box to face the accused and to face the jury, and in the circumstances of the full panoply of Court 11 in the Supreme Court. Ultimately she was prepared to give her evidence in a way that empowered her, and sent a strong message to the accused man. As a consequence of her excellent evidence, shortly after her cross-examination finished the accused man reversed his plea of not guilty and entered a plea of guilty to the charge of attempted murder.

The two cases graphically demonstrate the change in approach, and the considerable distance we have come in the way in which cases of domestic violence are now capable of being treated.

In the few weeks since this policy has been implemented by the OPP, WAS has already seen a marked increase in the number of files identified as involving family violence. It is my hope that the development of this policy will increase knowledge and awareness of family violence issues among criminal prosecutors, and help improve the experience of victims of family violence as they proceed through the criminal justice system.