

NT FAMILIES AND CHILDREN

MANDATORY REPORTING OF DOMESTIC AND FAMILY VIOLENCE

What do I need to report?

Section 124A of the *Domestic and Family Violence Act* outlines what you need to report and when. It says:

- (1) An adult commits an offence if he or she:
- (a) believes on reasonable grounds **either or both** of the following circumstances exist:
 - i. another person **has caused**, or is **likely to cause**, harm to someone else (the *victim*) with whom the other person is in a **domestic relationship**;
 - ii. the **life or safety** of another person (also the *victim*) is under **serious or imminent threat** because **domestic violence has been, is being or is about to be committed**;
- AND**
- (b) as soon as practicable after forming the belief, does not report to a Police officer (either orally or in writing):
 - i. the belief; and
 - ii. any knowledge forming the grounds for the belief; and
 - iii. any factual circumstances on which that knowledge is based.

To decide if you must make a report, consider:

Is the TYPE of harm physical? (see section 1A of the *Criminal Code*)

“Physical harm includes unconsciousness, pain, disfigurement, infection with a disease and any physical contact with a person that a person might reasonably object to in circumstances, whether or not that person was aware of it at the time”.

AND

Is the harm **serious harm**? (see section 1 of the *Criminal Code*)

Serious harm means any harm (including the cumulative effect of more than one harm):

- i. that endangers, or is likely to endanger, a person’s life; or
- ii. that is or is likely to be significant and longstanding.

Who needs to report?

Anyone 18 years of age and older who has formed a **reasonable belief** that either one or both of the above situations has taken, is taking, or may take place.

What is a reasonable belief?

If you are making a report, you need to hold a 'reasonable belief' that one or all of the circumstances in section 124A (1)(a) has occurred, is occurring, or is likely to occur . This is a general belief and will involve your subjective assessment of the matter.

Police will make a decision about the type of response that is required, based on the information you provide. The important thing is that you report serious physical harm.

If you want to be kept informed about the situation, make this clear to Police when you make the report.

Who do I make the report to?

You need to call **Police on 000** for emergencies or **131 444** in instances where you think you need to report but where an emergency response is not needed.

Regardless of which number you call, Police will assess the information and decide what type of response is required (for instance whether they respond immediately or by refer the matter to the Police Domestic Violence Prevention Unit (DVPU) for investigation). In the event the matter is referred to the DVPU, the Police will generally contact the practitioner who made the report to follow up with the client or patient.

What if I think the safety of my client/patient, myself or colleagues may be compromised by making a report to Police?

This is a legitimate concern and is expressly addressed in the Act. There are three instances that allow reasonable excuses for not reporting serious physical harm to Police. These are outlined at section 124A (3).

It is a reasonable excuse if you establish one or more of the following:

- You reasonably believed someone else already reported the same belief about the circumstances;
- You are engaged in planning for the removal of the victim and intended to report your belief as soon as practicable after the removal; or

- You reasonably believe that if you make a report as soon as practicable, a serious or imminent threat to the life or safety of any person may result (e.g. this includes threat to the safety of you, your colleagues or the client/patient).

If you decide to use the second or third excuse (Section 3), you are still required to report serious physical harm to Police when it is practical and safe to do so.

Is there a penalty for not reporting serious harm?

Yes, 200 penalty units apply (\$22 000). This represents the maximum fine.

How am I protected when I make a report?

Section 125 of the Act provides protection to professionals who report serious physical harm when acting in a professional capacity.

Section 125(1) of the Act states that when you make a report you are not civilly or criminally liable or in breach of any professional code of conduct for making the report, or for disclosing any information in the report.

Will I need to appear in court about any matters I report?

In any proceeding before a court, the report or evidence of its contents is not admissible and the person cannot be compelled to give evidence, produce a report or identify the maker of the report, unless directed by the court. The court will only provide this direction when the report, evidence or record is of critical importance to the court proceeding, or failure to provide the information would prejudice the proper administration of justice.

Who can I contact if I want to discuss how this will work in my team or division?

For more information or to organise a time to discuss how this can be implemented in your work area, contact the Domestic and Family Violence Policy Team in the Department of Health and Families.

For further information visit www.stopfamilyviolence.nt.gov.au

Or contact the Domestic and Family Violence Policy Team, Department of Health and Families on Ph: (08) 8999 2460; email: stopfamilyviolence.ths@nt.gov.au