

## RISK INDICATORS OF FAMILY VIOLENCE FOR BAIL DECISION MAKERS

Recent amendments to the *Bail Act 1977* (Vic) impose an obligation on bail decision makers to make inquiries of the informant or prosecutor as to whether there is a family violence intervention order, family violence safety notice, or recognised DVO in force against the accused. Bail Decision Makers must also consider whether releasing the accused will enliven a risk that the accused would commit family violence.

The following questions are intended to highlight an increased risk of family violence in a bail matter. These questions have been derived from statements made in the Victorian higher courts, from academic studies, and from the Victorian Common Risk Assessment and Risk Management Framework Tool and Practical Guides (CRAF). While these indicators are explicitly relevant to bail matters involving family violence, they may also be applicable to other bail matters. A Bail Decision Maker has the ultimate discretion to determine the amount of significance placed on various risk indicators. The risk indicators have been separated by relevance to alleged perpetrators and victims.

### **Risk indicators of family violence in alleged perpetrators:**

Where one or more of the following questions are answered in the affirmative, there may be a risk of family violence in a bail matter:

- Is there a current family violence intervention order, family violence safety notice, or DVO made against the accused?
- Has a family violence intervention order, family violence safety notice, or DVO previously been made against the accused?
- Has the accused previously been charged with and/or convicted of a family violence offence, including the following:
  - Contravention of a family violence safety notice;
  - Contravention of a notice intending to cause harm or fear for safety;
  - Contravention of a family violence intervention order;
  - Contravention of order intending to cause harm or fear for safety;
  - Persistent contravention of notices or orders?
- Is there evidence which indicates that the accused has previously been arrested in relation to a family violence incident without being charged?
- Does the accused have a history of violent offending?
- Has the accused previously been charged with a stalking offence, or an offence of making threats to injure or kill?
- Has the accused previously been charged with contravening a bail conduct condition or committing an indictable offence whilst on bail?
- Is there evidence which indicates that the accused has attempted to persuade a protected person, affected family member or complainant to recant allegations of family

violence or violent offending (in relation to either a previous matter or the current matter)?

- Is there evidence which indicates that the accused has attempted to interfere with witnesses in a case (in relation to either a previous matter or the current matter)?
- Has the accused recently undergone a break-up or separation from a domestic partner?
- Is the accused currently residing with a former domestic partner?
- Is the accused currently involved in divorce or family law proceedings?
- Has the accused ever harmed or threatened to harm or kill children?
- Has the accused ever harmed or threatened to harm pets or other animals?
- Is the accused currently residing with in a new familial relationship (including a new relationship in which the new partner has children from a previous relationship)?
- Is the accused in possession of a firearms authority or weapons approval?
- Does the accused have a history of alcohol or substance abuse?
- Has the accused exhibited a disparaging, negative or sexist attitude towards a domestic partner or female relative, or towards women generally?
- Has the accused engaged in behaviour which can be characterised as coercive, jealous or controlling?
- Has the accused ever threatened or attempted to injure themselves or commit suicide?
- Is there evidence which indicates that the accused grew up in a violent household characterised by child abuse and family violence?
- Has the accused recently been dismissed from their employment?

### **Risk indicators of family violence in alleged victims:**

The following situational indicators may additionally impact the likelihood and severity of family violence on the part of an alleged victim:

- Is the accused's current or former domestic partner pregnant?
- Has the accused's current or former domestic partner recently given birth?
- Is the alleged victim experiencing depression or other mental health issues?
- Is the alleged victim abusing or misusing drugs or alcohol?
- Has the alleged victim made threats to commit suicide or tried to commit suicide?