



Police

The police are responsible for thoroughly investigating allegations of assault to determine if reasonable grounds exist to lay charges. If these grounds exist in cases of woman assault, charges should be laid.

Charges are recognized as the most effective means of providing a deterrent to further violence and ensuring the safety of the woman.

In all investigative procedures related to women assault, police retain the safety of the woman and her children as a priority by:

- Providing information with respect to her legal rights, assistance with respect to community services, and if necessary, escorting a woman to a place of safety.
- Ensuring that women are given information about charges, arrest, release, and conditions prior to the involvement of the crown attorney's department.
- **(This information is vital for a woman in taking action and responsibility for her safety and the safety of her children as well as beginning a process of gaining control over her life.)**
- Assisting counsellors and shelter staff in understanding the role and approach of police.
- Working towards cohesiveness and consistency between systems through the sharing of information and responding to questions and concerns when these are requested by counsellors or women themselves.

SECTION A: INITIAL RESPONSE

Police, responding at the time of an assault, recognize that the woman is terrified and exhausted. These realities make it impossible for her to retain information or to be able to make decisions or choices about her life or future.

In recognition of this reality, the approach with abused women must be clear, factual, and supportive. It does not leave her with choices or the responsibility for decisions which are too terrifying and/or overwhelming. This reality should be balanced with respect for her as a person who does not deserve abuse and value for her dignity and worth. (See the Approach section for details on initial response, dynamics, and intervention.)

1. SPOUSAL ASSAULT : DEFINITION

SPOUSAL ASSAULT IS ANY FORM OF PHYSICAL, SEXUAL OR PSYCHOLOGICAL HARM AND WOULD INCLUDE BUT IS NOT LIMITED TO:

- A. PHYSICAL ASSAULT(S)
- B. SEXUAL ASSAULT(S)
- C. UTTERING THREATS
- D. CRIMINAL HARASSMENT (STALKING)
- E. INTIMIDATION
- F. FORCIBLE CONFINEMENT
- G. MISCHIEF, IN CONNECTION WITH A DOMESTIC INCIDENT
 - (i) Officers are reminded that where two or more persons share an interest in property, any one of these persons can commit mischief in relation to the shared property; and



(ii) Obstruct, interrupt or interfere with any person in the lawful use, enjoyment or operation of property; and

- H. VIOLATION OF A FAMILY COURT ORDER, (RESTRAINING ORDERS, EXCLUSIVE POSSESSION ORDERS) BAIL CONDITION, OR RECOGNIZANCE TO KEEP THE PEACE ARISING OUT OF, OR IN CONNECTION WITH A DOMESTIC INCIDENT

2. SPOUSE: DEFINITION

A SPOUSE IS A PARTNER WITH WHOM THERE IS OR HAS BEEN A RELATIONSHIP (CO-HABITATION OR NOT), REGARDLESS OF WHETHER THE RELATIONSHIP HAS RECEIVED LEGAL SANCTIONS AS A MARRIAGE AND SHALL INCLUDE SAME SEX RELATIONSHIPS.

SECTION B: INVESTIGATION

1. GENERAL PROCEDURE:

1.1 A designated call sign (912) will be assigned to all domestic calls for service, including, but not limited to assaults, threatening, and breach of a court order.

Police will respond to all calls relating to spousal assault, including third party, anonymous, and cancelled calls.

Two officers will be assigned to domestic calls.

In addition to standard information, **Communications** personnel will try to provide officers responding to domestic calls with the following:

- a. whereabouts and description of suspect;
- b. whether either party is under influence of drugs/alcohol;
- c. whether there are firearms in the residence;
- d. whether children are present and their status and whereabouts;
- e. if anyone in the residence has ever been issued/refused a firearms certificate;
- f. whether any previous domestic violence calls have occurred at this address and whether weapons were a factor;
- g. whether a court order or peace bond exists - confirmed if possible.

1.2 At each call for service relating to domestic violence, a report must be submitted. Thorough investigations shall be conducted at all domestic calls whether or not the involved parties deny any incident occurred.

1.3 It will be the responsibility of a platoon supervisor to monitor all calls of a domestic nature and ensure that reports are submitted.

In investigating the situation to determine if charges should be laid, police will focus their investigation decision on the facts and evidence relevant to the assault.



This includes the following:

- Not being frustrated or unwilling to proceed due to ambivalence on the part of the woman (review the Approach section and know the dynamics of woman abuse).
- Remaining impartial. If you have been there before, she has left before or she is doing something you don't agree with or understand, recognize this as part of her struggle. Don't blame or criticize. (See the Approach section and know the dangers and complications of not remaining impartial.)
- Remember that often the man does not want to take responsibility for his behaviour and is denying or minimizing what occurred.

These practices will convey to the woman that she is believed and that you are concerned about her safety. The way an officer approaches and handles the investigation is as important as the action which is taken.

2. DETERMINATION OF REASONABLE GROUNDS:

The determination of reasonable grounds and the existence of evidence considers the following variables:

- the presence of injuries
- complaints of injuries by the woman
- the woman's emotional state
- evidence, including a verbal statement by the woman, that the husband or partner committed the assault
- existence of broken furniture or property
- signs of struggle, such as torn clothes, disarray
- indications that retaliations by the woman, such as injuries to the man, may be in self-defense
- reports by independent witnesses and/or children of yelling, loud noises and/or assault

SECTION C: CHARGES

Charges are recognized as the most effective means of providing a deterrent to further violence and ensuring the safety of the woman.

Charges are laid in cases of woman assault where there are reasonable grounds to believe an assault has occurred and there is evidence to substantiate a charge. In cases where the grounds and evidence exist, officers assume responsibility for making decisions regarding the laying of charges.

1. PROCEDURE WHERE THERE IS NO VISIBLE PHYSICAL INJURY (for ensuring sufficient Reasonable Grounds)

In situations where there are no signs of physical injury to the woman, the woman's statement that an assault has occurred may provide sufficient reasonable grounds.

In these situations officers assess reasonable grounds based upon the totality of evidence by:

- Interviewing the woman separately and assessing credibility and the probability of an assault based upon



her description of the events **prior to interviewing her partner**

- Speaking with all other persons who may have heard or witnessed the assault (children should be interviewed if they are the only possible witnesses),
- In assessing the probability of an assault, it would be of assistance to enquire if:
 - Police have been called to the home previously
 - The woman has been assaulted previously and whether injuries were sustained or hospital treatment required
 - Charges were laid previously

This information should be noted on the General Incident Report, which is filed for every woman abuse call. If police are reasonably satisfied that an assault could have occurred they are to proceed with charges and should not be deterred from doing so solely because the man denies or proffers a different version of events.

Officers will refer women to a Justice of the Peace only in those situations where they do not reasonably believe an assault has occurred based on the statements by the woman and not because they vary from her partner's.

2. PROCEDURE FOR REASONABLE GROUNDS

In situations where Reasonable Grounds exist, the officer:

- advises the woman that the grounds and evidence exist and the officers want to proceed to lay charges
- explains to the woman that the pursuit of charges is the decision and responsibility of the police and ensures this information is also given to the man
- advises the woman that in proceeding with charges, verbal information from her would be of assistance
- requests a written signed statement from the woman describing the assault, (officers can and should proceed without this statement if there are other reasonable grounds)
- explores with the woman a safe and supportive manner and place for her to provide the statement (if a woman is upset, injured, or otherwise physically or emotionally distressed it may be more appropriate to have a statement taken later)
- upon obtaining the statement from the woman, requests that she sign the statement
- documents all evidence of physical injury and other evidence
- ascertains the need for medical release forms and medical evidence, which may include photos

At times the woman may be extremely fearful, withdrawn, defiant or supporting the abuser. This should not be viewed as the woman not co-operating but rather as indicators that she is extremely fearful about her safety. Officers should attempt to address her fears and if this is unsuccessful, proceed with ensuring she has information on support services and a safe place to stay if she wishes. This should include suggesting she see a medical professional for documentation of injuries.



SECTION D: WHEN CHARGES ARE NOT LAID

Charges are not laid in situations where there are no reasonable grounds or the woman is unwilling to provide a statement and there are no other grounds.

In these situations police:

- explain to the woman the reasons why there are no grounds to lay charges
- explain that they may be able to proceed with charges if she provides a statement and are prepared to proceed on the totality of the evidence as discussed in Section C on "Charges"
- explain alternative options to her, including seeing a Justice of the Peace, etc.
- give her a pamphlet with the officers' names and badge numbers, explaining what the pamphlet is and how it can assist her in obtaining support and information
- write up an Incident report and note on the report "police information only". The officer will inform both parties that such a report will be completed and kept on file.

SECTION E: ARREST

Arrest means that an assailant is taken into custody and release is conditional upon an appearance before a Justice or an Officer in Charge if there are no conditions on the release. Once charges are laid, the police proceed with arrest according to the conditions of the Bail Reform Act.

1. WHEN ARREST CAN OCCUR:

It is in the woman and children's best interests emotionally to remain in the security of their home, if this can be achieved safely. The most effective means of achieving this is through removing the offender as he is the one responsible for the assault.

Given the conditions of the Bail Reform Act, the police have the power to arrest the assailant and take him to the police station when any one of the following exist:

- the identity of the assailant is not established
- police believe that there **will** be a continuation of the offense
- all evidence has not been secured
- police believe, on reasonable grounds, that the assailant will not attend court

In situations where police have the power to arrest they:

- Arrest at the scene if the assailant is present
- If the assailant is not on the scene but charges are to be laid, submit a General Incident Report. If reasonable grounds exist to lay a charge, a warrant for the accused should be obtained as soon as practicable and entered on CPIC and every effort should be made to locate and apprehend the assailant.
- Request that a Justice of the Peace issue a warrant if the assailant cannot be located. The warrant will be



executed upon determination of the assailant's whereabouts.

- Submit an Arrest Report. In all cases involving **DOMESTIC VIOLENCE** where charges are laid, a brightly coloured sticker indicating DOMESTIC VIOLENCE shall be affixed to the outside portion of the crown brief, which shall readily identify it as domestic violence case.
- Submit a General Incident Report to the records manager if the incident occurred outside of the region. The incident report is mailed to the appropriate service for investigation.

A copy of the report must be submitted to the Victims of Crime Branch by the reporting officer. (Domestic Support officers are to be assigned to assist Victims of Crime.)

Victims of Crime will forward a copy of the report to the designated Domestic Support Officer for follow-up (i.e. review reports, assess woman's needs, contact woman personally or by phone, and give appropriate support).

The Domestic Support Officer will file a Supplementary report.

When an arrest is made, police:

- Ask the woman if whether she has sustained injuries and note her response. Officers should note their own personal observation of injuries. Whenever possible, the woman and the crime scene should be photographed. Officers will ensure the woman is contacted within 48 hours to photograph any injuries that might become more visible. **A medical release form must be filled out by the officer and signed by the woman whenever injuries are sustained.**
- Ensure that the woman has transportation to a shelter or safe place (**THAT PLACE IS TO REMAIN CONFIDENTIAL**). If necessary, the officer may transport.
- Will give to the woman a copy of the Violence Prevention Council pamphlet. Officers will write their name and badge number in the space provided and leave it with the woman at all calls relating to domestic violence. Officers will keep a supply of the Violence Prevention Council pamphlets available. These pamphlets will be available to all divisions.

Immediate arrest decreases the danger to women and reduces the possibility of a re-occurrence of the offence.

Upon arresting the assailant, he is taken to the police station for processing of the charge and a decision regarding release. (See Section F, "Release" for details.)

2. WHEN CHILDREN ARE PRESENT

Police enquire, as part of their investigation, if there are children present in the home and if they heard or witnessed the assault.

If children are in the home and the incident results in one party being arrested and the other hospitalized, the Children's Aid Society (C.A.S.) should be called whether or not other relatives are available.

If there are indications that children were in the room or nearby vicinity, the mother and the children should be questioned as to whether the children were harmed. The following guidelines can be used by officers to determine the course of action:

1. If the children have been assaulted:
Immediately contact the Children's Aid.



2. If Mom is hospitalized and Dad is arrested:
Immediately contact the Children's Aid
3. If there are statements or indications that the children could have been in danger by indirect violence (i.e. in the way of flying objects, mother pushed while holding a small child):
Immediately contact the Children's Aid.

The above examples should be viewed as situations which fall under the Child Welfare mandate and action is taken in accordance with the Act.

4. A child or children have witnessed the assault and reports indicate that police have attended on previous occasions:
A referral is made to the Children's Aid on the next business day.
5. A child or children are in the house and reports indicate that police have attended on previous occasions:
A referral is made to the Children's Aid on the next business day.

In the above situations, police are encouraged to recognize that children who repeatedly witness or hear violence are children in danger.

If children are present in the home, it should be noted on the report.

3. WHEN ARREST CANNOT OCCUR

Given the conditions of the Bail Reform Act, an assailant can be charged but **cannot** be arrested and will not be taken to the police station when the following conditions exist:

- the identity of the assailant is established
- police are satisfied that there will be no continuation of the offense
- all evidence has been secured
- police believe, on reasonable grounds, that the assailant will attend court

This action is only appropriate in situations where the woman is, by her own choice, leaving the home and will be a safe distance away from the abuser so that he does not have access to assault her.

In assessing whether the assault will recur, police are aware that the calm, rational demeanour of an assailant does not guarantee the safety of the woman even if he states he will not assault her again. The involvement of police, in and of itself, may enrage an assailant to commit another assault upon their departure and the only viable assessment of the danger to the woman is obtained by asking the woman if she is fearful of another assault.

If an arrest cannot be made, police:

- check if the assailant is breaking a restraining order, conditions, peace bond or probation order and enforce as a breach of the family law reform act
- give the woman a card with the officers' names and badge numbers and let her know who to call if she requires further information or has questions.



SECTION F: RELEASE AND CONDITIONS

Upon being charged with an offense, "Release" is the manner in which an assailant is returned to the community and the rules or "conditions" which are placed on him.

1. OPTIONS WHICH ARE NOT APPROPRIATE IN WOMAN ABUSE

The options listed below compel an assailant to attend court but do not place any conditions on him as to what he can and cannot do upon release. ***This is not appropriate as the danger of another assault and the safety risks to the woman and her children are not addressed.***

If an assailant **is not arrested**, the following release provisions are possible:

- Summons (to Court)
- Appearance Notice

If an assailant **is arrested**, the following release provisions are possible:

- Arrested and Released by the Officer in Charge of the Station;
- Released on a Promise to Appear (in Court)

2. OPTIONS WHICH ARE APPROPRIATE IN WOMAN ABUSE

If an assailant **is arrested**, he is held for an Appearance before a Justice (within 24 hours), resulting in:

- RELEASED ON AN UNDERTAKING WITH CONDITIONS (see description, next page)
- SHOW CAUSE HEARING (see description, next pages)

A Show Cause Hearing can result in:

- Undertaking with Conditions
- Recognizance without Surety
- Recognizance with Surety

2.1 UNDERTAKING WITH CONDITIONS

In most instances of woman assault, release on an undertaking with conditions is the recommended provision of release.

An undertaking means that the police believe that the offender will abide by conditions and will not repeat the offense and thus can be released. **If a woman does not believe that her partner will abide by conditions, she should advise the police.**

An undertaking is an order by a Justice of the Peace or a Judge and signed by the accused stating he promises to



abide by specific conditions. It is usually done through an appearance by the assailant before a Justice of the Peace or a Judge. This appearance is called a Bail Hearing.

Conditions recommended by the police relate to:

- No contact with wife or partner
- Staying away from the residence or other places where the woman may be on a regular basis such as her place of employment
- No communication with wife or partner except through legal counsel (where children are involved, communication through a third party only)
- Notify the Durham Regional Police Service in writing within 24 hours of change of address
- Other conditions as appropriate to the individual case (consult the woman)

The placing of conditions is based on the knowledge that it is essential to the safety of the woman and to the deterrent effect on the assailant to ensure that the assailant does not have contact with the woman for a period of time.

When the accused is released, the officer conducting the Bail Hearing, or his/her designate, will notify the woman of the release and the conditions.

A follow-up letter containing the release and conditions will be sent to the woman as soon as practicable after the accused is released.

2.2 SHOW CAUSE HEARING

If the police are opposed to release of any form, a full Show Cause Hearing will be held in Bail Court to determine if the accused should be held in custody.

This hearing is usually held when the conditions of the Bail Reform Act are not satisfied and police do not believe, on reasonable grounds, that they will be satisfied by any form of release. (i.e. The assailant is not likely to comply with the conditions and therefore the possibility of the offense recurring exists if he is released.)

If the recommendations are upheld by the Court, the accused will remain in custody until the first court appearance. If the recommendations are not upheld, the accused may have to provide a monetary surety to ensure he will abide by the conditions as described previously.

In all cases, the police officer(s) in attendance or the officer in charge of the investigation will explain to the woman in clear detail, the nature of proceedings against the accused that will follow his arrest such as:

- if the accused has been/will be released with conditions
- if the accused is being held for a full Show Cause Hearing
- how/where to express concerns about her safety

In assessing the safety concerns and needs of a woman, it would be of assistance to enquire about the history of abuse and previous police calls to the home as they provide information about both frequency and severity.

Police routinely enquire if a woman is concerned about her safety or is fearful of the assailant being released. All of the above information should be part of the assessment for the determination of release, conditions or further detention.



When an assailant is held for a Bail Hearing/Show Cause Hearing, police contact the woman to:

- Advise her of the conditions of release
- Provide a copy of the conditions of release

Police can also advise a woman that she can attend at the court and speak with the crown attorney prior to the Bail Hearing and if she wishes, advise her how to arrange this meeting.

A Community Crown is also available at the police station from 8:30 a.m. to 4:30 p.m. (Monday to Friday) and appointments with this Crown can be made by a woman.

The provision of information and involvement of the woman in decisions keeps her informed and begins for her the process of regaining control of her life. This approach works towards ensuring her safety and her co-operation in the judicial process.

SECTION G: BREACH OF CONDITIONS

Upon the placing of conditions, the police are responsible for investigating breaches of those conditions if they are advised of them. In the event that the conditions are breached by the assailant, police will investigate and proceed with charges if there are reasonable grounds and evidence to support a charge.

SECTION H: CALLS INVOLVING POLICE

All domestic situations involving police officers shall be attended by the Sergeant as well as the original responding officers.

The Operational Command Centre Staff Sergeant will be informed of the incident by the Sergeant. If a criminal offense has occurred or there is a concern that one may occur, the Duty Inspector will be notified by the Operational Command Centre Staff Sergeant.

SECTION I: IMMIGRATION/LANGUAGE AND DISABILITY

Police officers in attendance at calls where **immigration status is an issue or where language is a barrier**, will use the following procedures:

- If language is a barrier, officers will utilize the AT & T translator service when necessary. Children should not be used as translators.
- The officer will explain to the woman (through the translator if necessary), that her status in Canada will not change in any way as a result of her participation in the judicial process, either as a victim of the offense or as a result of charges being laid against the accused.
- The officer should advise the woman to get independent legal advice with respect to her immigration status in Canada.
- If a woman is concerned that a partner may attempt to seize her identification papers and deport her, the



officer shall assist her in securing identification papers from her residence. Should the papers be lost or destroyed, the officer shall inform her that they can be replaced by application to the appropriate agency.

- In all cases, where the woman has **disabilities**, the officer will assist the woman, where possible, in the following manner:
- If there is a communication barrier due to a physical or developmental disability, the officer will make all reasonable attempts to contact appropriate community resources to provide assistance, including suitable transportation, care and shelter.
- If the accused is the woman's sole care giver, and his arrest and removal from the residence will place the woman in physical risk, the officer will contact, on advice from the woman or her advocate, appropriate resources for the care of the woman.

Officers should be aware of shelters that can provide care and support appropriate to the woman's disability. Women with disabilities may choose to use other resources such as friends or family or other resources who can provide the care required. Officers will make every reasonable effort to ensure that the women's choice of accommodation is provided.

SECTION J: FOLLOWUP

If charges were not laid at the scene, the report is reviewed by G.I.S. (General Investigative Services) for further investigation to determine if charges should be pursued.

General Investigative Services is the appropriate department for individuals within the community or women themselves to direct questions or concerns regarding charges, conditions, status of cases, breaches, or other required information. Requests for information should be directed to the Detective Sergeant on duty or the officer in charge of the G.I.S. at that time.