

Legislative/Regulatory Requirements

Section 29 of the Adequacy Standards Regulation requires a police services board to have a policy on investigations into domestic violence occurrences. In addition, section 12(1)(d) requires the Chief of Police to develop and maintain procedures on and processes for undertaking and managing investigations into domestic violence occurrences.

The focus of these policies and procedures should be on domestic violence occurrences. For the purposes of this guideline, domestic violence occurrence means:

Domestic violence is any use of physical or sexual force, actual or threatened, in an intimate relationship, including emotional/psychological abuse or harassing behaviour. Although both women and men can be victims of domestic violence, the overwhelming majority of this violence involves men abusing women.

Intimate relationships include those between the opposite-sex and same-sex partners. These relationships vary in duration and legal formality, and include current and former dating, common-law and married couples.

Criminal Code offences include, but are not limited to homicide, assault, sexual assault, threatening death or bodily harm, forcible confinement, harassment/stalking, abduction, breaches of court orders and property-related offences.

These crimes are often committed in a context where there is a pattern of assaultive and/or controlling behaviour. This violence may include physical assault, and emotional, psychological and sexual abuse. It can include threats to harm children, other family members, pets and property. The violence is used to intimidate, humiliate or frighten victims, or to make them powerless. Domestic violence may include a single act of abuse. It may also include a number of acts that may appear minor or trivial when viewed in isolation, but collectively form a pattern that amounts to abuse.

Sample Board Policy

Board Policy # _____

It is the policy of the _____ Police Services Board with respect to domestic violence occurrences that the Chief of Police will:

- a) in partnership with the police service's local Crown, Probation and Parole Services, Victim/Witness Assistance Programme (VWAP), Victim Crisis and Referral Service (VCARS), municipalities, local Children's Aid Societies and other local service providers and community representatives responsible for issues related to domestic violence, including women's shelters, work to establish and maintain one or more domestic violence

- coordinating committees that cover the geographic areas that fall within the jurisdiction of the police service;
- b) implement one or more of the models set out in Ministry guidelines for the investigation of domestic violence occurrences and ensure that the police service has access to trained domestic violence investigators;
 - c) develop and maintain procedures for undertaking and managing investigations into domestic violence occurrences that address:
 - i) communications and dispatch;
 - ii) initial response;
 - ii) enhanced investigative procedures;
 - iv) the mandatory laying of charges where there are reasonable grounds to do so, including in cases where there is a breach of a bail condition, probation, parole or a restraining order;
 - v) the use of a risk indicators tool;
 - vi) children at risk;
 - vii) high risk cases and repeat offenders;
 - viii) occurrences involving members of a police service;
 - ix) post-arrest procedures;
 - x) victim assistance; and
 - xi) safety planning;
 - d) ensure that the police service's response to domestic violence occurrences are monitored and evaluated; and
 - e) ensure that officers and other appropriate members receive the appropriate Ministry accredited training.

Police Service Guidelines

1. Every Chief of Police, in partnership with the local Crown, Probation and Parole Services, VWAP, VCARS, local Children's Aid Society, municipalities, and other local service providers and community representatives responsible for issues related to domestic violence, including women's shelters, should work to establish one or more domestic violence coordinating committees that cover the geographic areas that fall within the jurisdiction of the police service. The suggested terms of reference for the domestic violence coordinating committee include:
 - a) establishing a protocol for the operation of the committee;
 - b) establishing criteria for case and/or systems review;
 - c) reviewing cases that meet the established criteria, and subject to confidentiality requirements, sharing case specific information among relevant member organizations in order to provide a coordinated response;
 - d) monitoring and evaluation the response to cases by organizations participating on the domestic violence coordinating committee;
 - e) reviewing the availability of services to victims of domestic violence,

- f) including the provision of safety planning; coordinating the development of local written protocols on domestic violence that address:
 - i) the roles and responsibilities of organizations involved in providing services to victims, including notifying and informing the victim about release of the accused, bail conditions, and the criminal justice process;
 - ii) information sharing among the organizations involved in providing services to victims, including notifying and informing the victim about release of the accused, bail conditions, and the criminal justice process;
 - iii) referrals for service, including the provision of assistance to victims and children in cases which do not proceed to court, or where no charges have been laid;
- g) developing local community strategies and response to address and prevent repeat victimization, including promoting and supporting follow-up with victims of domestic violence; and
- h) developing initiatives/programs for the prevention and early intervention, including:
 - i) Domestic Violence Emergency Response System (DVERS), where practical;
 - ii) addressing the needs of child witnesses of violence; and
 - iii) awareness and information programs on domestic violence occurrences for students and other service providers.

**Domestic
Violence
Investigators**

2. Every police service should ensure that it has access to trained domestic violence investigators.
3. Domestic violence investigators will have the primary responsibility for undertaking, managing or reviewing the investigation of domestic violence occurrences, except where the type of occurrence involves an offence which is addressed by the police service's criminal investigation management plan established pursuant to section 11 of the *Regulation on the Adequacy and Effectiveness of Police Services* or is a threshold major case as defined in the *Ontario Major Case Management Manual*.
4. A Chief of Police should not designate a person as a domestic violence investigator unless that person is a police officer and has successfully completed the required training accredited by the Ministry or has equivalent qualifications and skills as designated by the Ministry.
5. A police service may meet its obligations under paragraph 2 by either:
 - a) ensuring that an adequate number of patrol officers are designated as

- b) domestic violence investigators;
establishing a specialized unit of domestic violence investigators that will be responsible for undertaking, managing or reviewing the investigation of domestic violence occurrences;
- c) designating a domestic violence occurrence as a threshold occurrence under the police service's criminal investigation management plan, thereby requiring that the investigation be undertaken or managed by a criminal investigator; or
- d) designating patrol supervisors as domestic violence investigators who will be responsible for undertaking, managing or reviewing all domestic violence occurrence investigations.

6. Where a police service decides to meet its obligations under paragraph 2 by one of the methods set out in paragraph 5(b)-(d), it should also ensure that its patrol officers receive the required training accredited by the Ministry on the police response to domestic violence occurrences.

Follow-Up

7. Every police service, in conjunction with the domestic violence coordinating committee and local community and social service agencies, should consider the need for, and the feasibility of, implementing a multi-disciplinary follow-up support for victims of domestic violence in their jurisdiction. This support could focus on victims' assistance, counselling, attendance at court, children who witness violence, and intervention strategies, such as safety planning, in cases where there is repeat victimization or high risk to the victim.

**Communications
and
Dispatch
Procedures**

8. Every police service's procedures should:
- a) require that all domestic violence occurrence calls be responded to as a priority call for service even if the call is withdrawn, including calls relating to a possible breach of a bail, parole or probation condition, peace bond for a restraining order;
 - b) require that when a call is received and the suspect has threatened violence and there is reason to believe that the suspect intends to go to the victim's location the police will go to the victim's location;
 - c) set out the number of police officers to attend at the scene, with two as a minimum;
 - d) indicate the type of information to be gathered by communications and dispatch personnel and provided to responding offices, including at minimum:
 - i) caller's name, address, telephone number and relation to the incident (e.g., witness, victim);
 - ii) information about the suspect (e.g., relationship to victim, current location, description, any known mental illnesses, suicidal threats, history of abuse/violence);

- iii) extent of injuries, if known;
 - iv) whether the suspect or other residents of the household are under the influence of drugs or alcohol;
 - v) whether firearms or other weapons are known to be present at the scene or accessible to the suspect from some other location;
 - vi) whether the suspect or anyone in the household has been issued or refused an authorization to acquire a firearm, Firearms Licence or registration certificate;
 - vii) whether the suspect is known to have access to firearms;
 - viii) whether children or other persons are present in the household and their location within the dwelling;
 - ix) whether there has been one or more previous domestic violence occurrence calls to the address, the nature of previous incidents and whether weapons have been involved; and
 - x) whether a current peace bond/restraining order or bail/probation condition exists against anyone in the household or suspect; and
- e) require communications and dispatch personnel to be provided with a checklist or reference sheet that sets out the information to be gathered and provided to responding officers.

9. The procedures should provide that whenever possible at least one of the minimum two officers responding to a domestic violence occurrence should be a patrol officer who has received training on the police response to domestic violence occurrences or a domestic violence investigator.

10. The procedures should provide that upon arrival at the scene the officers should:

- a) try to quickly separate the parties
- b) assist any party in obtaining medical assistance, if necessary;
- c) ensure that any children at the scene are provided with appropriate support/assistance; and
- d) gather and preserve evidence in accordance with the police service's procedures on the collection, preservation and control of evidence and property.

11. The procedures should provide that:

- a) all officers responding to a domestic violence occurrence should make detailed notes, including on the actions and utterances of the parties; and
- b) a detailed occurrence report should be completed for every domestic violence occurrence regardless of whether any charges were laid or an offence alleged.

12. The procedures should address the interviewing of the victim(s), suspect and witnesses, including:

*Initial
Response
Procedures*

*Interviewing
Procedures*

- a) where available, practical and appropriate, the use of audio or video taping of statements in accordance with the *R. v. KGB* guidelines;
- b) separate interviews where practical and safe for officers and the parties;
- c) if required, the use of an interpreter by a person outside the family where practical;
- d) that the officers should ask the victim and other witnesses direct questions about:
 - i) any history of abuse/violence and stalking/criminal harassment;
 - ii) any history of personal threats, including threats to life;
 - iii) any concerns over the safety of the victim;
 - iv) the presence of, or access to, firearms and registration certificates;
 - v) the previous use of weapons;
 - vi) any history of drug or alcohol abuse; and
 - vii) any history of mental health or stability issues;
- e) the processes and considerations for interviewing child witnesses, including the appropriateness of asking the child any of the questions set out in (d);
- f) that the officer should ask the victim any other questions relevant to the completion of the risk indicators part of the domestic violence supplementary report form;
- g) requesting that the victim review and sign the officer's record of their statement, or any other statement that has been provided, and the statements should include the date; and
- h) interviewing third party witnesses, including neighbours, other emergency personnel who have responded to the scene and medical personnel who treated the victim.

**Evidence
Procedures**

13. The procedures should address the gathering and documenting of evidence, including:
- a) asking whether the victim was physically assaulted and whether any internal or external injuries occurred and noting their response (including where possible on a diagram);
 - b) photographing the crime scene (e.g. overturned furniture or destroyed property), including the use of video taping, where available and practical;
 - c) with the victim's consent, photographing the victim's injuries and taking additional photographs within 24-48 hours of the initial occurrence when the injuries are more visibly apparent (if possible by a member of the same gender; consideration should be given to using Polaroid photographs when appropriate);
 - d) gathering any other evidence, including answering machine tapes, hospital records, torn and/or blood stained clothing, or fingerprint evidence if the suspect has broken into the victim's residence (including any evidence obtained for a Sexual Assault Treatment Centre whose mandate has been expanded to include domestic violence);

- e) the review and preserving of 911 tapes that record the call for service;
- f) the names and date of birth of all children present, or who normally reside, in the home; and
- g) the use of search warrants to obtain relevant evidence.

14. The procedures should provide that in any domestic violence occurrence, which is a threshold major case, the investigation will be in accordance with the Ministry's designated *Ontario Major Case Management Manual*.

**Mandatory
Charge
Policy**

15. The procedures should provide that in all domestic violence occurrences an officer is to lay a charge where there are reasonable grounds to do so, including:

- a) where a person has breached a condition of bail, parole, probation or a peace bond;
- b) for any offence committed under the Criminal Code, including obstruction of justice (i.e. dissuading the victim from testifying); or
- c) when there is a contravention of a valid order under sections 24 and 46 of the *Family Law Act* and section 35 of the *Children's Law Reform Act*.

16. A decision to lay charges should not be influenced by any of the following factors:

- a) marital status/cohabitation of the parties;
- b) disposition of previous police calls involving the same victim and suspect;
- c) the victim's unwillingness to attend court proceedings or the officer's belief that the victim will not cooperate;
- d) likelihood of obtaining a conviction in court;
- e) verbal assurances by either party that the violence will cease;
- f) denial by either party that the violence will cease;
- g) the officer's concern about reprisals against the victim by the suspect; or
- h) gender, race, ethnicity, disability, socioeconomic status or occupation of the victim and suspect.

17. The procedures should provide that an officer should explain to both the victim and the suspect that it is their duty to lay a charge when there are reasonable grounds to believe that an offence has been committed, and that only a Crown can withdraw the charge.

18. The procedures should address the use of warrants to enter a dwelling house for the purpose of arrest or apprehension in accordance with the relevant sections of the *Criminal Code*.

19. The procedures should provide that if the suspect is not present when officers arrive, and reasonable grounds exist to lay a charge, a warrant for the arrest of the accused should be obtained as soon as possible. Once obtained, a warrant should be entered on CPIC as soon as practicable and no later than within 24 hours. Every

reasonable effort should be made to locate and apprehend the suspect.

20. The procedures should address dual arrest, as well as the laying of counter-charges, and highlight the importance of determining the primary offender in order to distinguish assault from defensive self-protection.

**Criminal
Harassment**

21. The procedures should provide that in all domestic violence occurrences, officers should consider whether there is any evidence of criminal harassment, and should also follow the police service's procedures on criminal harassment investigations.

Firearms

22. The procedures should provide that in all domestic violence occurrences the officers involved will:

- a) follow the police service's procedures on preventing/responding to occurrences involving firearms, regardless of whether any charges are laid; and
- b) where appropriate, determine whether there is compliance with the sections of the *Criminal Code* and *Firearms Act* relating to safe storage of firearms.

**Risk
Indicators
Tool**

23. The procedures should provide that, as soon as possible, whenever a charge is laid in a domestic violence occurrence, the domestic violence supplementary report form will also be completed, including the part of the report relating to the risk indicators checklist. Where a suspect has been arrested, the procedures should provide that the risk indicators part of the report will be completed prior to any decision to release the suspect or detain for a bail hearing, and will be included with the Crown brief/show cause report.

24. The procedures should address the use of behavioral science services in domestic violence occurrences if the circumstances of the case require a risk assessment, and how these services can be accessed in accordance with the requirements of the *Regulation on the Adequacy and Effectiveness of Police Services*.

25. The domestic violence supplementary report should be based on the Ministry's designated report form and should include, at minimum, the risk indicators set out by the Ministry.

**Children
at
Risk**

26. The procedures should require police officers to address issues relating to children, who are under 16, in accordance with the police service's protocol with the local Children's Aid Societies.

**High Risk
Cases and
Repeat
Offenders**

27. The procedures should address the investigative supports that may be available to assist in cases determined to be high risk, or where there is a repeat offender with a history of domestic violence with the same or multiple victims, including:

- a) the use of physical surveillance;

- b) electronic interception;
- c) video and photographic surveillance; and
- d) victim/witness protection services.

28. The procedures should provide that in cases involving high risk, or where there is a repeat offender, that the offender should be entered into the 'SIP' category on CPIC as soon as possible, and no later than within 24 hours.

29. The procedures should provide that where an offender has engaged in a pattern of offending that may indicate hate/bias motivation towards women, that the domestic violence investigator raise with the Crown the possibility of introducing evidence of hate/bias motivation as an aggravating factor for the purposes of sentencing the offender if convicted.

**Occurrences
Involving
Members**

30. The procedures should set out the steps to be followed when a domestic violence occurrence involves a member of its police service or another police service.

**Bail
Procedures**

31. The procedures should provide that in all domestic violence occurrences officers will comply with the police service's procedures relating to bail and violent crime.

32. The procedures should provide that in all domestic violence occurrences officers will comply with the police service's procedures relating to breach of bail.

33. Consistent with local protocols, the procedures should set out the roles and responsibilities for notifying and informing the victim as soon as possible about the release of the accused, time and location of bail hearing, bail conditions and the criminal justice process.

**Victims'
Assistance**

34. The procedures should provide the officers who respond to domestic violence occurrences will provide assistance to the victim based on the police service's local procedures, including:

- a) assisting the victim in obtaining medical assistance, if necessary;
- b) remaining at the scene until they are satisfied that there is no further immediate threat to the victim;
- c) addressing any special needs of the victim (e.g., dealing with communication barriers);
- d) addressing the needs of child witnesses of domestic violence occurrences, including encouraging the child's primary caregiver to consider obtaining assistance for the child from a counsellor with experience in assisting child witnesses of domestic violence;
- e) if requested by the victim, attending the residence of the victim to ensure peaceful entry when the victim or accused returns to take possession of personal belongings and when concerns for the victim's safety exist because

of the presence of the accused in the residence, unless peaceful entry of the residence cannot be achieved, or the removal of certain property is contested by either party, in which case the officers should advise the parties of the need to seek a civil remedy;

- f) arranging for transportation to a shelter or place of safety, if necessary, with the location remaining confidential to the suspect/accused and third parties; and
- g) providing information to the victim on services that are available, and offer to make initial contact with victims' services.

35. Police services should provide, in conjunction with local victims' services, a localized pamphlet on domestic violence that includes information on local resources to assist victims.

**Safety
Planning**

36. The procedures should provide that officers who respond to domestic violence occurrences should ensure that issues surrounding the victim's safety are addressed, including directly providing the victim on the availability of safety planning information and assistance within the community.

37. The procedures should provide in cases where it is determined that there is a high risk, or repeat victimization, a domestic violence investigator or another member of the police service, should warn the victim about the potential risk to the victim or any children, and offer to meet with the victim to assist in developing or reviewing the victim's safety plan and to identify other measures that may be taken to help safeguard the victim and any children.

**Monitoring
and
Supervision**

38. Every police service shall require supervisors to monitor, and ensure, compliance with the police service's procedures related to domestic violence occurrences.

39. Every police service should designate a domestic violence coordinator who will be responsible for:
- a) monitoring the response to, and investigation of domestic violence occurrences, including compliance with the police service's procedures by supervisors, officers and other members;
 - b) monitoring and evaluating follow-up to domestic violence cases;
 - c) liaising with the Crown, Probation and Parole Services, VWAP, VCARS, the local Children's Aid Society, and other local services and community representatives responsible for responding to issues related to domestic violence occurrences;
 - d) informing the public and media about the police service's domestic violence occurrences procedures; and
 - e) ensuring that statistical data are kept on domestic violence occurrences and provided to the Ministry in the form designated by the Ministry.

40. Every police service should periodically review the police service's procedures to ensure consistency with legislative and case law changes.
41. Every police service should ensure that persons who provide communications and dispatch functions are trained regarding domestic violence occurrence calls for service.
42. Every police service should ensure that its domestic violence investigators have successfully completed Ministry accredited training, or have the equivalent qualifications and skills designated by the Ministry, that addresses:
- a) the dynamics of abusive relationships including the effects of physical assault and psychological abuse;
 - b) the initial police response to domestic violence occurrences, including officer safety;
 - c) interviewing, including interviewing child witnesses;
 - d) collection, care and handling of evidence;
 - e) search, seizure and warrants;
 - f) firearms seizures and legislation;
 - g) the mandatory charge policy, dual arrest and counter-charging;
 - h) court orders (e.g., restraining orders), judicial interim release orders, parole certificates, other relevant legislation and probation;
 - i) victim assistance and local victim services, as well as victims with special needs;
 - j) risk indicators and assessment, including the completion of the domestic violence supplementary report form;
 - k) procedures relating to post-arrest;
 - l) strategies for addressing repeat victimization and high risk cases;
 - m) safety planning; and
 - n) issues relating to children who witness violence.
43. Where a police service decides to meet its obligations under paragraph 2 by one of the methods set out in paragraph 5(b) - (d), it should also ensure that an adequate number of its patrol officers have received Ministry accredited training on the police response to domestic violence occurrences that addresses:
- a) the dynamics of abusive relationships including the effects of physical assault and psychological abuse;
 - b) the initial police response to domestic violence occurrences, including officer safety;
 - c) preservation of the crime scene, and initial collection of evidence and interviewing;
 - d) court orders (e.g., restraining orders), judicial interim release orders, parole certificates, other relevant legislation and probation;
 - e) firearms seizures and legislation;

*Ministry
Accredited
Training*

- f) the role of the domestic violence investigator;
- g) procedures relating to children at risk;
- h) the completion of the domestic violence supplementary report, including risk indicators;
- i) procedures relating to post-arrest;
- j) victims' assistance and local victim services, as well as victims with special needs; and
- k) issues relating to children who witness violence.