

Rationale

To effectively combat the serious and prevalent problem of wife assault within our communities, coordinated and comprehensive efforts on the part of police and community partners must be undertaken. Police, as the criminal justice system's front-line workers and the agency which may have initial contact with a victim, have the responsibility of responding competently to the immediate and longer-term needs of wife assault victims while indicating to offenders that society does not tolerate violence.

One of the dynamics of wife assault is that the severity and frequency of the violence is likely to escalate over time and, in many cases, will lead to the death of the victim. In 1991, 64 percent of all female homicide victims were killed by their male partners and in 1992, 97 percent of all domestic homicide victims were female (Homicide Survey, Canadian Centre for Justice Statistics, October 1992 and July 1993).

Women who declare their intentions to sever the relationship with their partner may be more at risk of physical violence as this is an extremely crucial and dangerous time. Research on the murder of women by their male partners has indicated that the male partner's anger or rage over the actual or impending estrangement from his partner typified 45 percent of the cases where a motive could be established ("Woman Killing:

Intimate Femicide in Ontario 1974-1990", April 1992). Thus, the need for a coordinated community response, in order to support and protect a woman once she makes the decision to leave an abusive situation or terminate the relationship with her partner, is clear.

Typically, victims of wife assault who seek assistance from the criminal justice system have experienced an extensive history of abuse before they call the police. As well, a significant number of stalking incidents involve female victims who are stalked by their current or former male partners.

Without appropriate intervention, the cycle of violence is inevitably perpetuated. One of the most salient characteristics of this type of violence is that it is transferred from one generation to the next. It has been estimated that one out of two men who assault their wives were abused as children or witnessed domestic violence, and that one third of abused women either witnessed their mothers being assaulted or were abused as children.

Police must be cognizant that the nature and seriousness of crimes committed between family or household members are not mitigated because of the relationships or living arrangements of those involved, and that a critical difference exists between the police response to family disturbances where no physical violence has occurred and wife assault. Although the application of crisis intervention skills is required

in both cases, the primary purpose of mediation to help resolve family problems is to prevent violence and therefore make arrest unnecessary. However, wife assault is foremost a crime which must be resolutely investigated and prosecuted.

Through the implementation of a policy and community protocol which encourage an effective and co-operative response to wife assault, the incidence and severity of wife assault may be reduced, victims may be better protected and supported through a combination of law enforcement and community services, and more appropriate judicial responses may be realized. Although wife assault is a significant component of the broader domestic violence problem and warrants focused attention and action, it may be addressed in a more constructive way in concert with strategies to address other domestic violence issues including child and elder abuse.

Police service policies and procedures respecting response to wife assault may also promote officer safety by ensuring that officers are fully prepared to respond to and competently deal with wife assault calls for service.

Prescribed Standards

Not Developed

Guidelines**0217.01**

The Governing Authority shall ensure that the police service has a policy in place which aims to reduce violence against women by encouraging an effective and consistent response to wife assault calls and by establishing a community protocol which takes a collaborative approach utilizing all available community resources. This policy should reflect the following:

- a. All members of the police service should be aware of components of wife assault which include: “physical assault, sexual assault, psychological abuse, stalking, threats of physical assault, directed by a man toward his female partner with whom there is or has been a relationship, whether or not the relationship has received legal sanction as a marriage and includes assaults in or outside the home (it does not matter that at the time of the assault the man did not live with the woman).”
- b. Police shall lay charges in all incidents of wife assault where there are reasonable grounds* to do so. Offences for which charges may be laid relating to wife assault include, but are not limited to:
 - assault,
 - sexual assault,
 - assault with weapon or causing bodily harm,

* Prior to December 1988, referred to as "reasonable and probable grounds" in the Criminal Code.

- aggravated assault,
 - uttering threats,
 - causing bodily harm with intent,
 - criminal harassment (stalking),
 - intimidation,
 - kidnapping (forcible confinement),
 - mischief, and
 - violation of a Family Court Order, bail condition, or recognizance to keep the peace.
- c. Mechanisms are in place to ensure broad community involvement in:
- the establishment of police service priorities in the area of wife assault and other forms of violence against women,
 - the creation of working groups to develop methods of improving the safety of women in the community,
 - the development of crime prevention initiatives,
 - the assessment of police training and the identification of training requirements, and
 - the regular review of police service delivery regarding wife assault including an assessment from the perspective of victims and relevant service agencies.

- d. An individual or individuals are appointed whose responsibilities include: monitoring responses to incidents of wife assault and ensuring consistency with police service policy, networking and liaising with community representatives, and providing education and training to police service members. The police service should consider the appointment of a Wife Assault Coordinator who would be responsible for the above functions.
- e. A policy is in place for addressing incidents in which a police officer is charged with an offence related to wife assault.

0217.02

The Chief of Police/Commissioner of the O.P.P. will ensure that procedures are in place to promote an effective and consistent response to incidents of wife assault. Procedures should include the following:

0217.03**COMMUNICATIONS**

- a. Police will respond to all calls relating to wife assault including those that are received from third parties who may or may not identify themselves. Police will also respond if the call is disconnected or the caller indicates that the police are no longer required. Wife assault calls should receive the same priority as any other life threatening call. Police services may wish to consider the

employment of call display equipment.

- b. Communications supervisors should ensure that, in addition to information that is ordinarily received by the dispatcher, police officers responding to a wife assault call are provided by the dispatcher or through an automated occurrence reporting system with information, if readily available, detailing:
 - i. information about the suspect (e.g., relation to victim, whereabouts, description);
 - ii. whether the suspect is under the influence of drugs or alcohol;
 - iii. whether there are known to be firearms in the residence;
 - iv. whether children are present in the household and their status;
 - v. whether anyone in the household has been issued or refused a firearms acquisition certificate;
 - vi. whether there has been one or more previous wife assault calls to the address, the nature of previous incidents and whether weapons have been involved; and

- vii. whether a current Peace Bond/Restraining Order exists against the suspect and the source of this information.
- c. Future system development efforts should attempt to include steps to render the above information available to officers en route to domestic calls.

0217.04**RESPONDING OFFICER PROCEDURES**

- a. When a call is received and the suspect has threatened violence and if there is reason to believe the suspect intends to go to the victim's location, or when violence has occurred, police will respond to the scene whether the suspect is present or not.
- b. When a call regarding wife assault is received, two officers should be assigned to respond whenever possible.
- c. Upon arrival at the scene, if an assault has occurred, officers should assist the victim in obtaining medical attention. Given that assault victims frequently sustain internal or external injuries which are not visible, officers must ask the victim whether she has sustained injuries and note her response. Officers should also note their own personal observation of injuries.

- d. In wife assault cases, officers are responsible for gathering and documenting evidence in the standard manner for any criminal investigation. Whenever possible, evidence at a wife assault incident should be photographed, ensuring that victim injuries and the crime scene are adequately documented. If the victim received soft tissue trauma, officers should recontact the victim within 48 hours to photograph the injuries as they will likely be more visible at that time. In a situation where the victim's injuries are hidden by clothing, a female officer or victim advocate should be accessed to photograph these injuries in a private setting.
- e. Officers should interview all parties separately (victim, suspect and witnesses) while ensuring officer and victim safety. When interpreter services are required, they should be provided by a source outside the immediate family unless it is impractical to wait for an interpreter having regard to the circumstances.
- f. Officers should routinely ask the victim direct questions about the history of abuse (whether previously reported to the police or not), whether her life was threatened, whether there are any firearms in the household, or whether the suspect has access to firearms.
- g. After a victim has been asked to describe the incident, officers should request that the victim review and

initial the officer's record of her statement, or sign any statement that she has provided to the police.

- h. When there are reasonable grounds, police will lay charges in all incidents of wife assault. In determining reasonable grounds, officers should consider all relevant factors which include, but are not limited to: verbal statements from the victim, physical injuries or other physical evidence of an offence. The absence of a statement may not preclude the laying of a charge.
- i. In formulating a decision whether to lay charges, officers should not be influenced by any of the following factors:
 - i. marital status of the parties;
 - ii. disposition of previous police calls involving the same victim and suspect;
 - iii. the victim's unwillingness to attend court proceedings or the officer's belief that the victim will not attend;
 - iv. likelihood of obtaining a conviction in court;
 - v. verbal assurances by either party that the violence will cease;

- vi. denial by either party that the violence occurred when evidence exists to the contrary;
 - vii. the officer's concern about reprisals against the victim by the suspect; or
 - viii. race, ethnicity, socioeconomic status or occupation of the victim and suspect.
- j. In accordance with Sections 495 and 497 of the Criminal Code, when a charge is warranted, officers should arrest the accused if they believe on reasonable grounds that it is in the public interest to do so having regard to all the circumstances.
- k. If the suspect is not present when police arrive, officers will determine all pertinent information to the incident including the safety threat to the victim, public and police. If reasonable grounds exist to lay a charge, a warrant for the accused should be obtained as soon as practicable and entered on C.P.I.C, and every effort should be made to locate and apprehend the suspect.
- l. The victim should be fully informed of the nature and proceedings against the accused that will follow his charge and/or arrest. In communities with Victim Services and/or Victim/Witness Assistance Programs, this information may be provided through these agencies.

- m. Officers shall file a detailed police occurrence report when a charge is laid or an arrest is effected and should inform the parties involved that a report will be completed and kept on file. The occurrence report must be submitted in order to obtain data for the Monthly Spousal Assault Summary (OPC Form #29).
- n. Prior to leaving the scene, officers shall provide the parties with the officers' names and badge numbers as well as the incident number, if possible.
- o. Officers should explain to both parties that it is their duty to lay a charge when there are reasonable grounds to believe that an offence has been committed. It should be made clear to both parties that neither they, nor the police, can have a charge withdrawn and that only the Crown Attorney can withdraw a charge.
- p. Section 524 (2)(a) of the Criminal Code provides power of arrest without a warrant for a peace officer who believes on reasonable grounds that an accused has contravened or is about to contravene any summons, appearance notice, promise to appear, undertaking or recognizance.
- q. Officers should consider whether offences other than Criminal Code offences have been committed which would require charges to be laid whether or not the

complainant's initial complaint referred to other offences. These include:

- i. Contravention of a valid order pursuant to Section 24 of the Family Law Act, (possession of the matrimonial home). If the officer(s) determine on reasonable grounds that such an order exists and that the suspect is in contravention of that order, then he may be arrested and charged, whether or not the complainant consented to the presence of the suspect. If the complainant is unable to produce a copy of the court order, then the officer(s) should verify where possible, the existence of the order with the court office, C.P.I.C., lawyers representing one or both parties, previous investigating officer(s), other agencies, support groups or shelters which may have a copy of the court order.

- ii. Contravention of a valid order pursuant to Section 46 of the Family Law Act (molesting, annoying or harassing); or pursuant to Section 35 of the Children's Law Reform Act (order restraining harassment). If the officer(s) determine on reasonable grounds that such an order exists and that the suspect is in contravention of that order, then he may be arrested and charged, whether or not the complainant consented to the presence of the suspect. If the complainant is unable to produce a

copy of the court order, then the officer(s) should, where possible, check with the court office, C.P.I.C., lawyers representing one or both parties, previous investigating officer(s), other agencies, support groups or shelters which may have a copy of the court order.

- r. If the victim expresses concern about her safety and security and no charge has been laid pursuant to the Criminal Code or the Family Law Act, then officers should: inform her of legal options which may be available (e.g., obtaining a Recognizance to Keep the Peace, a Restraining Order, Exclusive Possession Order) and advise her to seek legal advice as to which option to pursue. Officers may also advise her of provisions of the Trespass to Property Act, if applicable.
- s. In the event that an accused requests counter-charges be laid against the victim, officers should assess whether reasonable grounds exist to do so. If reasonable grounds do not exist, officers should advise the accused that he may seek a Justice of the Peace to lay an Information. If reasonable grounds do not exist to lay a charge against the accused, officers may also advise the victim to lay an Information before a Justice of the Peace.
- t. As per Sections 103(1) and (2) of the Criminal Code, police officers may seize firearms, other offensive weapons,

firearm acquisition certificates, etc., in the interests of the safety of the individual or any other person.

- u. In cases where the victim has disabilities, officers should assist the woman, where possible, in the following manner:
 - i. In cases where there is a communication barrier as a result of physical or developmental disability, officers will make all reasonable efforts to contact appropriate community resources to render assistance, including suitable transportation, care and shelter.
 - ii. If the accused is the victim's sole care giver, and his arrest and removal from the residence will, as a direct result, put the victim at physical risk, officers will contact, on advice of the victim or her advocate, appropriate resources such as family and/or community services for her care.
- v. If immigration status is an issue or language is a barrier, officers should employ the following procedures:
 - i. If necessary, officers will make every reasonable effort to obtain the services of an interpreter where one is available.
 - ii. Officers should explain to the victim, through the

interpreter if required, that, provided she is legally in the country, her status in Canada will not change as a result of her participation in the judicial process, either as a victim of an offence or as a result of charges laid against the accused.

- iii. Officers should advise the victim to get independent legal advice as to her immigration status in Canada.
- iv. In cases where an immigrant woman who been assaulted feels that a partner has the power to seize her identification papers and deport her, officers should accompany the woman when collecting from her residence, her identification papers, including landed immigrant records, her birth certificate, passport, health card and Social Insurance Number card. Should the identification papers be lost or destroyed, officers should inform her that these documents can be replaced upon application to the appropriate agencies.
- w. When children are present, officers will ensure that they are not placed at risk. Obligations under legislation must be met, including the Child and Family Services Act, which requires police officers to act in accordance with the statute when they believe that a child is or may be in need of protection.

0217.05

VICTIM ASSISTANCE

- a. Officers should remain at the scene until they are satisfied that there is no further immediate threat to the victim.
- b. If requested, officers should attend the residence to ensure peaceful entry when the victim returns to take possession of personal belongings and when concerns for safety exist because of the presence of the accused in the residence. When peaceful entry of the residence cannot be achieved, or the removal of certain property is contested by either party, officers will advise the parties of the necessity to seek a civil remedy.
- c. In the interests of officer and victim safety, and in ensuring that police officers remain as impartial observers (i.e., to prevent a breach of the peace), officers should not assist the victim in the physical removal of personal belongings when accompanying her to the residence but should suggest that the victim elicit the assistance of a friend, advocate, etc.
- d. In addition to informing the victim of possible legal remedies and other options which may be available to her, officers should, at all times, have access to information regarding relevant community/social service agencies (e.g., shelters, Victim Services, Legal Aid, etc.), including those with interpreter services, accompanied by addresses

and telephone numbers in order to provide immediate referrals as needed. Officers may obtain this information via dispatch or from a general listing of agencies which officers should have available when responding to wife assault incidents.

- e. Officers should arrange for transportation to a shelter or safe place if necessary. The location shall remain confidential unless disclosure is authorized by a Crown Attorney.
- f. Police services should ensure that crucial information about a wife assault case is provided to the victim or that she is advised of how to access the Victim/Witness Assistance Program. For example:
 - i. The victim should be provided with information concerning the status of her case.
 - ii. If bail is granted, the victim must be informed of any conditions of release and provided a copy thereof, if possible.
 - iii. Where possible, police should make reasonable efforts to provide the victim with appropriate information including referrals for assistance in adopting a safety plan, following the release of the offender on bail or after incarceration.

- g. The victim should be invited to fill out a Victim Impact Statement.

0217.06**POST-ARREST PROCEDURES**

- a. When the accused has been arrested as a result of an investigation into a complaint of wife assault, the officer in charge should detain him in custody if, pursuant to Section 498 of the Criminal Code, the officer believes on reasonable grounds that it is necessary in the public interest, having regard to all the circumstances.
- b. In determining whether it is in the public interest to detain or release the accused, the officer in charge should consider the following factors:
 - i. the seriousness of the crime including the injuries to the victim;
 - ii. the use of or threat to use weapons in the commission of the offence;
 - iii. past history of violence;
 - iv. degree of intoxication or apparent substance abuse by the accused;

- v. attitude of the accused including threats of further violence; and
 - vi. other factors that the officers from their observations at the scene believe are important in the exercise of their discretion.
- c. Where criminal charges have been laid as a result of an investigation into a complaint of wife assault, officers should consider opposing bail if circumstances warrant. In accordance with Section 515(10) of the Criminal Code, the detention of an accused is justified when detention is necessary for the protection or safety of the public having regard to all the circumstances.
- d. When the accused is brought before a Justice, in accordance with Section 515, the officer should consider recommending conditions for release where warranted. The victim should be invited to assist the officer(s) in determining the extent and type of conditions of release that will be requested at the bail (show cause) hearing.
- e. Charged persons and conditions of release may be entered on the C.P.I.C. system according to the system's policy.
- f. Platoon or shift supervisors, or the individual(s) appointed as per (d) of the first section of this standard, should regularly review occurrence reports and follow-up with

officers who have not laid a charge to determine the reason. When necessary, police officers should be reminded of the wife assault policy and procedures and their duty to lay appropriate charges.

0217.07**TRAINING**

- a. The police service should conduct or make available to their members (including communications personnel) training programs on wife assault prevention. Consideration may be given to using front line community specialists in delivering this training. The programs should include:
 - i. Issues relating to wife assault which include, but are not limited to, the nature of power and control in abusive relationships, the extent of the effects of physical assault and psychological abuse on women, and common myths associated with wife assault including reasons why women stay in abusive relationships.
 - ii. Legislation related to wife assault including relevant provisions of the Criminal Code, Family Law Act, Children's Law Reform Act, and Child and Family Services Act.
 - iii. Issues relating to sensitivity towards Aboriginal, racial minority and non-English speaking women,

- and women with disabilities.
- iv. Orders, procedures and community protocols within the police service on responding to wife assault occurrences.
 - b. Officers should be appropriately trained on the firearm provisions of the Criminal Code, including: Sections 100(4) (prohibition order), and 103(1)(2) (seizure).
 - c. Officers should be aware that the provisions of Subsection 515(4.1) of the Criminal Code allow a justice to include as a condition of a release order that the accused be prohibited from possessing any firearm, ammunition or explosive substance for a specified time or that the accused surrender any Firearms Acquisition Certificate (F.A.C.) that he possesses. Section 810(3.1) also allows a Justice to include as a condition of the recognizance that the defendant be prohibited from possessing any firearm, ammunition or explosive substance for any period of time specified in the recognizance and that the defendant surrender any F.A.C. he possesses.
 - d. Individuals responsible for processing Firearms Acquisition Certificates should refuse to issue them to individuals who have had a history of behaviour that included violence or threatened or attempted violence against any person within the five-year period prior to the date of the application as per Section 106(4) of the Criminal Code, and should act in

accordance with C.P.I.C. policy with respect to entering
F.A.C. refusals on the C.P.I.C. system.