

**POLICE RESPONSE TO DOMESTIC VIOLENCE  
FAMILY VIOLENCE PROTOCOL**

**Revised August 2014**

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Police Response to Domestic Disputes Protocol

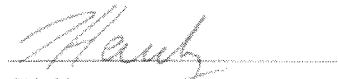
The attached protocol concerning police response to domestic disputes is approved by the undersigned and comes into effect on November 1, 2010.


  
Chief David Poirier  
Summerside Police Services

  
Chief Paul Smith  
Charlottetown Police Services

  
Chief Lewie Sutherland  
Kensington Police Service

  
A/Chief Lewie Sutherland  
Borden-Carleton Police Service

  
Chief Superintendent Tracy Hardy  
Commanding Officer  
L Division, RCMP

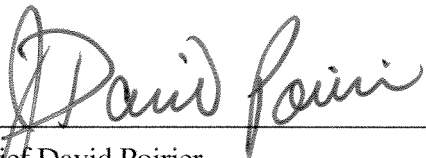
  
Greg Clayton  
Director, Facilities Management, University of  
Prince Edward Island


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Approval of


Prince Edward Island Chiefs of Police

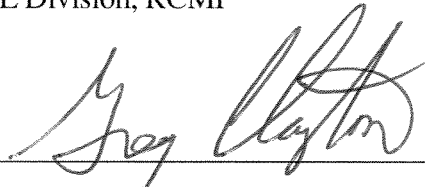
The amendments to this protocol annotated herein have been agreed upon by the undersigned and are submitted for the approval of the Minister.

  
\_\_\_\_\_  
Chief David Poirier  
Summerside Police Services

  
\_\_\_\_\_  
Chief Paul Smith  
Charlottetown Police Services

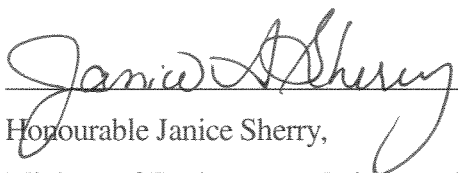
  
\_\_\_\_\_  
Chief Lewie Sutherland  
Kensington Police Service

  
\_\_\_\_\_  
Chief Superintendent Craig Gibson  
Commanding Officer  
L Division, RCMP

  
\_\_\_\_\_  
Greg Clayton  
Director, Facilities Management,  
University of Prince Edward Island

The annotated revisions to the protocol are approved and come into effect on the date signed.

Dated at Charlottetown, this 7 day of October 2014

  
\_\_\_\_\_  
Honourable Janice Sherry,  
Minister of Environment, Labour and Justice and Attorney General

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## 1. GENERAL

Family violence can affect anyone, from any demographic: cultural, national and ethnic origin, socio-economic status, education, gender, age and physical or mental ability. However, many family violence incidents take place in the home with a woman and/or a child being the victim. *(Revised 2014)*

**1.1** For the purposes of this Protocol, “victim(s) of domestic violence” means a victim, as defined in section 1(q) of the *Victims of Family Violence Act* (“VFVA”).

Under section 1(q), “victim” means:

- i. a person who has resided with or who is residing with the respondent (alleged offender) in a family relationship, or
- ii. a person who, with the respondent (alleged offender), is a parent of one or more children, regardless of marital status or whether the victim and respondent have lived together at any time who has been subjected to family violence by the respondent.

**1.1.1** For the purposes of this Protocol, “family violence” means family violence, as defined in section 2 of the *VFVA*.

Under section 2, “family violence” means:

- (1) in relation to a person, is violence against that person by any other person with whom that person is, or has been, in a family relationship.
- (2) in subsection (1), violence includes
  - (a) any assault of the victim;
  - (b) any reckless act or omission that causes injury to the victim or damage to property;
  - (c) any act or threat that causes a reasonable fear of injury to the victim or damage to property;
  - (d) forced confinement of the victim;
  - (e) actions or threats of sexual abuse, physical abuse or emotional abuse of the victim; and
  - (f) depriving a victim of food, clothing, medical attention, shelter, transportation or other necessities of life.

*(Revised 2014)*

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**1.2** Intervening in a family violence crisis is always a potentially dangerous assignment for the police officer. Those involved may resent the presence of an officer and become even more violent and aggressive.

**1.3** To effectively perform his/her duties, the officer must assess the crisis conditions and be able to quickly determine the possibility of violence occurring. At the same time, it must be demonstrated to the conflicting parties that the officer has a sincere interest in helping them. It is the responsibility of that officer to determine an intervention strategy to bring the crisis to a resolution within a reasonable period of time.

The *VFVA* has advanced the abilities of officers to resolve such domestic violence situations. With the training received by all personnel, officers now have the ability to utilize specialized provisions of the *Act* to intervene and apply for Emergency Protection Orders, as referenced in section 4 of the *VFVA*. (*Revised 2014*)

**1.4** A family violence crisis is highly emotional and, for those involved, is often accompanied by irrational behavior, which may be further augmented by the consumption of alcohol/drugs/other substances. What this means to the officer is that the victim can be in real danger and the suspect typically is not in a condition to accept a reasonable resolution of the situation. In some situations, where only one person is intoxicated, he/she may become the target of abuse.

**1.5** If the offender is intoxicated and has already acted violently, he/she may be a threat not to be underestimated. This threat applies especially to the victim(s), but also to the police officer(s). Often both parties have been drinking, which increases the likelihood of either or both becoming violent towards the police. It is important to note that extreme violence can occur without the presence of alcohol; therefore, the same risk is to be considered when investigating a dispute when the parties involved have not been drinking.

**1.6** The onus is on the police and Crown, not on the victim, to initiate the criminal process. In all cases where a charge is warranted on the evidence, the police will lay a charge. At this point, police mediation for reconciliation of the parties is not appropriate. In addition, officers will make it clear to the victim that the laying of charges is the responsibility of the police.

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## 2. OBJECTIVES

While many areas will be discussed and covered in this Protocol, the following objectives are to be kept in mind:

- (a) Ensure the safety and security of the victim(s), officers and others who may be present;
- (b) Stabilize the situation;
- (c) Apprehend and charge any alleged offender;
- (d) Prevent a breach of the peace;
- (e) Attempt to deter any future incidents of domestic violence, (Emergency Protection Order, Counseling Referrals etc.);
- (f) Inform all parties of their legal rights;
- (g) Promote and foster good public relations;
- (h) Notify the Director of Child Protection (Child and Family Services) if there are children in the relationship, whether they are present or not, using “Police Referral to Director of Child Protection” form (Appendix A);
- (i) Preserve evidence ; *(Revised 2014)*
- (j) Make detailed notes, including the actions, utterances and injuries of all involved parties. *(Revised 2014)*

## 3. GUIDELINES

The following guidelines have been developed to assist police agencies in responding to complaints of family violence.

### 3.1 The Dispatcher

The dispatcher receiving the initial call can contribute significantly to the safety of the victim and the police officer. He/she has an opportunity to obtain, from the caller, valuable information concerning the nature of the assault and the emotional state of the parties involved. Failure to obtain such information makes the responding officers’ task more difficult and more dangerous. By questioning the caller, the dispatcher should attempt to determine:



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- (a) The nature of the incident and emotional state of parties involved;
- (b) Whether there are injuries and what the state of injuries maybe;
- (c) What type of medical assistance may be needed;
- (d) Whether or not any of the parties are armed;
- (e) What kind of weapon(s) may be involved/available.

The dispatcher should check to determine previously reported incidents involving the same parties, the probable danger involved and relay this information to responding unit(s).

By listening to the background noises, as well as the complainant's description of the incident, the dispatcher can make further determinations about the extent of the danger. Threats, screams, noises of glasses breaking etc. indicate the seriousness of the incident. In some cases the dispatcher may keep the caller on the phone or urge them to leave the premises and meet responding officers outside.

### 3.2 Police Officer Pre-Entry Procedures

To assess the extent of the danger, officer(s) should stop at the scene and listen to determine if the disturbance is in progress and to pinpoint its location. Persons encountered in the immediate vicinity should be briefly questioned about the incident and the parties involved.

- (a) The officers should always try to view the inside of the residence before announcing their presence, if at all possible.
- (b) While one officer knocks at the door, another, if possible, should position himself/herself near a window where he/she can observe the person who answers the door.
- (c) The officer at the door should stand to the side to avoid gunfire or other attack. He/she should be prepared for any circumstances when the door is opened since he/she is often met with hostility or violence.
- (d) When conditions permit, the officer should introduce himself or herself, give an explanation of the police presence and request entry into the home. If entry is refused, the officer should calmly explain that

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they understand the person's feeling, but they must ensure there is not serious trouble inside.

### 3.3 Police Officer Procedures - If Entry Is Refused

The emergent nature of the complaint and the refusal of the person to allow the officers into the home may require that a forced entry be made.

The officers may lawfully force entry into the home where they believe on reasonable grounds that it is in the public interest, having regard to all the circumstances including the need to prevent the continuation or repetition of the offence or the commission of another offence. Such circumstances include:

- (a) Information supplied in the call to police;
- (b) Cries for help;
- (c) Unusual noises;
- (d) Visible weapons;
- (e) Obvious signs that a struggle has occurred;
- (f) An eye witness account that a crime has occurred and that the victim is still in the home;
- (g) 911 calls. (*see: R. v. Godoy*, [1999] 1 SCR 311 and *R. v. Cote*, [2011] SCC 46)

### 3.4 Police Officer Procedures - Following Entry

Nothing positive, not even rendering first aid can be achieved until the officers have the emergent situation under control.

- (a) The officers should immediately locate all parties, determine whether they are armed, and determine the extent of their injuries, if any;
- (b) The parties should be separated so that they are out of normal hearing range of each other but within the continuous viewing range of the officers;
- (c) The kitchen area should be avoided because of the many potential weapons located in this area of the home;

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- (d) For their protection, children or others not directly involved should be separated from the parties and questioned later.

#### 4. INVESTIGATION

**4.1** The officers have an obligation to conduct a thorough investigation to determine what has happened. Therefore, it is appropriate for the officers to encourage initial comments by simply asking, “what happened?” Whether statements are verbal, written or recorded, efforts should be made to establish any past history of family violence. *(Revised 2014)*

- (a) In these incidents, a party may also make spontaneous statements to convince the officer(s) that he or she is blameless;
- (b) Spontaneous statements are those volunteered prior to police questioning and as such are admissible evidence. However, when a person becomes the target of direct questioning or begins to incriminate him/her, he/she should be stopped and given the Police Caution and Charter notice, circumstances permitting;
- (c) When taking a statement from a witness to the family violence, officers should keep in mind the appropriateness of obtaining a sworn video recorded statement using the procedures set out in **R. v. B.(K.G.)**, [1993] 1 SCR 740 Considerations may include: the seriousness of the offence; the previous record of the accused; whether the offence involves domination, intimidation, control, and/or degradation of the victim(s); whether the victim(s) has in the past, recanted or failed to attend at a previous criminal proceeding involving the accused; whether the victim is at a high risk for homicide. *(Revised 2014)*

**4.2** The investigator must obtain statements from all persons involved (suspect, victim, witness (es)). If it is not feasible to do so at the time, they are to be obtained as soon as practicable thereafter.

- (a) In obtaining statements from victim(s)/witness(es), efforts should be made to determine any past history of family violence. Questions should be directed in such a way as to inquire about past incidents or confirm officer’s knowledge of past incidents, as victims will often downplay, forget and/or not wish to reveal, past incidents.

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(b) Statement verification should also be considered as a means to corroborate statements of victim(s)/witness (es) or as a means to challenge negative statements by suspects.

**4.3** Officers are also to make note as to whether there are children (18 years of age or younger) within the relationship. If there are such children in the relationship, the “Police Referral to Director of Child Protection” form (Appendix A) is to be completed and faxed to Child & Family Services at the number indicated on the form. **This reporting is mandatory under the *Child Protection Act*. When appropriate, a telephone call should be made, as soon as practicable, to the Provincial Child Protection Unit.**

**4.4** Similarly, officers must also make note as to whether there are adults in the home who would fall within the mandatory reporting requirements of the *Adult Protection Act*. That *Act* provides in part as follows:

4(2) Notwithstanding subsection (1), any person who, by virtue of his or her professional employment or occupation in health care, social services, education, **law enforcement**, counselling, residential services or any other field where the person has a duty of care to vulnerable adults, **has reasonable grounds for believing that an adult is in need of assistance or protection** shall report the circumstances to the Minister.

**4.4.1.** Definitions:

**4.4.1.1.** “adult” means a person who has attained the age of majority; (18 years old – *Age of Majority Act*)

**4.4.1.2.** “in need of assistance” means, in relation to an adult, requiring assistance to

- (i) provide or arrange for adequate care for oneself or one’s estate, or
- (ii) protect oneself against abuse or neglect, due to infirmity, disability or other incapacity, whether physical or mental;

**4.4.1.3.** “in need of protection” means, in relation to an adult, requiring protective intervention to maintain the safety and well-being of the adult or preserve the adult’s estate, because (iii) due to infirmity, disability or other incapacity, whether physical or mental, the adult

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- (a) is unable to provide or arrange for adequate care for himself or herself or his or her estate, or
- (b) is experiencing, and is unable to protect himself or herself against, abuse or neglect.

**4.4.2.** In order to meet the reporting requirements of the **Act**, the Regional Home Care Offices of Health PEI, should be contacted. This can be accomplished by completing a **Home Care Referral Form** on line, which can be accessed at: <http://www.gov.pe.ca/forms/pdf/1998.pdf> or by faxing a copy of the form to one of the following offices. N.B. Only in exceptional circumstances should a phone call be used to make a report under the **Act**, and, if this is the means of reporting, detailed notes should be made of the report. The offices where reports can be made are as follows:

Souris Hospital 17 Knights Avenue PO Box 640 Souris, PE C0A 2B0 T: (902) 687-7096 F: (902) 687-7048	Montague Home Care 6 Harmony Lane PO Box 490 Montague, PE C0A 1R0 T: (902) 838-0786 F: (902) 838-0774	Wedgewood Manor 310 Brophy Avenue Summerside, PE C1N 5N4 T: (902) 888-8440 F: (902) 888-8439
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Hillsborough Hospital 115 Murchinson Lane Charlottetown, PE C1A 7N5 T: (902) 368-4790 F: (902) 368-4858	O'Leary Community Hospital 14 MacKinnon Drive PO Box 160 O'Leary, PE C0B 1V0 T: (902) 859-8730 F: (902) 859-8701
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**4.5** When interviewing witnesses, if it becomes apparent that a translator is required, in order to obtain a full and candid account of what has taken place, a translator should be engaged but, another family member should not be used to interpret during the interview. Similarly, if interviewing individuals with physical and/or mental challenges, the officer will need to determine the most appropriate means to enable that individual to provide her/his information so as to be intelligible. (Revised 2014)

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**4.6** Warned statements of accused persons should be obtained whenever possible, including negative statements. The investigator should make notes of the time, place, date and contents of the conversation, particularly if no written statement is given. Notes should also indicate the fact that the Caution and Charter of Rights were given and understood. Where facilities are available, video and audio recorded interviews should be used. *(Revised 2014)*

All statements should be treated as other physical evidence, whether or not they are recorded or written. *(Revised 2014)*

Where there are no reasonable grounds to lay a charge, but the officer(s) believe that the victim’s safety may be at risk, the officer(s) will consider the availability of other responses including Emergency Protection Orders under the *VFVA* and/or orders under sections: 810, 810.1, and 810.2 of the *Criminal Code (CC)*.

**5. VICTIM PROTECTION/REFERRALS**

Incidents of family violence have far reaching effects on all victims.

Victim Services is available to assist with addressing the needs of victims. An excellent working relationship exists between police services and Victim Services. Referrals will be dictated by each police service’s policy and guidelines and the Minister’s Directive, Police Services-04, **Assistance to Victims of Crime**. *(Revised 2014)*

In addition to the remedies available through the *CC*, additional protection remedies are also available in the form of protection or assistance orders, available through the *VFVA*.

Where appropriate and with the consent of the victim, police will apply for an Emergency Protection Order under the *VFVA*, whether proceedings under the *Criminal Code* are initiated or not.

**5.1 Emergency Protection Orders**

Section 4 of the *VFVA* provides for the application of an Emergency Protection Order (EPO);

Section “4(1) A justice of the peace, on the application of any person pursuant to subsection (6), in the prescribed form and without notice to any other person, may make an emergency protection order if he or she determines

- (a) family violence has occurred and;

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- (b) the seriousness or urgency of the circumstances merits the making of an order”.

Section 4(2) outlines the factors the Justice is to consider in determining whether an order will be issued.

Section 4(3) outlines the provisions which the Justice may have contained within the order.

Any EPO issued will be subject to subsequent review and, in any event, shall only remain in effect for a period up to 90 days unless a Judge, on a subsequent application, extends the time period. *(Revised 2014)*

## 5.2 Emergency Protection Order Follow-Up

- (a) Advise the victim of Emergency Protection Order
- (b) Confirm the need for the application;
- (c) Contact Justice of the Peace (JP) telephone: 1-888-557-6041;
- (d) Complete application form;
- (e) Contact made with JP;
- (f) Outline situation to JP;
- (g) Follow directions of the JP;
- (h) Give victim a copy of the order;
- (i) Serve the respondent;
- (j) Have information entered on CPIC immediately.

## 5.3 Victim Assistance Order

Although officers will not be involved in the application for a Victim Assistance Order, officers should be aware of s. 7 of the *VFVA* which makes provisions for an application to be made before a Judge, for a Victim Assistance Order (VAO) and that, Victim Services can assist victims to seek legal assistance to apply for a VAO. *(Revised 2014)*

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#### 5.4 Offences

In addition to the orders and remedies available through the *VFVA*, officers should also be aware of offence and arrest sections 16 and 17 of the Act:

Section 16:

Any person who

- (a) Fails to comply with the provisions of an emergency protection order or a victim assistance order;
- (b) Falsely and maliciously makes an application under this Act;
- (c) Obstructs any person who is performing any function authorized by an emergency protection order or victim assistance order;
- (d) Publishes any information in contravention of an emergency protection order or victim assistance order;

is guilty of an offence and upon summary conviction is liable in the case of a first offence, to a fine of not more than \$5,000. or to imprisonment for a term of not more than three months, or to both, and in the case of a second or subsequent offence, to a fine of not more than \$10,000 or to imprisonment for a term of not more than two years, or to both. 1996, c.47, s.16; 1998,c11,s.10.

Section 17:

A peace officer may arrest without warrant a person the peace officer believes on reasonable and probable grounds to have contravened any terms of an order made pursuant to this *Act*. 1996, c.47, s.17; 1998,c11,s.11.

## 6. INJURIES

- 6.1 The absence of external visible injury does not mean that no assault occurred. Assault victims often sustain internal or external injuries, which are not apparent or do not become apparent for a period of several hours. Investigators should always inquire of the victim whether they have sustained any injury and note their response, as well as the investigators own personal



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observations. Follow up should be done within 2 days of the complaint in order to view any marks that may have formed. Photos should be taken initially and 2 days later.

*Keep in mind domestic assault is often a means of control over the victim. Often, victims will have injuries to extremities, which are not necessarily obvious at first glance. Victims should be encouraged to move about in an effort to determine whether mobility of feet, legs, etc., have been affected.*

In all instances of visible injuries, arrangements should be made to photograph the injuries.

- 6.2** Should the victim require medical treatment, the officers shall ensure he/she is taken to a medical facility immediately. If the officer is unable to transport the victim for treatment, the officer shall ensure transportation by some other means (ambulance, neighbour, or relative). If the victim receives treatment, ensure that the consent to release medical information is completed in the first instance unless injuries are such that it cannot be completed at that time.

Should the victim refuse medical treatment for obvious injury, the police should ensure the immediate safety of the victim. In these instances, an Emergency Protection Order may be utilized. However, should the order not be granted, relocate the victim to a safe environment such as Transition House or a friend's home.

## 7. **ARREST**

Should evidence establish an offence has been committed or it appears the offence will continue, the police officer must now consider the provisions of the *CC* concerning the powers of arrest. Where the circumstances warrant, the offender is to be arrested and removed from the premises.

In exercising his/her discretion whether or not to arrest, the officer will consider whether there are reasonable grounds to believe an indictable offence has been committed or is about to be committed. In determining whether it is in the public interest to detain or release an offender, the officer should consider the following factors:

- (a) The seriousness of the offence including injuries to the victim;
- (b) Where firearms or other offensive weapons are threatened or used in the commission of the offence, the investigator is to exercise the search and

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seizure powers as prescribed by sections 117.02 or 111 *CC* as applicable, followed by judicial hearing under Section 117.05 *CC*, where necessary.

NOTE: This action must be initiated within thirty (30) days after seizure.

**7.1** In preparing for the judicial review under Section 117.05, the following should be highlighted for the Crown/Court:

- (a) Past history of violence;
- (b) Degree of intoxication or apparent substance abuse by the parties;
- (c) Attitude of offender including threats of further violence;
- (d) Any other factors that the investigator from his observations at the scene believes are important in the exercise of his/her discretion.

**7.2** When an arrest has been made, the police must now ensure the rights of the offender are protected. Whether the accused is released by police or the court, a court date must be set within a reasonable time limit. The offender's release by the police at the time of arrest may be made by one of the following methods:

- (a) Appearance notice;
- (b) Promise to appear – Form 11.1 Peace Officer Undertaking (Appendix E);
- (c) Recognizance; or
- (d) The offender could be summoned by the Court at a later date.

Although these options are open to the investigator, it is highly recommended that release be made by way of an Undertaking either by a Justice of the Peace or an Officer in Charge or other police officer, to provide for conditions to be put in place. Prior to release, ensure that you have reviewed the provisions of 515 (10) *CC*. (*Revised 2014*)

**7.3** If the police believe an offence has been committed, they must prepare a complete "Court Information Package" (Appendix B) containing all

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statements, photos (if available), certificates, medical reports and any other information that may be of benefit in the determination of charges. Please refer to the “Domestic Violence Police Investigation Checklist” (Appendix C).

**7.4** Where circumstances warrant, the investigator shall bring to the attention of the Crown, the need to request an order of prohibition from the Court with regards to sections 111(1), 117.05, 515(4.1) or 810(3.1) as applicable.

**7.5** If the police are considering the use of Alternative Measures, the following provisions of the Provincial Alternatives Measures Policy shall be considered prior to a referral being made:

3.8 Recognizing the Attorney General’s charging policy regarding spousal abuse, if a matter involving spousal abuse is being considered for Alternative Measures, charges should be laid, a referral made to Victim Services, and the victims needs and wishes considered, prior to a referral to Alternative Measures.

3.9 Spousal and sexual abuse cases should only be referred to Alternative Measures in exceptional circumstances.

**8. SUPERVISORY REPONSIBILITY**

Shift supervisors shall review family violence occurrence reports before the end of shift. In addition, a follow up review will be completed. Where necessary, a police officer should be reminded of the charging policy. This review should also ensure that:

- The investigation is thorough;
- Documentation is complete - including “Domestic Violence Police Investigation Checklist” form (Appendix C);
- Where appropriate, that the “Police Referral to the Director of Child Protection” form (Appendix A) is completed and forwarded; and
- Where appropriate an EPO has been considered and/or sought.

**9. STATISTICS**

To assist in tracking situations of domestic violence, all such incidents will receive additional line scoring through the PROS system as follows:

- Violence in a Relationship;

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- Emergency Protection Order Application;
- Child & Family Referral.

## 10. VICTIM SERVICES

The Victim Services Program is established and administered through the *Victims of Crime Act*. Victim Services assists victims of crime throughout their involvement in the criminal justice system. Services include:

- Information for the victim about the status of his/her case and the criminal justice system;
- Short-term counseling and emotional support referrals;
- Court preparation;
- Help in preparing a victim impact statement;
- Assistance under the *VFVA*;
- Financial information; and
- Co-ordination of services.

Offices:

### **Queens and Kings Counties:**

1 Harbourside Access Road  
 Charlottetown, PEI  
 902-368-4582

### **Prince County:**

Suite 19, 2<sup>nd</sup> Floor  
 263 Harbour Drive  
 Summerside, PE  
 902-888-8218

Police Services will ensure Victim Services are available through a working agreement established with the Province of Prince Edward Island. Each officer shall be furnished with a Victim Services “Blue Card” which outlines the following:

- Victim Impact Statement rights notice;
- Information on Victim Services;

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- Step process as it relates to EPOs.

## 11. CROWN PROSECUTOR

It is essential that liaison be maintained with the Crown Prosecutor, particularly in cases where serious violence is involved and the accused has been detained in order to prevent the continuation or repetition of the offence. Consideration may be given to requesting a “show cause” hearing to enable the court to make an informed decision on the issue of the detention or release of the accused. The officer should prepare the standardized Show Cause Information Sheet to be used by the Crown, if a detention is being sought. Also, the Crown Prosecutor will play an important role on those occasions where the victim wishes to discontinue proceedings following a “not guilty” plea by the accused.

Where matters will be considered for court, the Crown will apply a dual level of testing:

1. Is there a reasonable likelihood of a conviction; and,
2. Is the prosecution in the public interest? (*Revised 2014*)

## 12. CHILD AND FAMILY SERVICES

Effective communication must exist between Child and Family Services, the Police and the Crown Prosecutor. Situations may arise where Child and Family Services will become involved. As such a liaison will be maintained with Child and Family Services to ensure relevant information is shared, such as:

Child & Family Referrals – Referrals are to be made in every instance where a child or children are in the relationship, whether present or not. Subject to the degree of the violence an on call worker shall be notified at the time of the incident, rather than waiting to forward information by fax form, referred to in section 4.3.

It is noted that if the family violence being investigated involves child sexual abuse, the Child Sexual Abuse Protocol, Guidelines and Procedures for a Co-ordinated Response to Child Sexual Abuse in Prince Edward Island shall be used. (*Revised 2014*)

## 13. AGENCY CONTACTS

Personnel and contact numbers should be maintained by all police services.

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#### 14. ENFORCEMENT OF PROTECTION ORDERS

The term “protection order” is a generic term, which may refer to several types of Court Orders. Generally, an order referred to as a “recognizance, undertaking or peace bond is issued by the criminal courts, while a “restraining order” is issued by the civil or family courts.

A protection order contains a condition that affords safety and security to a specified (named) person or persons. An order must contain a 'no contact', 'limited contact', or other protective condition to be considered a protection order.

An order **is not** a protection order if it does not name an individual and if the conditions only relate to protection of property, assets or the community generally.

##### 14.1 The following are commonly used Protection Orders:

- (a) A Recognizance or Undertaking – issued by a Justice when an accused is released with conditions to have no contact or communications with the victim, and/or a condition not to attend at the victim’s residence or workplace. Unless varied or cancelled, this order is in place during the period the charge is outstanding. Section 145(3) *Criminal Code* forms the offence section for a breach of the order. *(Revised 2014)*
- (b) Section 810 or 810.1 Recognizance – Generally referred to as a “Peace Bond”, which has been signed by a respondent as a result of an application filed by the victim based on fear. Again such orders will stipulate a condition to have no contact or communication with the victim and/or a condition not to attend the victim’s residence or workplace. Such orders are in place for the term indicated within the order and a breach of such an order is referenced at section 811 of the *Criminal Code*.
- (c) Probation Orders and Conditional Sentence Orders – Issued at sentencing, a Judge may add conditions which direct the accused to have no contact or communication with the victim and additional conditions not to attend the victim’s residence or workplace. Such orders are in place for the term prescribed and a breach of such an order is referenced at section 733.1 for a breach of a probation order or s. 742.6 for a breach of a conditional sentence order of the *CC*. *(Revised 2014)*

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**14.2** Where there are reasonable grounds to believe a breach of a “Protection Order” has occurred, police officers shall investigate and charge the suspect immediately or as soon as reasonably practicable.

**NOTE:** A photocopy of a validly appearing “Protection Order”, coupled with the victim’s description of the conduct which breaches the order shall constitute reasonable grounds. Victims and persons subject to the Order shall be questioned as to whether they are aware of any subsequent or outstanding Order(s) issued by a Court, Justice of the Peace or Police Officer. In some instances it may be necessary to contact other sources to seek additional clarification:

- (a) Where a breach has occurred and the accused is still present, he/she may display a willingness to leave the premises with their personal assurance of no further contact. In such instances, the willingness or assurance is to be considered irrelevant with regard to charges.
- (b) Where a victim is not in possession of a copy of the Order, or an order cannot be verified through other electronic means, police officers(s) shall contact the Clerk of the Court or victims’ legal counsel (if known) in order to obtain a copy of the Order. Once grounds have been established, proceed as soon as practicable with the charging process.
- (c) It is imperative that a copy of the Order be obtained and attached to the file. Exact wording of the Order is required prior to the laying of any information.

**NOTE:** Officers should be aware that a court can excise its common law jurisdiction and place an individual on what is referred to as a common law recognizance. Breach of such an Order would be prosecuted pursuant to s.127 of the *Criminal Code*. (Revised 2014)

**15. BREACH OF NON-COMMUNICATION ORDERS**

- (a) In many instances where *Criminal Code* Orders contain references to non-communication, breaches often occur via phone and other electronic means rather than personal contact. Where a non-communication reference is made, a breach of the Order still exists when the contact is made. In such instances a victim will generally file a complaint with the local police agency. Unfortunately, in many instances the complainant is advised the local agency has no jurisdiction in the matter as the call originated from another area.

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Members are advised this is not correct, as an offence committed in one jurisdiction, which is received in another jurisdiction, is deemed to have been committed in both jurisdictions. Where the call originates within the confines of this Province but involves an Order issued by a Court outside PEI, the Order should be confirmed and Crown Counsel consulted prior to any breach charge being considered.

- (b) Where a complaint is received where the victim resides in one police service jurisdiction and the subject of the complaint or accused resides in another, for greater certainty, the police service responding to the victim shall initiate the investigation of the complaint.

When the contact originated from out of Province, member(s) should record the complaint, and determine whether it would be appropriate to investigate and action the matter in this jurisdiction or to record the complaint and refer the matter to the jurisdiction where the contact originated. *(Revised 2014)*

## 16. OFFENCES

While not limited, the charges, which may be considered in instances of Domestic Violence, may be one or more of the following:

- (a) Murder - section 235, Manslaughter – section 236; *(Revised 2014)*
- (b) Physical Assault (pushing, shoving, hitting, punching, slapping, kicking) - sections 265-269 CC;
- (c) Sexual Assault - sections 271 – 273 CC;
- (d) Uttering Threats - section 264.1 CC;
- (e) Mischief - section 430 C;
- (f) Intimidation - section 423 CC;
- (g) Forcible Confinement - section 279 CC;
- (h) Possession of a Weapon - section 87 CC;
- (i) Breach of any Court Order, including restraining orders, probation orders etc.;
- (j) Criminal Harassment – section 264 (1) CC.



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**17. RESPONSE TO NON-CRIMINAL DOMESTIC DISPUTES**

In situations where there is no suspicion of domestic violence, or where through investigation, it appears that the dispute is non-criminal in nature or does not violate the provisions of the VFVA, members shall:

- (a) Refer parties to the appropriate helping agencies for individual or family counseling;.
- (b) Where circumstances are such that the provisions of the *CC* do not apply, and an EPO is not obtainable, advise parties who are or have been married or have been in a common law relationship that they may be eligible for a restraining order issued through Family Court. Parties should be advised to contact legal counsel in regards to such orders and also be advised of Victim Services; *(Revised 2014)*
- (c) Referrals to individual legal counsel shall not be done. Where parties may require counsel to obtain an order or legal separation information, they are to be referred to telephone listings or lawyer referral service through Community Legal Information Association. (CLIA) 1-800-240-9798.

If the dispute centers on the failure of one party to pay maintenance in accordance with an existing Order or Separation Agreement, parties are to be referred to Maintenance Enforcement personnel at the Family Law Centre.

**18. PROPERTY – OWNERSHIP/TITLE**

Property ownership is a matter which is generally established in Civil Law. Therefore, when disputes arise with respect to property, it is advisable to have these resolved by a Civil Court. Members involved in such calls should calmly and patiently explain the officer’s role in such situations as being simply a presence to ensure there is no breach of the peace and to act in an advisory capacity.

Where the parties involved are rational and can calmly discuss the matter in the presence of officer(s), alternatives may be discussed. In such situations, officer(s) may be able to assist in working out some form of arrangement with the parties as an interim measure, or referrals to outside mediation may be suggested.

Where there is an obvious question as to ownership, parties should be encouraged to resolve their dispute through a civil process. *(Revised 2014)*

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## 19. CLAIMING PROPERTY

In domestic situations, members will often be called upon to assist in claiming personal property to which parties have a lawful right. The police role in such situations is to ensure there are no breaches of the peace.

When an assistance request is made, officer(s) shall assist. However, such assistance will be for the retrieval of personal property items only and will be carried out in accordance with the following:

- (a) Personal property shall mean – clothing, toiletries, jewelry, and toys (in the case of children);
- (b) An assistance report will be filed with regard to the request;
- (c) If a Court Order is in place, a copy shall be obtained and added to the file;
- (d) Police personnel shall not:
  - i. Provide transportation to and from the address in question. Complainant is to be met at the address where they will claim the property;
  - ii. Assist in removing the property;
  - iii. Express any opinions in favor of either party involved.
- (e) Officer(s) shall attend and explain to all parties the reason for the police presence. Where questions arise over real property issues, parties are to be referred to Civil Courts.
- (f) Where the other party refuses to surrender property, no other action can be taken without a Court Order, other than discussing the matter in an effort to resolve it. Officers should consider whether in such circumstances, an Emergency Protection Order would be appropriate. *(Revised 2014)*

## 20. REMOVAL OF PROPERTY BY SPOUSE/Common-LAW

Where a mutual agreement between parties cannot or is not likely to be reached, with the departing spouse insistent on removing an item or the other insistent on retaining same, reference should be made to s.35(1) of the CC. It provides as follows:

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35 (1) A person is not guilty of an offence if:

- (a) They either believe on reasonable grounds that they are in peaceable possession of property or are acting under the authority of, or lawfully assisting, a person whom they believe on reasonable grounds is in peaceable possession of property;
  - (b) They believe on reasonable grounds that another person
    - i. Is about to enter, is entering or has entered the property without being entitled by law to do so,
    - ii. Is about to take the property, is doing so or has just done so, or
    - iii. Is about to damage or destroy the property, or make it inoperative, or is doing so;
  - (c) The act that constitutes the offence is committed for the purpose of:
    - i. Preventing the other person from entering the property, removing that person from the property; or
    - ii. Preventing the other person from taking, damaging or destroying the property or from making it inoperative, or retaking the property from that person; and
  - (d) The act committed is reasonable in the circumstances.
- (2) Subsection (1) does not apply if the person who believes on reasonable grounds that they are, or who is believed on reasonable grounds to be, in peaceable possession of the property does not have a claim of right to it and the other person is entitled to its possession by law.
- (3) Subsection (1) does not apply if the other person is doing something that they are required or authorized by law to do in the administration or enforcement of the law, unless the person who

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commits the act that constitutes the offence believes on reasonable grounds that the other person is acting unlawfully. *(Revised 2014)*

## 21. DISPUTES CONCERNING CUSTODY/ACCESS ISSUES

In cases where police attend a call involving a domestic dispute about the custody of or access to children, in addition to dealing with any suspicion regarding domestic violence by providing the initial response as per Section 3, officers(s) shall also be mindful of the following:

- (a) Where a Family Court Order has established custody to one parent, with or without access to the other parent, any complaint received which refers to the abduction or attempted abduction of a child, by the non-custodial parent, shall be the subject of an immediate investigation with a view to prosecution under the provisions of section 282 CC, Abduction in Contravention of Custody Order;
- (b) Where a Family Court Order gives custody to one parent with access at times and under certain conditions set by the Court, any unreasonable breach of the access provisions by the non-custodial parent shall be the subject of an investigation. A reasonable breach of access provisions may be the belief on the part of the custodial parent that the child is in fact in need of protection. Where a child is not returned within three hours of the time specified within the Order or that expressly agreed upon by the parents, an investigation will be commenced with a view to prosecution under section 282 CC, Abduction in Contravention of Custody Order. However, where police have received information, which reasonably leads to the inference that the child is being abducted, and/or removed from the jurisdiction, immediate investigation shall commence;
- (c) If a parent breaches an order made by Family Court, in relation to not returning a child on time, refer both parties back to Family Court to have the matter rectified. If this is not an option, consider pursuing a charge under section 127 CC;
- (d) Where no Family Court Order is in existence and one parent has taken or detained the child from the other parent, who has lawful care and possession of the child, any complaint of abduction or attempted abduction shall be the subject of an investigation, with a view of prosecution under section 283 CC, Abduction Where No Custody Order.

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The CC provides that where no Order is in place, no proceedings may commence without the approval of the Attorney General. In such instances the Crown’s office shall immediately be contacted to determine whether such proceedings shall be commenced.

Ensure all matters pertaining to custody and access are referred to the Director of Child Protection using the “Police Referral to Director of Child Protection” form (Appendix A).

**22. ENFORCEMENT OF CIVIL COURT ORDERS**

Occasionally police personnel may be called upon to aid in ensuring compliance with Civil Court Orders. When such requests are made the following shall be borne in mind by police officers:

- (a) Police officers have no legal authority to enforce the provisions of a Civil Court Order (Judgments, Domestic Access, Child Custody, Restraining Order) unless the Order contains specific provision to that effect. Where no express direction is made to Police in the Order, there is no obligation to aid in its enforcement or service. In such instances, the parties involved are expected to personally exercise their rights without police intervention. However, police officers shall attend to prevent a Breach of the Peace, and attempt to have the parties rationally discuss and resolve the problem;
- (b) Where a Civil Court Order makes mandatory reference to police in such terms as “shall” or “must” there is a legal duty to carry out the functions as stipulated and all reasonable efforts must be made to comply. Failure to do any less may be construed as Contempt of Court. When carrying out such duties, unless the Order expressly authorizes the police to forcibly enter a premises, such authority does not exist;
- (c) Before any action is taken in regards to a Civil Court Order, the Order is to be produced for inspection by police personnel to determine the validity by ensuring:

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- i. The Order has been issued by a Court in the Province of Prince Edward Island;
  - ii. The date of the Order has not expired;
  - iii. The Order appears valid on its face and from the information available is the most recent Order issued by the Court;
  - iv. There are specified provisions within the Order directing the police functions; and
  - v. The spouse who must comply with the Order has been served a copy.
- (d) If a parent breaches an order made by Family Court, in relation to not returning a child on time, refer both parties back to Family Court to have the matter rectified. If this is not an option, consider pursuing a charge under section 127 CC.

## 23. CRIMINAL HARASSEMENT (ANTI-STALKING LEGISLATION)

**23.1** The criminal behavior referred to as “stalking” is not a new form of activity. Special attention should be paid to such incidents given the violent and sometimes tragic consequences which can arise if timely and appropriate attention is not made.

(a) Section 264(1) CC defines this behaviour as Criminal Harassment:

“No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in Subsection (2) that causes that other person reasonably, in all the circumstances to fear for their safety or the safety of anyone known to them.”

(b) Prohibited conduct under section 264(1) CC is defined as:

“repeatedly following from place to place, the other person or anyone known to them repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;

besetting or watching the dwelling house, or place where the other person, or anyone known to them, resides, works, carries on business or

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happens to be engaging in threatening conduct directed at the other person or any member of their family.”

- (c) Criminal harassment is unwanted attention directed towards another that often manifests into obsessive efforts to intimidate and control. Once the victim/complainant has established to the offender, personally or through police authority, that such attentions are unwanted, should the behaviour persist, then a charge under section 264 (3) *CC* may be laid. It is noted however, that conduct may result in a criminal harassment charge if the accused is reckless as to whether the other person is harassed or, there is only one act of the offending conduct. (*Revised 2014*)

### 23.2 Harassment Investigation

When a complaint of stalking is filed, member(s) shall:

- (a) Immediately conduct a thorough investigation;
- (b) Obtain detailed statements from the victim and any witnesses;
- (c) Ensure the safety of the victim and any children who may be involved;
- (d) Remind the victim that the potential threat remains, notwithstanding the fact that it has been reported to the police and/or a restraining order has been put in place. The victim should also be reminded that they play a primary role in ensuring their own safety. While it may not be fair, the victim may have a requirement to alter their lifestyle and usual routines, schedules, transportation routes, etc. Precautions to be considered include:
  - i. Victim should not initiate contact or agree to meet with the suspect;
  - ii. Victim should be versed on the available telephone services with respect to call trace capabilities and caller identification;
  - iii. Victim should also advise family, friends, co-workers, neighbors, etc., of the problem. This will assist with additional means of security and may afford additional witness information;

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- iv. Should the victim wish to relocate to a “safe haven”, i.e., shelter or residence of friends or relatives, escort the victim(s) to their residence where they may wish to pick up personal items.
- (e) Provide the victim with telephone numbers of service agencies which may supply some supportive role which shall include Victim Services; *(Revised 2014)*
- (f) Seize any weapons used in the commission of the offence and where firearms are present or are readily available to the suspect, the seizure provision as stipulated at section 103 CC should be used, (Application for Warrant to Seize with particular reference to section 103 (2) CC ). Should the suspect also possess a Possession Acquisition License (PAL), it, along with any permits or registration certificates, should be seized by the investigating officer(s);
- (g) Upon conclusion of a thorough investigation and the officer has reasonable grounds to believe that an offence has been committed in violation of section 264 CC, the member shall immediately review the matter with the NCO i/c. At the conclusion of this review, and the NCO i/c is satisfied an offence has been committed, the NCO i/c will then authorize the arrest of the offender;
- (h) Upon arrest, the accused is to be lodged at the Correctional Centre and brought before a Justice as soon as is practicable for the purposes of seeking conditions for release. Should there be any questions with regard to the release of the individual; the Crown Attorney should be consulted; *(Revised 2014)*
- (i) In some instances charges may not be contemplated as the matter may be of such a nature that a face to face meeting to deter the subject may resolve the matter. This type of deterrent should only be used after careful consideration has been given to all the information at hand.  
  
In some instances, this may well be the final resolution to the situation. However, in all instances a report shall be prepared wherein the warning is to be clearly documented. This will enable other officers and the Crown to reference the information in the future, if required.
- (j) A brief is to be prepared for presentation to the Justice outlining:



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- i. The history of the relationship between the victim and the accused;
- ii. Any previous incidents of abuse, or threats of violence (include police reports if any);
- iii. Whether the accused has a Possession Acquisition License (PAL);
- iv. If the complainant has been subject to significant harassment from an unidentified subject, likely to be the accused;
- v. Details of any significant harassment (include police reports if any).

In situations where the offender cannot be located prior to the end of shift, the investigating member through the NCO i/c should make arrangements for the file to be passed on to an oncoming member, for the continuation of the investigation and the possibility of obtaining a Warrant to Arrest. If obtained ensure the information is immediately entered on CPIC.

### 23.3 Supervisory Responsibility

The NCO i/c shall ensure all reported incidents are investigated immediately and thoroughly and shall:

- (a) Review the progress of the investigation and where appropriate authorize the arrest of the accused;
- (b) In the absence of the Justice of the Peace, ensure the accused is brought before a Justice;
- (c) Ensure appropriate documentation has been completed, including the outcome of the appearance before the Justice, whether released or not. If released, outline any applicable conditions;
- (d) If released, ensure Records Section or in their absence, dispatch personnel, have entered the subject on CPIC;
- (e) At the end of shift, if the accused has not been arrested, ensure the information has been passed on to the oncoming supervisor through a

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Briefing Report and that another officer will be assigned to follow up on the investigation;

- (f) Officers are encouraged to review, **A Handbook for Police and Crown Prosecutors on Criminal Harassment**, which can be accessed at: <http://canada.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/har/EN-CHH.pdf>.(Revised 2014)

## 24. DUAL CHARGING

- (a) In many instances persons, who are the subject of an investigation of domestic assault, will claim self-defence or complain of having been the victim of an assault. Quite often these accusations are unsubstantiated. Careful consideration must be given to such allegations. Where such allegations arise, officer(s) should investigate further bearing in mind the following:
  - i. Visible marks or injuries;
  - ii. Relative size, strength, and demeanor of the parties, including gender;
  - iii. Statements of witnesses, including children;
  - iv. Reasonableness of counter accusation and timing;
  - v. Intoxication levels of the parties;
  - vi. If self-defence claimed, was force reasonable?
  - vii. If property was damaged, whose property was it? (Revised 2014)
- (b) Prior to laying any charges with regard to a counter accusation, the Crown Attorney shall be contacted and the matter reviewed. Should there be reasonable grounds to believe the counter accusation has actually occurred; member(s) shall proceed as per section 3 of this Protocol;
- (c) Charges, which may be considered, would be those as listed in section 16 (a) – (j) of this Protocol.

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**25. CRIMINAL PROCEEDINGS AGAINST THE VICTIM**

On occasion, officers may be faced with a situation where a victim of family violence is being investigated for an offence such as: perjury, public mischief, contempt of court, breach of an undertaking/probation order. In such situations a thorough investigation is required and a consultation with a Crown Attorney should be held prior to proceeding with a charge. *(Revised 2014)*

**26. HONOUR-BASED VIOLENCE CONSIDERATIONS**

Officers should be aware of the context and characteristics associated with honour-based violence and/or forced marriages as it relates to family violence. Reference may be made to the following link in order to obtain basic information concerning considerations to be applied when investigating offences in which it is believed that honour based violence is the motivator behind the commission of the offence: <http://www.cps.gov.uk/legal/h to k/honour based violence and forced marriage/>

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**APPENDIX A**



**Police Referral to Director of Child Protection**

I have reasonable grounds to suspect a child is in need of protection and hereby report the circumstances as follows, in accordance with Section 10 of the *Child Protection Act*:

Police Service/Detachment:	Investigator:	File No.:	Occurrence Date/Time:
Occurrence Address:			
<input type="checkbox"/> Matrimonial Residence <input type="checkbox"/> Residence of Subject of Complaint <input type="checkbox"/> Victim Residence <input type="checkbox"/> Other			
Safety Concerns:			
Domestic Violence Referral (Y/N):		Other Referral (Y/N):	

**Children** (additional children on another form)

Name	Age	Gender	Present (Y/N)	Witness (Y/N)	Victim (Y/N)	Injured (Y/N)	Relation to Alleged Offender
1.							
2.							
3.							

**Parent/Caregiver (Non-offender)**

Name	Relation to Child	Address/Phone:
Domestic Violence Victim (Y/N):	Injured (Y/N):	Aware of Referral (Y/N):

**Subject of Complaint**

Name:	DOB/Age:	Gender:
Address/Phone:		
Present Location:		
Relation to Children:		Relation to Parent/Caregiver:
In Custody (y/n):	Charges Pending (y/n):	Charge(s):
Released by Police (y/n):		Conditions of Release Attached (y/n):
Existing Court Orders (y/n): EPO <input type="checkbox"/> 810 <input type="checkbox"/> Police Undertaking <input type="checkbox"/> JP Undertaking <input type="checkbox"/> Probation <input type="checkbox"/> Parole <input type="checkbox"/> Family Court Order <input type="checkbox"/>		Consuming: Liquor <input type="checkbox"/> Drugs <input type="checkbox"/> Not Observed <input type="checkbox"/> N/A <input type="checkbox"/> Weapon Involved (y/n):      Description:

Details of Occurrence: ( <input type="checkbox"/> attached)

Officer requests feedback on referral     Yes     No  
 Provincial Child Protection Unit: 1-877-341-3101 or locally in Charlottetown 368-5330 or Summerside at 888-8100  
 Emergency Duty Worker Telephone No.: 1-800-341-6868 or 368-6868 (after hours)  
 Fax completed form to: 1-902-368-6898

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**Reference Information – *Child Protection Act***

**S.1(h) “child” means a person under the age of 18 years**

**9. A child is in need of protection where**

- (a) the child has suffered physical harm inflicted by a parent;**
- (b) the child is at substantial risk of suffering physical harm inflicted by a parent;**
- (c) the child has suffered harm caused by**
  - (i) neglect of the child by a parent,**
  - (ii) failure of a parent to adequately supervise or protect the child, or**
  - (iii) failure of a parent to provide for the adequate supervision or protection of the child;**
- (d) the child is at substantial risk of suffering harm caused by**
  - (i) neglect of the child by a parent,**
  - (ii) failure of a parent to adequately supervise or protect the child, or**
  - (iii) failure of a parent to provide for the adequate supervision or protection of the child;**
- (e) the child has been sexually abused by a parent or by another person where the parent knew or ought to have known of the possibility of sexual abuse of the child and the parent failed to protect the child;**
- (f) the child is at substantial risk of sexual abuse by a parent or by another person where the parent knew or ought to have known of the possibility of sexual abuse of the child and the parent failed to protect the child;**
- (g) the child has been harmed as a result of being sexually exploited for the purpose of prostitution and the parent has failed or been unable to protect the child;**
- (h) the child is at substantial risk of being sexually exploited for the purpose of prostitution and the parent has failed or been unable to protect the child;**
- (I) the child has been harmed as a result of being exposed to or involved in the production of child pornography and the parent has failed or been unable to protect the child;**
- (j) the child is at substantial risk of being harmed as a result of being exposed to or involved in the production of child pornography and the parent has failed or been unable to protect the child;**
- (k) the child has suffered emotional harm inflicted by a parent, or by another person, where the parent knew or ought to have known that the other person was emotionally abusing the child and the parent failed to protect the child;**
- (l) the child is at substantial risk of suffering emotional harm caused by a parent, or by another person, where the parent knew or ought to have known, that the other person was emotionally abusing the child and the parent failed to protect the child;**

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- (m) the child has suffered physical or emotional harm caused by being exposed to domestic violence by or towards a parent;
- (n) the child is at substantial risk of suffering physical or emotional harm caused by being exposed to domestic violence by or towards a parent;
- (o) the child requires specific medical, psychological or psychiatric treatment to cure, prevent or ameliorate the effects of a physical or emotional condition or harm suffered, and the parent does not, or refuses to, obtain treatment or is unavailable or unable to consent to treatment;
- (p) the child suffers from a mental, emotional or developmental condition that, if not addressed, could seriously harm the child and the parent does not or refuses to obtain treatment or is unavailable or unable to consent to services or treatment to remedy or ameliorate the effects of the condition;
- (q) the child has been abandoned, or the only parent of the child has died or is unavailable to take custody of the child, and adequate provisions have not been made for the care of the child;
- (r) the child is in the custody of the Director or another person and the parent of the child refuses or is unable to resume custody of the child;
- (s) the child is less than 12 years old, and the child, in the opinion of the Director,
  - (i) may have killed or seriously injured another person,
  - (ii) poses a serious danger to another person, or
  - (iii) may have caused significant loss or damage to property, and the parent of the child does not obtain or is unwilling to consent to treatment for the child which may be necessary to prevent a recurrence of the incident or danger; or
- (t) the past parenting by the parent has put a child at significant risk of harm within the meaning of this section.

**Mandatory Reporting**

10. (1) Notwithstanding any other Act, every person who has knowledge, or has reasonable grounds to suspect that a child is in need of protection shall
- (a) without delay, report or cause to be reported the circumstances to the Director, or to a peace officer who shall report the information to the Director; and
  - (b) provide to the Director such additional information as is known or available to the person.

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**APPENDIX B**

**COURT INFORMATION PACKAGE**



**Court Information Package**

Police Service/ Detachment:	Unit:	File No.:	Date and Time of Occurrence:
Investigator(s):		Call Type: <input type="checkbox"/> 911 <input type="checkbox"/> Non-emergency	Domestic Violence File: <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Offence Information/Location</b>			
Address:			
<input type="checkbox"/> Matrimonial Residence <input type="checkbox"/> Accused Residence <input type="checkbox"/> Victim Residence Other:			
Weapon:	Involved: <input type="checkbox"/> Yes <input type="checkbox"/> No	Description:	Photographed: <input type="checkbox"/> Yes <input type="checkbox"/> No
Property Damage:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Insured: <input type="checkbox"/> Yes <input type="checkbox"/> No	Deductible Amount:
Damage Estimate: <input type="checkbox"/> Received <input type="checkbox"/> Requested <input type="checkbox"/> Not Required			
<b>Accused information and Background</b>			
Surname:	G1:	G2:	Aliases:
Date of Birth (y/m/d):	Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Address:	
Telephone:	Does the accused have a criminal record? <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> CPIC <input type="checkbox"/> FACTS 5 (Prov)	<input type="checkbox"/> Previous domestic violence case(s) <input type="checkbox"/> Same Victim
Any Existing Orders: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> EPO <input type="checkbox"/> Probation <input type="checkbox"/> 810 <input type="checkbox"/> Parole	<input type="checkbox"/> Conditional Sentence <input type="checkbox"/> Undertaking (Justice) <input type="checkbox"/> Undertaking (Police)	<input type="checkbox"/> Supreme Court (civil)
Relationship with Victim: <input type="checkbox"/> None <input type="checkbox"/> Married <input type="checkbox"/> Common Law <input type="checkbox"/> Dating		<input type="checkbox"/> Currently separated/divorced Since _____	
Accused Consuming: <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs	Accused Impaired: <input type="checkbox"/> Yes <input type="checkbox"/> No	Impaired by: <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs	Type of Drug(s):
Offences Charged	Section and Act	DNA	
		Primary	Secondary
Previous Orders: <input type="checkbox"/> Sex Offender <input type="checkbox"/> Firearms Prohibition <input type="checkbox"/> DNA <input type="checkbox"/> DNA in NDDB			
Cautioned Statement: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Oral <input type="checkbox"/> Written <input type="checkbox"/> Attached		Recorded Statement: <input type="checkbox"/> Audio Only <input type="checkbox"/> Audio/Video	Spontaneous Statement: <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Release/Show Cause</b>			
<input type="checkbox"/> Undertaking before a justice or judge <input type="checkbox"/> Undertaking before a peace officer or officer in charge (no contact clause) with promise to appear <input type="checkbox"/> Accused in custody after Show Cause/Remand: <input type="checkbox"/> until dealt with by law <input type="checkbox"/> 516 CC C <input type="checkbox"/> Accused serving existing jail sentence - release date: _____ <input type="checkbox"/> Placed in Custody: Date: _____ Time: _____ <input type="checkbox"/> Released from Custody: Date: _____ Time: _____			





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### APPENDIX C

## DOMESTIC VIOLENCE INVESTIGATION CHECKLIST




### Domestic Violence Police Investigation Checklist

Subject of Complaint:		D.O.B.:		Police File No.:	
Date of Occurrence:			Lead Investigator:		
Status: <input type="checkbox"/> No charges <input type="checkbox"/> 810 <input type="checkbox"/> Charged Criminal Code <input type="checkbox"/> EPO applied for <input type="checkbox"/> EPO Granted <input type="checkbox"/> SUI					
Relationship: <input type="checkbox"/> Parent/child <input type="checkbox"/> Sibling <input type="checkbox"/> Married <input type="checkbox"/> Common law <input type="checkbox"/> Dating <input type="checkbox"/> Separated on _____					
Does either subject or victim have children under 18: <input type="checkbox"/> Yes <input type="checkbox"/> No					
<input type="checkbox"/> Injuries Observed: <input type="checkbox"/> Victim <input type="checkbox"/> Children <input type="checkbox"/> Pets <input type="checkbox"/> Accused					
Telephone Damaged: <input type="checkbox"/> Yes <input type="checkbox"/> No			Weapons Involved: <input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>Available Evidence: ( <input type="checkbox"/> denotes to be obtained )</b>					
<input type="checkbox"/> <input type="checkbox"/>	Statement of Victim(s)				
<input type="checkbox"/> <input type="checkbox"/>	Statement of Accused				
<input type="checkbox"/> <input type="checkbox"/>	Statement of Witnesses				
<input type="checkbox"/> <input type="checkbox"/>	Photographs of: <input type="checkbox"/> Injuries to victim <input type="checkbox"/> Follow up photos arranged <input type="checkbox"/> Damage to property <input type="checkbox"/> Injuries to accused				
<input type="checkbox"/> <input type="checkbox"/>	Estimate of Damages: <input type="checkbox"/> Requested <input type="checkbox"/> Received <input type="checkbox"/> N/A				
<input type="checkbox"/> <input type="checkbox"/>	Medical Report: <input type="checkbox"/> Requested <input type="checkbox"/> Received <input type="checkbox"/> None available <input type="checkbox"/> Medical consent				
<input type="checkbox"/> <input type="checkbox"/>	911 tape				
<input type="checkbox"/> <input type="checkbox"/>	Weapons seized: <input type="checkbox"/> Firearm <input type="checkbox"/> Knife <input type="checkbox"/> Other _____				
<input type="checkbox"/> <input type="checkbox"/>	Record: <input type="checkbox"/> CPIC <input type="checkbox"/> FACTS 5				
At time of Occurrence, Subject Bound By:		<input type="checkbox"/> EPO <input type="checkbox"/> Undertaking <input type="checkbox"/> Probation <input type="checkbox"/> Supreme Court Order			
<b>Notifications:</b>					
Victim(s) Contacted: <input type="checkbox"/> Yes <input type="checkbox"/> No					
Victim(s) Advised of: <input type="checkbox"/> Right to apply for an EPO <input type="checkbox"/> Availability of Victim Services <input type="checkbox"/> Availability of Anderson House/Outreach Services <input type="checkbox"/> Right to file Victim Impact Statement					
<input type="checkbox"/> Child and Family Services Form Sent					
<b>Release</b>					
<input type="checkbox"/> Show Cause Hearing Requested: <input type="checkbox"/> Crown Onus <input type="checkbox"/> Reverse Onus					
<input type="checkbox"/> Show Cause Hearing Form Completed					
<input type="checkbox"/> Accused Remanded: <input type="checkbox"/> Until dealt with according to law <input type="checkbox"/> s.516 adjournment					
<input type="checkbox"/> Released by Officer on Undertaking					
<input type="checkbox"/> Release by Justice of the Peace/Judge on Undertaking					
<input type="checkbox"/> Other Release _____ Warrant Issued: <input type="checkbox"/> Yes <input type="checkbox"/> No					
<input type="checkbox"/> Victim Advised of Release					
<input type="checkbox"/> Victim Provided Copy of Undertaking					
<b>PROS/CPIC Documentation:</b>					
<input type="checkbox"/> Victim Report		<input type="checkbox"/> Second-line Scoring		<input type="checkbox"/> CPIC Entries Made	
Screened by: _____			Date: _____		

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## APPENDIX D SHOW CAUSE INFORMATION



### Show Cause Information

Youth    Adult    Not a 469 offence

Police Agency:	File No.:	Witness to Testify:
Accused:	Address:	
Offense(s) Charged:	Offences Outstanding:	
Employer:	<input type="checkbox"/> EI	Unemployed Since:
Crown Sheet Attached <input type="checkbox"/>	Criminal Record Attached: <input type="checkbox"/> FACTS 7 <input type="checkbox"/> CPIC	
Accused Bound by Attached Orders <input type="checkbox"/> EPO <input type="checkbox"/> Probation <input type="checkbox"/> Undertaking <input type="checkbox"/> Parole <input type="checkbox"/> S10 Recognition <input type="checkbox"/> Family Court		
Onus: <input type="checkbox"/> Crown <input type="checkbox"/> Reverse Onus: <ul style="list-style-type: none"> <li><input type="checkbox"/> indictable offence committed while released on indictable offence</li> <li><input type="checkbox"/> indictable offence accused not resident of Canada</li> <li><input type="checkbox"/> charge is under 145(2) to 145(5)</li> <li><input type="checkbox"/> offence punishable by life under CDSA 5(3), 5(3), 7(2)</li> <li><input type="checkbox"/> terrorism offence</li> <li><input type="checkbox"/> criminal organization offence</li> </ul>		
Primary Ground: detention necessary to ensure attendance in court in order to be dealt with according to law. <div style="border: 1px solid black; height: 30px; margin-top: 5px;"></div>		
Secondary ground: detention necessary for protection or safety of public, including any victim of or witness to the offence, or any person under the age of 18 years, having regard to all circumstances including substantial likelihood accused will, if released, commit a criminal offence or interfere with administration of justice. <div style="border: 1px solid black; height: 60px; margin-top: 5px;"></div>		
Tertiary Ground: detention is necessary to maintain confidence in the administration of justice, having regard to all the circumstances, including strength of prosecution's case, gravity of the nature of offence, circumstances surrounding its commission and potential for lengthy term of imprisonment. <div style="border: 1px solid black; height: 100px; margin-top: 5px;"></div>		

Pursuant to 616(12), seek direction that accused abstain from contacting:    Victim    Witness    Other Person

Pursuant to 618(2), seek direction that accused abstain from contacting:    Victim    Witness    Other Person

12/JJ/15-34258

