

Sexual and Domestic Violence Protocol for Police Officers

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1.00 OBJECTIVE

- 1.1 The objective of this protocol is to **assist police officers in responding to victims** of sexual and domestic violence. See 4.00 and 5.00 below for description and definition of domestic violence and sexual violence.

- 1.2 On account of the **peculiar vulnerability of victims** of sexual and domestic violence, this protocol provides general **guidance on approaches to responding to victims and information about the assistance available** in Guyana to victims of sexual and domestic violence, and other information that may enhance the assistance provided for victims of sexual and domestic violence.
- 1.3 Sexual and domestic violence raise sensitive issues. All agencies and communities need to work in harmony to break the cycle of domestic violence, help the victims take control of their lives and to help perpetrators understand the consequences of their abusive conduct, discontinue their abusive behaviour and reform their approaches to dealing with conflict in domestic relationships.

2.00 GUIDING PRINCIPLES

- 2.1 Every individual has the basic right to a life free from fear and violence. **All forms of violence and intimidation constitute a violation of the individual's basic human rights.** Women and girls are the predominant victims of sexual and domestic violence. Men, boys, the elderly, persons with disabilities and persons of different sexual orientations are also victims of sexual and domestic violence.
- 2.2 Sexual and domestic violence committed against women and girls in particular is a hindrance to the achievement of the objectives of equality, development and peace, and must be condemned in all its forms.
- 2.3 Combating sexual and domestic violence is not the responsibility of any one sector, but a collective responsibility. **Police officers play a critical role in assisting victims and reducing the prevalence of sexual and domestic violence.**

3.00 GUIDELINES FOR POLICE OFFICERS¹

- 3.1 The Guyana Police Force is accountable to all persons who file complaints about domestic violence, regardless of age, sex race, religious background, employment status, perceived sexual orientation or disability. In dealing with reports of sexual or domestic violence, members of the Guyana Police Force should take the following steps:
 - 3.1.1 **Listen to the report and conduct a brief interview.** Be mindful of and sensitive to the trauma that the victim may have suffered. See 7.00 "*Importance of sensitivity*" below.
 - 3.1.2 **Record the report in the Domestic Violence Book.**
 - 3.1.3 **Conduct an interview in a convenient space that does not allow others to see or overhear what is being said.** See guidance below on 6.00 "*Privacy*".

¹ Extracted from the "Guyana Police Force Domestic Violence Policy – Dealing with Reports of Domestic Violence."

- 3.1.4 Look for **visible signs of injury**. Escort the victim to seek **medical attention** if necessary. In selecting an escort, be mindful of the age and sex of the victim.
 - 3.1.5 **Take statements** from the victim and witnesses, including children.
 - 3.1.6 **Advise the victim of the legal remedies** available under the *Domestic Violence Act*. Provide forms for the victim to make an application, if s/he wishes. See below **9.00 “Explain relevant processes”** and **10.00 “Orders the Court can Make”**. If the victim does not want to apply for a protection order, an officer may do so on behalf of a child or any other person suffering abuse. For further guidance see **8.00 “Respecting the wishes of the victim”** below.
 - 3.1.7 Where appropriate, **arrest** the perpetrator.
 - 3.1.8 **Put the allegation to the perpetrator** and note his/her response.
 - 3.1.9 Take a **statement from the perpetrator**, if s/he is willing to give one.
 - 3.1.10 Escort the perpetrator for medical attention if necessary.
 - 3.1.11 Keep the **perpetrator in custody** if appropriate.
 - 3.1.12 Summon and/or **charge the perpetrator** if appropriate.
 - 3.1.13 Advise the parties to seek **counselling**. Counselling may be sought from Help and Shelter, religious leaders and Regional Welfare Officers. Counselling should not be treated as a substitute for legal action, but should be used in addition to an application under the *Domestic Violence Act* and/or criminal charges. See **10.00 “Inter agency collaboration”** below.
 - 3.1.14 **Follow up** the status of the case.
 - 3.1.15 **Inform the victim of the outcome** of the case.
 - 3.1.16 Practise **good record keeping** by securing and updating the records.
- 3.2 In addition to following the above steps, refer victims to other relevant agencies that may be able to offer assistance. A directory of agencies that offer assistance is included in Annex..... To this protocol.

4.00 WHAT IS DOMESTIC VIOLENCE?

- 4.1 Domestic violence occurs when a family member intimate partner or former intimate partner attempts to physically or psychologically dominate another. It is **intended to control, overpower or dominate the victim** and includes any kind of abusive behaviour that occurs in the home, for example in the following types of relationships (see section 3 Domestic Violence Act):
- parent and child
 - siblings, e.g. brother and sister
 - relatives or family members, e.g. cousins, aunt, uncle, niece, nephew, grandparent, grandchild

- sexual relationships, including boyfriend/girlfriend, visiting relationships, former intimate partners and persons in same sex relationships. It includes physical, sexual, psychological and verbal abuse, financial control and/or financial restriction, as well intimidation and harassment.

4.2 Types of abuse that give rise to domestic violence include:

- 4.2.1 **Physical abuse** – the **intentional use of bodily or actual force** with the potential for causing injury, harm, disability, or death, e.g. hitting, shoving, biting, restraint, kicking, or use of a weapon. It includes indirect physical abuse, which may include destruction of objects, striking or throwing objects near the victim, or harm to the victim. See section 2(o) and 2(h)(i)(B) and (D) Domestic Violence Act.
- 4.2.2 **Psychological abuse** – also called emotional abuse. See section 2(q) Domestic Violence Act. This is a form of abuse characterized by a person subjecting or exposing another to behaviour that is mentally harmful. Psychological abuse involves the **wilful infliction of mental or emotional anguish by threat, humiliation**, or other verbal (see 5.2.3 below) and non-verbal conduct. It is often associated with situations of **power imbalance** and includes preventing the victim from seeing friends and relatives, actively sabotaging the victim's social relationships, and isolating the victim from social contacts.
- 4.2.3 **Verbal abuse** – a form of abusive behaviour involving the use of language. It is a form of **profanity** in that it can occur with or without the use of expletives. It includes **name calling**, spoken words as well as abusive words in written form that **cause annoyance**. See section 2(h)(i)(A) and 2(h)(vi) Domestic Violence Act.
- 4.2.4 **Financial control or restriction**, also referred to as **economic abuse** – This occurs when the abuser has **control over the victim's money** and other economic resources. Usually, this involves putting the victim on a strict "allowance," **withholding money** at will and **forcing the victim to beg** for the money until the abuser gives them some money and **demanding money from the victim**. It is common for the victim to receive less money as the abuse continues. This also includes (but is not limited to) preventing the victim from finishing education or obtaining employment, or intentionally squandering or misusing communal resources. See section 2(q) Domestic Violence Act.
- 4.2.5 **Intimidation** – Intimidation entails intentional behaviour "which would cause a person of ordinary sensibilities" **fear of injury or harm**. It is not necessary to prove that the behaviour was so violent as to cause terror or that the victim was actually frightened. It is sufficient to show that the violence, conduct or threat was **calculated to coerce the victim into submission** to the perpetrator. See section 2(k) Domestic Violence Act.
- 4.2.6 **Harassment** – This refers to a wide spectrum of offensive behaviour. The term commonly refers to **behaviour intended to disturb or upset**. Generally, it refers to behaviours which *are* found threatening or disturbing. See section 2(h) Domestic Violence Act.

- 4.2.7 **Passive abuse** – This is a form of **covert, subtle and veiled abuse** that often leads to physical violence. It includes victimisation,² procrastination,³ forgetfulness,⁴ ambiguity, neglect, spiritual and intellectual abuse. See section 2(k) and (q) *Domestic Violence Act*.
- 4.3 Under the *Domestic Violence Act*, cap 11:09 domestic violence includes, but is not limited to, the following types of conduct (see section 5(1) *Domestic Violence Act*):
- (a) **Following** the victim;
 - (b) **Stalking** places that the victim visits often (e.g. home, school, work, the gym);
 - (c) **Taking away or hiding** the victim’s **clothes or personal effects**;
 - (d) **Threatening the life or safety** of the victim or a person the victim cares for;
 - (e) **Threatening to destroy the victim’s property**, belittling and demeaning the victim;
 - (f) Name calling; and
 - (g) Making **unwelcome phone calls** sending unwelcome email or letters to the victim.
- 4.4 In many cases victims may be subjected daily to non-physical forms of abuse, with physical abuse occurring only occasionally. **Non-physical forms of abuse** are just as, or even **more, painful and destructive than physical abuse** and are often a forerunner to physical abuse.
- 4.5 Women and children are the most common victims of domestic violence. However men, elderly persons and persons in same sex relationships can also be victims of domestic violence (See *Guiding Principles* at 2.00 above).

5.00 WHAT IS SEXUAL VIOLENCE?

- 5.1 Sexual violence entails all forms of violence that include an element of **erotic and sensual pleasure, stimulation or arousal**. It constitutes a profound **violation of the body and person** and is usually perpetrated to exert control and dominance over the victim and to degrade and demean the victim.
- 5.2 Sexual abuse includes the following types of conduct:
- 5.2.1 **Rape, incest, buggery, bestiality and sexual intercourse**, including rape within a marriage.
 - 5.2.2 **Touching the genitals, breast, buttocks and other body parts of another to derive sensual pleasure**.
 - 5.2.3 **Use of physical force to compel** a person to engage in a sexual act against his or her will, whether or not the act is completed; forcing a person to touch the perpetrator or another person in a sexual manner, forcing another person to perform sexual acts on the perpetrator on other persons, and any other form of coerced or unwanted sexual contact or conduct.

² Punishing or taking revenge on the victim for doing something that displeases the perpetrator/abuser.

³ Taking an inordinately long time to do something that the victim asks or provide something that the victim needs, with the intention of keeping the victim dependent on the perpetrator.

⁴ This entails the perpetrator pretending that s/he has forgotten to do something that would benefit the victim, again with the intention of keeping the victim dependent on the perpetrator.

- 5.2.4 Attempted or completed sex act involving a **person who is unable to understand** the nature or condition of the act, unable to decline participation or **unable to communicate unwillingness** to engage in the sexual act, e.g., because of underage immaturity, illness, disability, or the influence of alcohol or other drugs, or because of intimidation or pressure. This includes the sexual abuse of children.
- 5.2.5 **Forced marriage** or cohabitation, **forced abortion, denial** of the right to use **contraception** or to adopt other measures to protect from sexually transmitted diseases or pregnancy and **forced prostitution**.
- 5.2.6 **Abusive sexual contact**. This includes taking photographs without the knowledge and/or consent of the victim, exposure to pornographic material, voyeurism – the practice of spying, on people engaged intimate behaviors, such as undressing, sexual activity, or other private activities, disseminating unauthorized intimate photographs of another.

6.00 ***PRIVACY***

- 6.1 In all cases of reported or suspected sexual and/or domestic violence, privacy and confidentiality are of the utmost importance. **Victims** of sexual and domestic violence may be **embarrassed** by the fact that they have been abused or violated and may not want anyone to know. More important, privacy and confidentiality are **essential to the safety of the victim**. **Abuse may escalate** if the perpetrator discovers that the victim has spoken to someone about the abuse or sought assistance.
- 6.2 Information should be taken and **interviews** conducted in a space that does **not allow other persons to hear** the conversation. The presence of the perpetrator during the report may scare, worry and/or upset the victim and may adversely affect the victim's willingness to seek assistance, or if the assistance of a social worker is sought, the information provided may be incomplete or insufficient to facilitate adequate and appropriate assistance. If the perpetrator is present, the victim may be less inclined to disclose the details of the abuse and may be discouraged from making a report.
- 6.3 The **victim should be interviewed alone** because at the commencement of the interview or the taking of information the person taking the report may not know identity of the perpetrator. No other person, including relatives and close friends, should be present during the initial interview.

7.00 ***IMPORTANCE OF SENSITIVITY***

- 7.1 Victims of sexual and domestic violence often suffer extreme physical and psychological trauma. They may **feel trapped, powerless and vulnerable** as a result of the abuse that they have suffered. Therefore, when dealing with victims of sexual and domestic abuse police officers must **be sensitive to the abuse** that the victims have endured and the likely effects of that abuse.

- 7.2 Officers should always be mindful of the impact that abuse may have on the self-esteem and confidence of victims of sexual and domestic violence. Be careful to act in a manner that does not further damage and **undermine their self-esteem and confidence**.
- 7.3 **Accept and believe what the victim tells you.** Do not underestimate the abuse that the perpetrator is capable of inflicting or that the victim has endured. **Do not be judgmental** as this may alienate the victim and discourage him/her from seeking further assistance. There may be things that a victim may not freely disclose and which influence the victim's decision, indecision or inaction. For example –
- Fear of reprisals if they leave the abuser;
 - Social isolation and limited support systems – feeling that there is no one who can help;
 - Financial dependence on the perpetrator;
 - Unwillingness to cause upheaval in the lives of children;
 - Wanting the violence to stop but not wanting the relationship to end;
 - Low self-esteem – feeling of powerlessness and doubting their ability to manage on their own;
 - Self-blame for the abuse and shame in revealing injuries;
 - Feeling that it may be safer to stay in the relationship because violence may escalate if they attempt to leave.
- 7.4 Always **speak in a non-intimidating manner** and be as helpful and considerate as possible. Your attitude towards the victim can affect the victim's decision whether or not to avail him/her of the assistance available.

8.00 RESPECT THE WISHES OF VICTIMS

- 8.1 The wishes of the victim are of the utmost importance when dealing with reports or suspected cases of sexual or domestic violence. The **circumstances of each victim are different** and may require a **different approach or response**.
- 8.2 Listen to the victim or complainant. Find out what are his/her **expectations** flowing from the making of a report. Provide all assistance that your agency can to enable the victim or complainant to achieve his/her desired objective. Do not attempt to coerce a victim or complainant to seek further assistance or take more action than s/he wishes. However, **advise** him/her **on the options** and assistance available and the likely consequences of any decision that the victim does take. It is important that the victim understands that the abuse is unlikely to cease with if the perpetrator is merely warned and that in some cases the only way that the victim can be safe is by getting out of and away from the abusive environment. **Provide all information** that may be necessary or helpful to enable him/her to make a decision.
- 8.3 Explain the **difference between civil and criminal actions**. Proceedings under the *Domestic Violence Act* are **not** of a **criminal** nature and do not result in a conviction or jail sentence. If a criminal offence has been committed criminal proceedings may be instituted in addition to proceedings under the *Domestic Violence Act*. **Custody, division of property and maintenance** proceedings may be instituted depending on the circumstances of the victim. In

addition to legal proceedings, **financial assistance** may be obtained from the **Ministry of Human Services** to enable the victim acquire alternative accommodation or to start a small business. **Counselling for victim and perpetrator** as well as emergency shelter for the victim may be obtained through **Help and Shelter**. Advise the victim accordingly but allow him/her to make the final choice and respect his/her wishes.

9.00 EXPLAIN RELEVANT PROCESSES

- 9.1 After advising the victim on the available options, **explain clearly the process** for obtaining an occupation or protection order, applying for custody, maintenance and/or division of property, obtaining assistance from the Ministry of Human Services and Social Security, and obtaining counselling and shelter from Help and Shelter. Also explain what would be expected of the victim after making a report to the police and the institution of criminal charges. It is important to explain the relevant procedures so that the victim knows what she should expect and is therefore in a position to make an informed choice.
- 9.2 Initially, give the victim a **concise and accurate summary** of the relevant processes. The summary of the procedure should contain sufficient information for the victim to have an idea of what each option entails so that she can make an informed choice. Try to **avoid overwhelming or confusing the victim** by giving too much information at once. Remember that she has suffered a traumatic experience. If the victim requests further information then give greater details. It may be helpful to have information available in written form so that the victim can take it away with her. However not all victims may be able to read and understand written information so this should not be a substitute for a clear and concise explanation of the relevant processes.
- 9.3 When explaining the processes **avoid legal terminology** as many victims may not understand legal terms and may be confused by them. Give all information and explanations in a manner and format appropriate to the victim's age, education, culture and level of composure at the time. Always ensure (verify by asking the victim questions) that the victim understands the information provided.

10.00 ORDERS THE COURT CAN MAKE

- 10.1 Applications under the *Domestic Violence Act* are made to the Magistrate's Court. The Act empowers the Magistrate to make three types of orders – protection orders, occupation orders, tenancy orders and ancillary orders.
 - 10.1.1 **Protection orders** can be made under section 5 of the *Domestic Violence Act*. The Magistrate can make a protection order when satisfied that the perpetrator has engaged in physical, sexual, verbal or psychological abuse. Protection orders **prohibit the perpetrator from engaging in specified conduct** or **compel the perpetrator to do specified things**. Section 6 of the *Domestic Violence Act* stipulates the conditions that can be attached to a protection order, including –
 - Ordering the perpetrator to contribute towards the victim's or a child's **maintenance**

- Granting the victim **custody of children**
- Ordering the perpetrator to **stay away from the victim's or a child's home**, school, work or other place that the victim or child goes
- **Preventing** the perpetrator from **following or contacting the victim**
- Ordering the perpetrator to **return property** to the victim
- Ordering the perpetrator to **undergo counselling and therapy**

10.1.2 **Occupation orders** are authorised by section 8 of the *Domestic Violence Act*. Occupation orders direct the **perpetrator to remove** from the home and gives the **victim the right to live in the home**, regardless of who owns the home (including instances where the home is owned by the perpetrator) (see also section 9 *Domestic Violence Act*). Occupation orders can be made only where a protection order is also made.

10.1.3 **Tenancy orders** are made when the home that the victim and perpetrator live in is rented in the name of the perpetrator. See section 11 of the *Domestic Violence Act*. The tenancy order **transfers the tenancy from the perpetrator to the victim**. Even after the tenancy is transferred to the victim, the court can order the **perpetrator to contribute to the payment of the rent**. Tenancy orders can be made only when a protection order is also made.

10.1.4 **Ancillary orders** can be made along with occupation or tenancy orders under section 15 of the *Domestic Violence Act*. Ancillary orders empower the magistrate to provision for the **use by the victim of furniture, household appliances and household effects**.

10.2 The court can also make **interim orders** (Section 27 *Domestic Violence Act*) that **protect the victim while the Magistrate is hearing the matter** up to the moment when the Magistrate makes a final decision. The court can make interim protection, interim occupation and interim tenancy orders where it is satisfied that the orders are necessary to ensure the safety of the victim while the court is hearing the matter. Interim orders are effective for 14 days and can be renewed by the Magistrate each time the parties appear before the Court.

10.3 In addition to interim orders, the Magistrate can make an ***ex parte* interim protection order** under section 5(3) of the *Domestic Violence Act*. This provision allows the Magistrate to make an **interim protection order** as soon as the application is filed, even **before the perpetrator is served** with the notice of the proceedings.

11.00 INTERAGENCY COLLABORATION

10.1 Advise victims or suspected victims of sexual or domestic violence of the all protection provided by law for victims of sexual and domestic violence and the assistance available at other agencies.

10.2 The Police should cooperate with other agencies providing assistance and support to victims of sexual and domestic violence in order to reduce duplication and delay in dealing with victims referred from one agency to the other.

12.00 STAFF TRAINING

- 11.1 All police officers who are likely to interact with victims of sexual and domestic violence should receive **training to sensitise them to the needs, vulnerabilities, difficulties and issues affecting victims** of sexual and domestic violence in particular.
- 11.2 Annually, or more frequently if possible, all police officers interacting with victims of sexual and domestic violence should undergo **continuous training and sensitisation on dealing with victims** of sexual and domestic violence, **record keeping** and **disclosure of information**.

13.00 COMPLAINTS PROCEDURE

Victims should be notified of the existence of the complaints procedure and the procedure should be explained in language appropriate to the level of understanding of the victim. Notification of complaints procedures instils public confidence in the police force and empowers the victim by assuring her that the force is treating her matter seriously and values her views and experience.