

# CHAPTER 1

## INTRODUCTION

### DEFINITION OF INTIMATE PARTNER VIOLENCE

- 1.1 The term “Battered Spouse”, which was previously used in the Guidelines is replaced by the term “Intimate Partner Violence” in order to reflect the fact that this Procedural Guide covers not only spousal relationship but also co-habitation. Since the term of “Intimate Partner Violence” is commonly used among the helping professionals around the world, for the interest of clarity and interdisciplinary communication, “Intimate Partner Violence” (IPV) is considered a more appropriate semantic expression in the context of this Procedural Guide. Despite so, the term “Domestic Violence” is retained in Chapter 5 on Hong Kong Police Force. Moreover, to correspond with the “Domestic and Cohabitation Relationships Violence Ordinance”, “Spouse / Cohabitant Battering” instead of “Intimate Partner Violence” is used in official correspondences, papers and publicity / public education materials. “Intimate Partner Violence” is not a legal term. When prosecution or legal action is required, reference should be made to the relevant Ordinances in force.
- 1.2 In this Procedural Guide, “intimate partner violence” refers to battering that occurs in a relationship between a couple who live or have lived together intimately. They maintain or have maintained a lasting intimate relationship which is more than just brief encounter. They can be married couples, co-habitees and separated spouses / co-habitees, etc. In the majority of cases, the abused person is likely to be a woman. However, the term “victim” adopted in this Procedural Guide means both female and male abused person unless otherwise specified. The term “batterer” adopted in this Procedural Guide means a person who exercises a pattern of coercive control in a partner relationship, punctuated by one or more acts of intimidating physical violence, sexual assault, or credible threat of physical violence. This pattern of control and intimidation may be predominantly psychological, economic, or sexual in nature, or may rely primarily on the use of physical violence.
- 1.3 This Procedural Guide has limited its scope to the violence perpetrated within the above-mentioned relationships. In case assessment and welfare planning, a family perspective should be adopted. The impact of intimate partner violence on other family members, especially vulnerable members such as the elders and children, should also be considered during the intervention process. In case children and elders are also suspected of being abused, reference should be made to the “Procedural Guide for Handling Child Abuse Cases (Revised 2007)” and “Procedural Guidelines for Handling Elder Abuse Cases (Revised August 2006)” respectively.

1.4 Intimate partner violence is a kind of domestic violence. In using violence or the threat of violence, physical or psychological harm is inflicted with the effect of establishing control by one individual over another. There are many different forms of intimate partner violence, and a person may be subjected to more than one form of violence.

- (a) Physical violence: punching, slapping, biting, choking, kicking, burning, throwing acid, assaulting with a weapon and setting fire. Other forms of physical violence may include forcing alcohol and / or drug use, or any dangerous or harmful use of force or restraint, etc. There may be no obvious physical injuries, or there may be bruises, cuts, broken bones, internal injuries, disfigurement, disablement and even death;
- (b) Sexual violence: coercing or attempting to coerce any sexual contact or behaviour without consent. It includes marital rape, all forms of sexual assault, or involvement in any undesirable sexual acts, etc;
- (c) Psychological abuse: Psychological abuse is defined as recurrent aversive or coercive<sup>1</sup> acts, intended to produce emotional harm or threat of harm<sup>2</sup>.

1.5 Intimate partner violence may constitute a criminal offence. Prosecution of batterers for acts of violence arising within a domestic context is handled by way of bringing charges for relevant offence(s) under the general criminal law. For example, the Crimes Ordinance, Cap 200 deals with sexual and related offences, such as rape, incest and indecent assault, and acts resulting in psychological harm such as criminal intimidation. The Offences Against the Person Ordinance, Cap 212 covers such offences as homicide, wounding, assault, forcible taking or detention of persons, wounding or inflicting grievous bodily harm.

1.6 In this Procedural Guide, unless where specified, workers refer to those helping professionals / social workers responsible for delivering the needed intervention / services to the victims of intimate partner violence and their

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<sup>1</sup> The recurrent aversive or coercive acts can be:

- a) repeated verbal attacks
- b) verbal harassment
- c) deprivation of basic necessities
- d) intimidation or verbal threats
- e) threatening physical harm to self or others
- f) forcing isolation
- g) acts of domination
- h) repeated invalidation

<sup>2</sup> The emotional harm / threat of harm can be:

- a) damages to the psychological well-being: lowering of self-esteem
- b) shame
- c) anxiety and terror / fear
- d) hopelessness and depression
- e) mental health problems

family members. They should use all reasonable and appropriate means to protect the victims, prevent further violence and provide comprehensive treatment to the victims, the batterers and their family members as appropriate.

## **IDENTIFICATION OF INTIMATE PARTNER VIOLENCE**

- 1.7 Intimate partner violence is a problem in dynamic. In identifying the problem, it is not uncommon to find that role shifting among family members may occur throughout the process. In other words, a person may have a “dual role” of both “victim” and “batterer”<sup>3</sup> at the same time or at different time points. Hence, any stereotyping of victim or batterer is undesirable in the helping process.

### ***Impact on Victims***

- 1.8 Generally, people who have been exposed to violence by their partners may develop certain characteristics, such as low self-esteem, lack of confidence, strong feelings of guilt and self-blaming. Besides, being overwhelmed and affected by the abusive relationship, the victims’ parenting capacity will also likely be hampered.

### ***Impact on Children***

- 1.9 Children who have been exposed to intimate partner violence may suffer from fear, worry, distress, guilt, anger, confusion and frustration. Living in families with violence, some children will learn and develop maladaptive coping behaviour and / or exhibit psychological problems.

### ***Characteristics of Batterers***

- 1.10 A batterer is a person who exercises a pattern of coercive control in an intimate relationship, punctuated by one or more acts of intimidating physical violence, sexual assault, or credible threat of physical violence. This pattern of control and intimidation may be predominantly psychological, economic, or sexual in nature, or may rely primarily on the use of physical violence. There is no stereotype for a batterer but there are signs to look for. Some men / women may exhibit some or all of these signs but have never battered their partners. Not all batterers act in the same violent way in public and at home. In fact, most batterers only use violence towards their family members and they manage to behave in a reasonable or respectful way outside the family.

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<sup>3</sup> About 10.9% of the respondents in the survey are both victim and perpetrator of spouse battering. Chan, K.L (2005) The “*Study on Child Abuse and Spouse Battering: Report on Findings of Household Survey*” [A Consultancy Study Commissioned by the SWD of the HKSAR.] Hong Kong: Department of Social Work & Social Administration, the University of Hong Kong

- 1.11 The impacts of intimate partner violence on victims and children and the characteristics of batterers are listed in details in **Appendix I**. Individuals showing symptoms listed in paragraphs 1.8 – 1.10 above do not necessarily indicate the occurrence of intimate partner violence but further exploration into the situation should be made to ensure timely and appropriate intervention.

## **RISK ASSESSMENT**

- 1.12 In handling intimate partner violence cases, safety of the victim and the children should be given top priority. While the victims may claim themselves to be the best judge of how dangerous it would be to return home, workers need to be alert to the possibility of their minimising the risk that they and their children may be exposed to and conduct the risk assessment with them carefully. After years in a violent relationship, victims may have developed such ‘positive bias’ in order to survive. In case assessment, the following areas are to be looked into :

- (a) failure of multiple support systems for the family;
- (b) isolation of the family;
- (c) psychosocial adjustment of victim / batterer e.g. pathological jealousy, threat of retaliation, recent homicidal / suicidal idea, personality disorder with anger, impulsiveness or behavioural instability;
- (d) batterer’s displacement of anger on children ;
- (e) batterer threatening to kill the partner;
- (f) past assault of family members by the batterer;
- (g) escalation of violence by the batterer;
- (h) use of drugs and/or alcohol by the batterer;
- (i) presence of a weapon; and
- (j) batterer’s attitude towards the present battering incident.

A list of risk factors on child abuse and spouse battering identified in a survey conducted in Hong Kong<sup>4</sup> in 2005 is summarized in **Appendix II** for reference.

- 1.13 In conducting the assessment, it is better to interview the victim alone if there is a possibility of intimate partner violence. The victim should be asked directly who causes the injuries. Useful questions which may be asked to help assess the victim’s situation are provided in **Appendix III** as reference.
- 1.14 Risk assessment is an on-going process, to be brought up and discussed throughout the intervention process. Many victims who once left the violence relationship reunite with the batterers despite suffering from intimate partner violence for many years. Some may reunite with the batterers several times

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<sup>4</sup> Chan, K.L (2005) The “*Study on Child Abuse and Spouse Battering: Report on Findings of Household Survey*” [A Consultancy Study Commissioned by the SWD of the HKSAR.] Hong Kong: Department of Social Work & Social Administration, the University of Hong Kong

before they finally “leave for good”. There are also others who are unable to break the pattern and get caught up in a series of violent relationships. Therefore, workers need to maintain high sensitivity and alertness to the risk of further violence and keep on monitoring and watching out for warning signs. If warning signs are present, workers need to alert the concerned parties and the victim about the potential danger.

## **GUIDELINES FOR GOOD PRACTICE**

1.15 It is the right of every one in the society to be protected against intimate partner violence. The occurrence of intimate partner violence not only destroys the trust, respect, love and bonding in a couple, resulting in alienation and tension, but may also lead to marriage dissolution or even family tragedy. It may bring about serious and long-term psychological damages to the victim and other members in the family. Children having witnessed intimate partner violence may be affected by the traumatic experience and some may manifest similar aggressive behaviour. Quite often, they are also exposed to risks of abuse. On the other hand, to prevent recurrence of battering incident in particular when the victim chooses to maintain his / her relationship with the abusive partner, treatment of the batterer is needed. Therefore workers should not confine intervention to the victims and their family members.

1.16 The followings are good practices :

### ***Timely assistance***

- (a) give priority to ensure the immediate safety of the victim and the vulnerable family members e.g. the children;
- (b) render early assistance and support to the victim and the family members;
- (c) be sensitive and alert to the victim’s and the vulnerable family members’ needs, and be aware of the assistance other professionals can provide. Prompt referrals to other government departments or agencies, e.g. Family and Child Protective Services Units of Social Welfare Department (SWD), Integrated Family Service Centres / Integrated Services Centres of SWD or non-governmental organisations (NGOs), refuge centres for women, CEASE Crisis Centre, Legal Aid Department, etc., should be made at the earliest possible time. Whenever necessary and appropriate, case consultation and joint interview by professionals should be considered;

### ***Professional attitude and strategies in dealing with victim’s needs***

- (d) always take the victim seriously. Never ignore your intuition if you suspect a person is at risk of abuse, or being abused. Ask for fuller information about whether it is alright to send him / her letters and information or for him / her to receive phone calls / visits, ways of maximizing his / her safety, etc. If the victim decides not to leave home, discuss other options available to him / her;
- (e) be open, empathetic, sensitive, approachable and non-judgmental;
- (f) the victim may not be articulate or forthcoming in giving information or responding to workers' enquiries. Be patient and tolerant in exploring and tackling the obstacles for the victims' disclosures, and provide comfort whenever necessary;
- (g) never blame the victim for provoking the battering incident(s). Build on the victim's strengths;
- (h) reassure the victim that he / she is not alone. Explore the options available to the victim and ascertain what assistance other agencies / professionals can offer and make the appropriate referral, with the consent of the victim. Always consult specialist agencies and disciplines and provide co-ordinated assistance to the victim. In order to avoid confusion and duplication, check beforehand whether the informant or victim has contacted other departments and agencies;
- (i) respect the victim's right to make his / her decision on issues like whether to stay within the relationship or whether to leave the shelter. Provide on-going support and keep regular contact with the victims regardless of their decision as far as possible;
- (j) keep proper documentation of all dealings with the victim such as interviews, treatment sessions and so forth, as such documents may be required in subsequent court proceedings, if any;
- (k) be knowledgeable about the features of intimate partner violence and help the victim recognise that the abuse is likely to continue if nothing is done to address the underlying causes and / or maintaining factors;
- (l) if the victim does not consent to referral to welfare agencies, explore the reason. If he / she still insists on not receiving any welfare service upon encouragement, (i) remind him / her that he / she should have taken care of the safety of himself / herself and other family members e.g. the children; (ii) provide information to contact SWD or other agencies in the future if he / she needs to;
- (m) pay attention to your own safety when you encounter violent and aggressive batterers;

- (n) for cases involving sexual violence, child abuse or elder abuse, reference should also be made to the “Procedural Guidelines for Handling Adult Sexual Violence Cases (Revised 2007), “Procedural Guide for Handling Child Abuse Cases (Revised 2007)” and “Procedural Guidelines for Handling Elder Abuse Cases (Revised August 2006)” respectively;

### ***Confidentiality***

- (o) confidentiality is crucial and must be respected and kept during service delivery including handling information on refuge and all information relating to individual cases. Only the relevant personnel(s) who assist in the case will be informed of the details of the case. This must be balanced, however, with the need to involve inter-agency co-operation, sharing of information and prevention of family tragedies;
- (p) ensure that the handling of the personal data complies with the provisions of the Personal Data (Privacy) Ordinance [“PD(P)O”], Cap 486 which protects individual’s personal data privacy;
- (q) In accordance with Data Protection Principle 3 [“DPP 3”] of the PD(P)O, personal data shall not, without the prescribed consent of the data subject, be used (including disclose or transfer) for a new purpose<sup>5</sup>. The only situation in the Ordinance which allows for use for a new purpose without the data subject’s prescribed consent is where the use is exempt from the provision of DPP 3 by virtue of Part VIII of the Ordinance. If the use of personal data at a MDCC is for any one of the following purposes -
  - (i) the prevention or detection of crime;
  - (ii) the apprehension, prosecution or detention of offenders;
  - (iii) the prevention, preclusion or remedying (including punishment) of unlawful or seriously improper conduct, or dishonesty or malpractice, by persons;

and that the application of DPP3 in relation to such use would be likely to prejudice any of the above matters, consideration may be given to apply exemption provided under section 58 of the PD(P)O. It should be noted that the application of exemption by virtue of Part VIII of the Ordinance is data specific and not to the records as a whole;

- (r) respect the victim’s right to privacy. The interview, examination or consultation with the victim should be conducted in an environment conducive to confidentiality and dignity;

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<sup>5</sup> New purpose, in relation to the use of personal data, means any purpose other than –  
(a) the purpose for which the data was to be used at the time of the collection of the data; or  
(b) a purpose directly related to the purpose referred to in paragraph (a).

### ***Impartiality***

- (s) the worker should maintain an impartial role in order not to contaminate the victim's statement and jeopardize the credibility of the victim as a witness during the prosecution process, if the case has been reported to the Police. The worker should not solicit evidence from the victim or prompt, coach or otherwise seek to influence the witness in any way when dealing with the case;
- (t) any professional who is giving counselling or therapeutic treatment to the victim should realize that they may have to give evidence in court;

### ***The Victim of Crime Charter***

- (u) adhere to the Victim of Crime Charter which sets out the rights and duties of victims of crime<sup>6</sup>; and

### ***The Statement on the Treatment of Victims and Witnesses***

- (v) The Statement on the Treatment of Victims and Witnesses (2009) is a practical document which sets benchmarks for prosecutors, and makes victims and witnesses aware of their rights and of the standards of service they may expect throughout criminal proceedings. Further information can be obtained through the website of Department of Justice. (<http://www.doj.gov.hk>)

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<sup>6</sup> The rights and duties of a victim include :

- (i) to help maintain law and order;
- (ii) to be treated with courtesy and respect;
- (iii) to have a proper response to complaints of crime
- (iv) to information – reporting the crime;
- (v) to information – investigation and prosecution;
- (vi) to proper facilities at court;
- (vii) to be heard;
- (viii) to seek protection;
- (ix) to privacy and confidentiality;
- (x) to prompt return of property;
- (xi) to support and after-care; and
- (xii) to seek compensation.