

CHAPTER 5

HONG KONG POLICE FORCE

DEFINITION OF DOMESTIC VIOLENCE

5.1 Police has clear operational procedures and guidelines governing the handling of violence incidents occurred between persons of familial relationships as covered by Domestic and Cohabitation Relationships Violence Ordinance, Cap 189 (DCRVO). These procedural guidelines cover the handling of ‘Domestic Violence’, ‘Child Abuse’, ‘Elder Abuse’ and any other criminal offences committed against a person by a person of relationship covered by the Ordinance. For the purpose of police intervention, “Domestic Violence” is defined as any incident involving an assault, or breach of the peace between parties who could generally be described as married or having intimate partners relationship, which also includes lovers having a lasting relationship or former lovers. In the light of the inclusion of same-sex cohabitation relationship in the DCRVO, Police procedures in handling domestic violence and domestic incidents are applicable to same sex cohabitants and lovers effective from 1st January 2010.

ROLE AND RESPONSIBILITIES OF POLICE OFFICERS ATTENDING SCENE OF DOMESTIC VIOLENCE

- 5.2 The primary concerns of the Police as a law enforcement agency are :
- (a) to ensure immediate safety of the victim and his / her children;
 - (b) to ensure that they are not subject to any risk of further violence, at least in the short run;
 - (c) to respond to and investigate all reports promptly and decisively, and to take arrest actions against the alleged offender according to the law and initiating prosecutions when there is sufficient evidence;
 - (d) to make timely referrals of victims and / or alleged offenders as well as their children to appropriate government departments / other NGOs for support services, including temporary accommodation and counselling etc.; and
 - (e) to serve a Domestic Violence Incident Notice on alleged offender.

ACTION BY OFFICERS AT THE SCENE OF DOMESTIC VIOLENCE

- 5.3 An officer of the rank of Sergeant or above must be deployed to the scene, together with the responding officer(s), in every report of Domestic 'Incident', 'Violence' and 'Dispute'. Whenever practicable, two police officers, one of either gender, should attend the scene.
- 5.4 Officers at the scene of Domestic Violence should conduct the following initial actions :
- (a) summon an ambulance, if necessary, to convey the injured or other persons in need to a hospital for examination and treatment;
 - (b) ascertain whether a relevant Domestic Violence Injunction issued by a court under the Domestic and Cohabitation Relationships Violence Ordinance, Cap 189 is in force and action as per paragraphs 5.31-5.33 below if appropriate;
 - (c) cause a search, via Duty Officer (DO) by telephone, on all parties involved against the Enhanced Central Domestic Violence Database (ECDVD) to obtain background on the family and persons involved for risk assessment;
 - (d) interview the victim and the alleged offender separately, and by an officer of the same gender if immediately available;
 - (e) never ask the victim if he / she wants to bring a criminal charge against the alleged offender and whether he / she would be prepared to give evidence in court; and
 - (f) refrain from interviewing the alleged offender or the victim at a location where implements are available and may be used to cause injury, e.g. kitchen.
- 5.5 An all-in-one pouch-size Domestic Violence booklet (DV booklet)(Pol. 1130), which contains (i) an Emergency Referral Questionnaire (ERQ), (ii) an Action Checklist (AC), (iii) a Domestic Violence Incident Notice (Pol 1130a), (iv) a Consent for Referral (Pol. 1130b), (v) a Family Support Service Information Card (Pol. 1130c), and (vi) a number of other useful information, is provided to all Uniform Branch (UB) frontline officers to make proper risk assessment at the scene and initiate timely intervention action.
- 5.6 If investigation reveals no criminal element, UB officers should complete the ERQ based on all the information gathered during the investigation before leaving the scene. The officers should assess the risk factors existing within the family by going through a series of threat assessment questions. Based on

the assessment, the officer is to decide whether it is necessary and appropriate to arrange emergency referral or remove the victim and the children to a place of refuge or consulting social worker of SWD for urgent professional advice or immediate crisis intervention. Crime investigation officers would complete the ERQ and conduct similar assessment if it is a crime case.

- 5.7 The officer should also complete an AC whether or not the case is subsequently taken over by a crime unit for investigation to ensure that all the necessary and proper actions are taken. The AC & ERQ are to be handed over to the Duty Officer (DO) for documentation and inputting into the Communal Information System during his shift.
- 5.8 The officer of Sergeant or above attending the scene is :
- (a) to ensure that the report is properly handled, correctly classified and recorded;
 - (b) to ensure that the safety and welfare of victim and his / her children have been accorded priority and that all proper and necessary actions are taken at the scene; and
 - (c) to endorse the ERQ and AC upon satisfaction of actions and their completion.
- 5.9 If there is evidence of a crime, the alleged offender should be arrested and the case is to be passed to a crime unit for investigation, irrespective of the wishes of the victim.
- 5.10 If the alleged offender is arrested for any offence, the arresting officer should explain the procedure to the victim and inform the victim of the arresting officer's number and the name of the police station to which the alleged offender will be taken.

DOMESTIC VIOLENCE INCIDENT NOTICE

- 5.11 If there is insufficient evidence to support the allegation against the alleged offender, the situation and reasons should be explained to the victim. A Domestic Violence Incident Notice (Pol. 1130a), a copy is at **Appendix XX** is to be detached from the DV booklet and served to the alleged offender. Action may be taken by police officers at scene, DO, if the victim and alleged offender are taken to the police station for further enquiry, or by crime officers conducting criminal investigation of the incident.
- 5.12 Children living in families where there is domestic violence are also at risk of abuse. If it is suspected or established that a criminal offence has been committed in respect of a child / children of the family, action should be taken

to investigate the child abuse matter. A Domestic Violence Incident Notice is not to be served in respect of any incident involving assaults on children or juveniles.

FAMILY SUPPORT SERVICE INFORMATION CARD

- 5.13 Other than the Domestic Violence Incident Notice, police officers should also serve the victim and the alleged offender with a copy of the Family Support Service Information Card (Pol. 1130c). The Information Card contains useful telephone numbers of the agencies providing temporary accommodation and support services in Chinese, English and ten foreign languages. A copy of the Information Card is at **Appendix XXI (A)**
- 5.14 If the victim and / or the alleged offender agrees / agree to the referral to SWD, a Consent for Referral (Pol. 1130b) should be completed by the officer, and signed by the victim and / or the alleged offender to signify the consent. While the Information Card is to be given to them, the Consent for Referral should be retained by the handling officer for subsequent referral to SWD. A copy of the Consent for Referral is at **Appendix XXI (B)**
- 5.15 If the victim and / or the alleged offender does / do not give the consent to referral, they will be informed that the Police have the authority and responsibility to refer them to SWD without their consent and consideration may be so taken in respect of the case.

REFUGE CENTRES FOR WOMEN

- 5.16 The contact telephone numbers of the refuge centres for women can be found in **Appendix XIX** and also in the Family Support Service Information Card (Pol. 1130c). Police officers should facilitate female victims to contact the refuge centres, if requested. All the centres provide 24-hour admissions. For admission outside office hours, a referral letter should be given to the victim, a copy of which is attached at **Appendix XXII**
- 5.17 Police transport, if available, must be offered to take the victims and her children to the pick up point of a refuge centre. The locations of the refuge centres are confidential and should not be made known to the alleged offenders or the general public.
- 5.18 The victims should be encouraged to confirm with the officers concerned after admission, so that an informed decision can be made by the Police when assessing the need for follow-up visits to the victims.

ASSISTANCE FOR MEN

- 5.19 If a male victim or alleged offender requires temporary accommodation services, information can be obtained from the organisations listed in **Appendix XIX**. If assistance is not immediately available, he should be asked if he wishes to remain in the police station whilst subsequent arrangements are made with SWD.

COUNSELLING HOTLINES

- 5.20 SWD and other NGOs also offer a variety of hotline counselling service to people who are in need of assistance. The details can be found in **Appendix XIX**.

REFERRALS WITH CONSENT

- 5.21 For cases in which the victim and / or the alleged offender has / have given the consent to referral, the Police should arrange a copy of the Consent for Referral form, Pol. 1130b, together with the completed Referral Memo (sample at **Appendix VI**) to be sent by fax to the appropriate FCPSU of SWD as listed in **Appendix XIX** as soon as possible. The original documents should also be forwarded to SWD, preferably within three days of the report. Social workers of FCPSU will contact the parties concerned and provide the service or information they need.
- 5.22 SWD has established a Designated 24-hour Direct Referral Line for Police use exclusively for urgent professional advice or outreaching service to carry out immediate investigation and crisis intervention.

REFERRALS WITHOUT CONSENT

- 5.23 The collection of personal data by the Police in domestic violence cases is generally for the purposes specified in the Police Force Ordinance (PFO), Cap 232 :
- (a) the prevention or detection of crimes and offences [Section 10(b)]; and / or
 - (b) the prevention of injury to life and property [Section 10 (c)].
- 5.24 For cases which the victim and / or the alleged offender refuses / refuse to give consent to the referral, the victim / alleged offender / child(ren) may still be referred for social services if the referral to SWD is made for the same purposes stated in paragraph 5.23 (a) and (b) above.

- 5.25 If the personal data of a victim / alleged offender / child(ren) is collected by Police for a purpose other than those set out in paragraph 5.23 above, referral to SWD without consent may still be effected. Such referral will be exempted under Section 58(2) of the Personal Data (Privacy) Ordinance [PD(P)O], Cap 486, provided that the Police have reasonable grounds to believe that failure to disclose the subject's personal data to SWD will likely prejudice the prescribed purposes specified in Section 58 (1) of the PD(P)O:
- (a) the prevention or detection of crime [Section 58(1)(a)]; and / or
 - (b) the prevention, preclusion or the remedying (including punishing) of unlawful or seriously improper conduct, or dishonesty or malpractice by persons [Section 58(1)(d)].
- 5.26 Each case shall be considered on its own merits, taking into account such factors as the seriousness of injuries suffered by the victim / child(ren), alleged offender's propensity to violence, etc.
- 5.27 Before making a written referral, the referring police officer should, as far as practicable, initiate discussion on the case with the Senior Social Work Officer of the corresponding FCPSU. Referral procedures stipulated in paragraphs 5.21 should then be followed and the Referral Memo at **Appendix VI** duly completed.

DATA INPUT FORM

- 5.28 Officers are required to complete the Data Input Form (DIF) at **Appendix V** after handling each report of Domestic Violence for onward submission to SWD for statistical and analytical purposes.

FOLLOW-UP VISITS BY POLICE

- 5.29 If necessary, follow-up visits to the victim would be arranged by the Police. Under normal circumstances, no police follow-up visit is required if the victim has moved to a safe place or refuge centre for women, or when the case has been referred to SWD for social service in accordance with the above paragraphs.

LEGAL AID DEPARTMENT

5.30 In the course of handling domestic violence incident, officers shall advise victims of service offered by the Legal Aid Department. The telephone numbers of the offices are included in the Family Support Service Information Card (Pol. 1130c) at **Appendix XXI (A)**.

INJUNCTION ORDER UNDER DOMESTIC AND COHABITATION RELATIONSHIPS VIOLENCE ORDINANCE

5.31 Under the Domestic and Cohabitation Relationships Violence Ordinance (Cap 189) where a person makes an application to the District Court or the Court of First Instance, the court may grant an injunction which:-

- (a) restrains the respondent from molesting the applicant or any specified minor;
- (b) excludes the respondent from entering or remaining in the residence of the applicant, or from a specified part of the residence or from a specified area; and / or
- (c) permits the applicant or the specified minor who resides with the respondent to enter and remain in the common residence or matrimonial home of the applicant and the respondent or in a specified part of the residence.

5.32 Where an 'Authorization of Arrest' is attached to an injunction, a police officer may arrest, without warrant, any person whom he / she reasonably suspects of being in breach of the injunction by reason of that person's use of violence or his / her entry into any premises or area specified in the injunction. The officer shall also have all necessary powers including the power of entry by the use of reasonable force to effect the arrest.

5.33 The arrested person must be brought before a Duty Officer of the nearest police station as soon as possible. A Duty Officer of the Criminal Records Bureau will make arrangements for the arresting formation to hand over the arrested person and copy of the Injunction Order to either the Chief Bailiff (Operations) if the Injunction Order is issued by the Court of First Instance, or Assistant Chief Bailiff (Hong Kong) if the Injunction Order is issued by the District Court.

REFERENCES

5.34 A flowchart illustrating the police actions to be taken in Domestic Violence incidents is at **Appendix XXIII**.