



Ministry of
Public Safety
and Solicitor General



POLICE RELEASE

***ON A PROMISE TO APPEAR WITH AN UNDERTAKING
IN VIOLENCE AGAINST WOMEN IN RELATIONSHIPS CASES***



February 2005



SPOUSAL ASSAULT 
VICTIM SUPPORT PROGRAM

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*Domestic Violence is a crime that is different from other crimes
in two ways:*

- *The likelihood of repeat violence is common and at most times predictable,*
- *The victim is known in advance.*

– Hadley Inquest Jury Recommendations, 2002

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Introduction

Purpose

The *Police Release on a Promise to Appear with an Undertaking* Guidelines are designed to improve police release procedures in cases of violence against women in relationships and enhance victim safety. They are intended to assist municipal police and Royal Canadian Mounted Police forces across British Columbia. Every police officer in the province should be provided with a copy.

When implemented province-wide, these procedural guidelines can help ensure that consistent and effective risk assessment is undertaken and that appropriate release conditions are imposed.

If police officers follow these procedures when releasing offenders, the integrity of the court process is assured and victim safety is maximized.

Background

In 2000 the Spousal Assault Victim Support Program in Victoria conducted a research study for the Victoria Coordination Committee on Violence Against Women in Relationships. The study, entitled *Violence Against Women in Relationships: A Review of Police Releases, July 1999 – June 2000*, reviewed police practices in releasing offenders on a Promise to Appear with an Undertaking (PTA/UTA). (See Appendix for the executive summary from this study.)

Funded through a grant from the Victim Services Division of the Ministry of Public Safety and Solicitor General, the study focused on victim safety and offender accountability. It resulted in several recommendations to improve police practice. These were presented to the Greater Victoria Area Chiefs of Police, who concurred that the issue needed to be addressed at the provincial level.

The Police Release Working Group was convened to follow up on the recommendations from the research study. Led by the Director of Police Services, Kevin Begg, the group consisted of senior representatives from municipal police forces, the RCMP, community-based victim services agencies, and the Victim Services Division. As part of its work, the group reviewed the findings of a recent Coroner's inquest into the adequacy of police release conditions in ensuring the safety and protection of victims of violence against women in relationships.

The Working Group has produced this document, which consists of the following components:

- **Police Release Guidelines**

These guidelines supplement the police policy contained in the Ministry of Attorney General's Violence Against Women in Relationships (VAWIR) Policy,¹ Section C, *Response and Arrest*, and the RCMP Violence in Relationships (VIR) Policy, Section 7.2.

¹ The Violence Against Women in Relationships Policy provides guidelines for Crown prosecutors, Corrections personnel, police officers, and other justice system workers. It emphasizes that proactive arrests and charges be pursued if grounds exist for such action. Each police detachment/department has been provided with a copy of the Violence Against Women in Relationships Policy. A copy can also be found at <www.pssg.gov.bc.ca/vawc/policy.htm>.

- **Police Release Training Guide**
This guide provides more detailed information on the supplementary guidelines and also covers the use of the B-SAFER Risk Assessment Tool.²
- **Practice Tips**
This section includes a checklist for the completion of PTA/UTA documents and one for supervisory K-File review.
- **Recommendations of the Working Group**
A copy of the Working Group’s recommendations has also been included.

Police detachments/departments are advised to do the following:

- **Amend their operational policies based on the new supplementary guidelines.**
- **Arrange for training using the Police Release Training Guide.**
- **Ensure that all supervisors use the Practice Tips included in this document when preparing release documents and reviewing case files.**

Please note: A one-day course on Police Release on a Promise to Appear with an Undertaking has been developed by the Justice Institute. For further information, contact the Police Academy at the Justice Institute of BC at 604-528-5422.

² The B-SAFER Risk Assessment Tool was developed by Randy Kropp, Ph.D., Steve Hart, Ph.D., and others, as part of a research project funded by the British Columbia Institute Against Family Violence and the Department of Justice. The tool is currently being piloted in Vancouver and Sweden.

Police Release Guidelines

Legal Summary

There are four legal points to be made about the release of persons accused of violence in relationships:

- **Statutory authority**

The Criminal Code of Canada provides authority to police officers to release an accused person who is in custody, having been arrested with or without warrant, under sections 503 and 499.

Sections 496-503 oblige officers to release accused persons with the least restrictions of liberty necessary under the circumstances.

Sections 499 and 503 permit police officers and officers in charge to release suspects on undertakings and recognizances with specified conditions. The available conditions are the same in each section, and include an authority to impose such conditions that the “officer considers necessary for the safety and security of any victim or witness to the offence”. However, the officer must be able to justify any condition imposed.

Although that list of conditions can address many risks, the sections do not grant peace officers blanket authority to impose conditions unless they can be justified.

The lists in section 503 (2.1) and 499 (2) both include authority for conditions that the officer “considers necessary to ensure the safety and security of any victim of or witness to the offence”.

2 – POLICE RELEASE GUIDELINES

- **Public interest**

Police officers must consider several factors that make up the public interest. Factors which justify more restrictive forms of release and more restrictive conditions are:

- the need to identify the accused
- the need to preserve evidence
- the risk that the offender will commit more offences
- the risk that the offender may jeopardize the safety of victims or witnesses
- the risk that the offender will intimidate witnesses
- the need to ensure the offender will attend court.

If no combination of the conditions will suffice to address these issues, then the accused must be brought before a court for a bail hearing under s.515. Police should consider detaining the accused for a bail hearing under s.515. The court may impose more restrictive conditions and may require a recognizance with cash or surety, or may detain the accused in custody.

- **Cancellation of PTA**

A number of common errors in the preparation of release documents can lead to the cancellation of the PTA. The Criminal Code is clear that the UTA conditions are dependent on the PTA or other process and only the PTA or process document provides jurisdiction by the Court over the Accused. Consequently, if the PTA is cancelled, the conditions in the UTA are lost.

- **Change of process**

If the accused is not in custody when charges are approved and if Crown counsel believes that the release conditions imposed by the police do not adequately protect the safety and security of the victim and the public, Crown counsel may request a warrant pursuant to s. 512 of the Criminal Code.

Crown counsel may also make an application for a warrant in order to bring the accused before the court to re-establish protective conditions if the PTA/UTA is cancelled

Release conditions or terms of court imposed bail can be changed if there is a change in circumstances, particularly if there is a threat to the safety of a victim or witness, or if the accused is no longer likely to attend court as required.

Sections 499(3), and 503(2.2) permit the accused to apply to the court for variation of the conditions on an undertaking imposed by a police officer, prior to first appearance, without notice to the Crown. This may happen before the Report to Crown counsel has been received by the Crown.

Section 499(4) and section 503(2.3) permit the prosecutor to apply for changes to the conditions of the undertaking, but requires three days notice to the accused and must be done prior to or at the first appearance.

Police Release Process

Risk assessment

Given the ongoing recurrent nature of violence against women in relationships, it is critical that the risks inherent in the release of suspects are recognized.

1. If the ability of the accused to understand or abide by the release conditions is impaired, then consideration should be given to detention until such time that the accused is competent to understand and abide by the conditions.
2. Police officers should complete a B-SAFER Risk Assessment when determining whether to release the accused or hold the person for a judicial interim release. (The risk assessment tool is found on page 26.)
3. When determining whether to release the accused, police officers should consider the public interest, including the possible risk to any children involved.
4. Police supervisors should review all decisions related to the release or detention of the accused.

Documentation

Documents must be completed correctly. This will help ensure that charges are approved and processed, the accused is compelled to court and the victim(s) and any witnesses are protected by appropriate restrictive conditions pending trial.

1. Best practice requires that the investigating officer complete the Report to Crown Counsel (RCC) before the end of the officer's tour of duty. If an extension is required, a maximum 14-day extension is recommended.
2. Each detachment/department should establish procedures for expediting the file to Crown counsel so that the documents can be processed through Crown counsel and the court registry before the first appearance date.
3. If the accused has not been located, police officers should request a warrant so that conditions can be imposed to ensure the victim's safety.
4. In cases involving a cross-jurisdictional arrest on an endorsed warrant, detachments/departments should verify that the release conditions requested by the originating agency are actually imposed.
5. The Criminal Code lists the circumstances in which a police officer is authorized to impose *any* release condition that ensures the safety and security

of persons related to an offence.. Any additional conditions should be determined through the use of the B-SAFER Risk Assessment and the Police Release Training Guide.

6. Completing the PTA and UTA: After the B-SAFER Risk Assessment has been completed and it is determined that the accused will be released on a PTA, use the UTA (Form 11.1) with the conditions listed below. Appropriate wording will ensure compliance and enforceability.

RELEASE DOCUMENT	GUIDELINES
Promise to Appear	<ol style="list-style-type: none"> 1 Set the call date of the first appearance on the PTA within a three- to five-week period, or subject to circuit court availability. 2 Clearly indicate the court date and time, courtroom number, and complete courthouse address. For example: <p style="margin-left: 40px;">March 11, 2003; 2:00 p.m.; Courtroom 126, Provincial Courthouse, 850 Burdett Avenue, Victoria, BC.</p>
Undertaking Given to a Peace Officer or an Officer in Charge	<ol style="list-style-type: none"> 1 Of the release conditions specified in Form 11.1, the following conditions should be routinely imposed to afford maximum safety for the victim and her children: <ol style="list-style-type: none"> a) <i>Notify the [BAIL SUPERVISOR/OFFICER IN CHARGE] of any change in address, employment, or occupation.</i> b) <i>Abstain from communicating directly or indirectly with [NAME OF VICTIM(S), INCLUDING CHILDREN IF APPROPRIATE] or from going to [FULL ADDRESS OF VICTIM'S RESIDENCE, WORK, SCHOOL], except in accordance with the following conditions: [TO OBTAIN PERSONAL BELONGINGS IN THE COMPANY OF A POLICE OFFICER ON ONE OCCASION] and [NOT TO BE WITHIN A ____ BLOCK RADIUS].</i>

RELEASE DOCUMENT	GUIDELINES
Undertaking Given to a Peace Officer or an Officer in Charge (continued)	<p>c) <i>Abstain from possessing a firearm and surrender to [LOCATION/PERSON, DATE, TIME] any firearm in their possession and any authorization, licence, or registration certificate or other document enabling the acquisition or possession of a firearm.</i></p> <p>d) <i>Report at [TIME, DATE] to [FULL ADDRESS OF COMMUNITY CORRECTIONS OFFICE] and [THEREAFTER AS DIRECTED BY THE BAIL SUPERVISOR].</i></p> <p>2 In addition, any other condition that offers protection to the victim should be included in the space provided on Form 11.1 – “I undertake to comply with the following ...”</p>

7. Send a legible copy of the PTA and UTA to:
 - a) The Protection Order Registry (POR) by fax. (Refer to the POR Police Officers Training Guide.)
 - b) The bail supervisor, if reporting conditions have been imposed.
8. Each detachment/department should establish procedures to:
 - a) Enter PTA/UTA information into CPIC in a timely fashion. Each department/detachment should identify the contact person responsible for doing this.
 - b) Update the POR and CPIC with any changes to UTA conditions (varied or cancelled UTA). To cancel a PTA/UTA for POR fax the order with a line drawn through it, date it and mark it ‘cancelled’.

Victim notification

Before the accused is released, every effort should be made to contact the victim to ensure that safety issues are addressed.

The investigating officer or designate shall be responsible for ensuring that the victim is:

1. Contacted upon the release of the accused and the victim is notified of the release and the release conditions are explained.

2. Provided with a copy of the UTA, which sets out the conditions, as soon as possible.
3. Advised of community-based victim services programs, if available, or police-based victim services.
4. Advised of VictimLINK, a 24-hour, toll-free, confidential help and information line (1-800-563-0808).
5. Notified if the PTA/UTA is cancelled.

Referral to Victim Services

Early intervention by victim services enhances the victim's safety and increases the likelihood of cooperation with the criminal justice system. Victim service workers play a significant role in helping victims identify risks and develop and implement a personal safety plan for themselves and their children. Police officers can significantly reduce the number of calls for assistance from victims by promptly referring them to victim services agencies. Police officers are encouraged to make these referrals to community - based victim services, or if none exist in that community, to the police based victim services program.

Respectful and dignified treatment of victims with special needs related to culture, language, religion, sexual orientation, age, physical or mental disability is especially critical. Presence of children also requires special consideration for referral to appropriate programs such as children who witness abuse.

Victims should be referred as soon as possible to allow the victim to receive emotional support, information about the criminal justice system, assistance in safety planning and appropriate referrals to other social agencies

Community – based victim services in communities with a population of over 20,000 are contracted by the Ministry of Public Safety and Solicitor General, as the primary service providers for victims of violence in relationships, sexual assault, criminal harassment, and historical sexual abuse.

In those communities with a population of less than 20,000, the police-based victim service program is the primary service provider contracted by the Ministry to provide these services.

Cancellation of PTA/UTA

If a PTA is cancelled, the UTA is presumed to be cancelled. Therefore, a warrant should be requested so that the protective conditions can be re-established. The following police personnel have responsibilities in this regard:

1. The court liaison officer or designate responsible for swearing the information shall:
 - a) In order to obtain a warrant, inform the judicial justice of the peace about the need for protective conditions.
 - b) Request a personal service summons if the case cannot proceed with a warrant.
 - c) Notify the supervisor that the PTA/UTA has been cancelled and that the case is proceeding by way of warrant or summons.
2. The supervisor shall ensure that:
 - a) The victim is informed about the cancelled protective conditions.
 - b) The victim is referred to a community-based victim services agency, if available, or to police-based victim services, for assistance in reviewing victim safety and protective measures.
 - c) The Protection Order Registry does not remove an order from the database. The order is cancelled and the documentation scanned into the file. The cancelled conditions are deleted from CPIC.
 - d) Crown counsel is notified of the cancelled PTA/UTA so that Crown counsel can request a change of process at the first appearance to re-establish protective conditions.

Police Release Training Guide

Introduction

This guide is intended for municipal police and Royal Canadian Mounted Police officers throughout British Columbia. Every police officer in the province should be provided with a copy.

Given the recurrent nature of violence against women in relationships and the risks inherent in releasing the accused, police officers need to have adequate training in risk assessment. Thus, while release conditions apply to any criminal offence in which victim safety is a consideration that requires assessment and protection, this guide specifically addresses the risks associated with violence against women in relationships.

Statutory Authority

The pertinent sections of the Criminal Code are:

- CCC 495, Arrest without warrant by a peace officer
- CCC 496, Issuance of an Appearance Notice by peace officer
- CCC 497, Release from custody by peace officer
- CCC 498, Release from custody by officer in charge
- CCC 499, Release from custody by officer in charge where arrest made with warrant
- CCC 501, Contents of appearance notice, promise to appear, and recognizance
- CCC 503(1) Taking before Justice
- CCC 503(2) Conditional Release
- CCC 503(2.1) Undertaking
- CCC 503(2.2) Application to Justice
- CCC 515, Judicial Interim Release

There are number of legal considerations concerning the release of persons accused of violence in relationships:

- **Statutory authority**
The Criminal Code of Canada provides authority to police officers to release an accused person who is in custody, having been arrested with or without warrant, under sections 503 and 499.

Sections 496-503 oblige officers to release accused persons with the least restrictions of liberty necessary under the circumstances.

Sections 499 and 503 permit police officers and officers in charge to release suspects on undertakings and recognizances with specified conditions. The available conditions are the same in each section, and include an authority to impose such conditions that the “officer considers necessary for the safety and security of any victim or witness to the offence”. However, the officer must be able to justify any condition imposed.

Although that list of conditions can address many risks, the sections do not grant peace officers blanket authority to impose conditions unless they can be justified.

The lists in section 503 (2.1) and 499 (2) both include authority for conditions that the officer “considers necessary to ensure the safety and security of any victim of or witness to the offence”.

- **Public interest**

Police officers must consider several factors that make up the public interest. Factors which justify more restrictive forms of release and more restrictive conditions are:

- the need to identify the accused
- the need to preserve evidence
- the risk that the offender will commit more offences
- the risk that the offender may jeopardize the safety of victims or witnesses
- the risk that the offender will intimidate witnesses
- the need to ensure the offender will attend court.

If no combination of the conditions will suffice to address these issues, then the accused must be brought before a court for a bail hearing under s.515. Police should consider detaining the accused for a bail hearing under s.515. The court may impose more restrictive conditions and may require a recognizance with cash or surety, or may detain the accused in custody.

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- **Change of process**

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Sections 499(3), and 503(2.2) permit the accused to apply to the court for variation of the conditions on an undertaking imposed by a police officer, prior to first appearance, without notice to the Crown. This may happen before the Report to Crown counsel has been received by the Crown.

Section 499(4) and section 503(2.3) permit the prosecutor to apply for changes to the conditions of the undertaking, but requires three days notice to the accused and must be done prior to or at the first appearance.

- **Application of Statutory Authority**

In cases of spousal violence, the public interest factor that must always be addressed is the risk of future violence. The officer must determine if there is such a risk, and if so, whether that risk can be sufficiently reduced by imposing conditions of release.

The B SAFER tool can be used to identify the risk of violence and if release on conditions sufficiently reduces the risk of violence.

- **Change of Conditions**

If an officer becomes aware that the release conditions are not adequate to address the public interest factors, in particular, the safety of a victim or witness, Crown Counsel should be contacted immediately. Police officers are not permitted to change a UTA condition after the release of an accused. Only Crown counsel can make application for changes to conditions or for the revocation of bail in appropriate circumstances.

The report to Crown counsel should reflect the reasons the officer had for imposing the conditions, because the accused can also apply to change the conditions. Crown counsel are then in a position to respond to a request by the accused (or the victim) for changes in the conditions.

Victims who wish to have conditions varied should be directed to Victim Services and Crown counsel.

Police Options

After making an arrest, police may do the following:

- **Release the accused without conditions**

Police must be satisfied that there is no risk of future violence or intimidation to any victims or witnesses, even though the case involves spousal violence.

- **Release the accused with conditions**
Accused parties are released on a PTA with an undertaking, using Form 11.1, *Undertaking Given to a Peace Officer or an Officer in Charge*. The police officer shall impose conditions if satisfied that grounds exist.
- **Keep the accused in detention**
If the officer is not satisfied that the risk can be sufficiently addressed by imposing conditions on release, then consideration should be given to requesting the accused be detained for a bail hearing. Officers should detail the results of the risk assessment and explain their concerns about the risk of future violence if the accused is released, even on conditions.
- **When police suspect mental health issues, they should bring a doctor to assess the prisoner**
If the accused is not able to consent to a psychological assessment or is unwilling to consent, police may request a doctor attend to observe the accused. The doctor may be able to assess if the accused should be kept in custody under the Mental Health Act, as a danger to himself or others. Alternatively, the doctor may be able to suggest appropriate release conditions. If he thinks that the accused may be unfit to stand trial, he can then write a short report, recommending further assessment.

On the strength of that recommendation, a JP or judge may adjourn the bail hearing for further assessment
- **Adjourning the Bail Hearing**
Officers can apply to adjourn a bail hearing for up to three days:
 - if they are still investigating the case, and do not know the seriousness of the offences and cannot determine whether release of the accused might cause loss of evidence or harm to others;
 - if they have been told by a doctor that they require a psychologist or psychiatrist to assess the accused;
 - or if the accused is not yet sober, and would not understand the proceedings.
Please note: a request to adjourn a bail hearing is an application. The JP decides whether to grant the application. The JP will ask the defendant whether he agrees with the adjournment, and what reasons the defendant has that the JP should not grant the adjournment. If the JP denies the adjournment being sought, the officer might well seek a shorter adjournment in order to prepare for the bail hearing with the information that is available.

Risk Assessment and Case Prioritization


The B-SAFER is a brief tool or guide for assessing risk for spousal assault in criminal and civil justice (i.e., forensic) settings. The B-SAFER is NOT a replacement for the professional discretion of the person using it. Its purpose is to introduce a systematic, standardized, and practically useful framework for collecting, weighting, and incorporating information into risk assessments. It draws directly from the scientific and professional literatures on spousal violence risk assessment and victim safety planning. The B-SAFER is currently being tested with the police in three Canadian jurisdictions with funding from the Department of Justice Canada. It has also been validated in a two-year study with the Swedish National Police.

BRIEF SPOUSAL ASSAULT FORM FOR THE EVALUATION OF RISK (B-SAFER) ³		
Police Case ID Number:	Name of Offender/Accused:	Name of Victim(s):
Completed by:	Signature:	Date Completed:
Information Sources: <input type="checkbox"/> Interview with offender/suspect <input type="checkbox"/> Interview with victim(s) <input type="checkbox"/> Review of criminal record <input type="checkbox"/> Other: _____		Item Rating Procedures: O = Omit – Insufficient information N = Not present P = Possibly or partially present Y = Present “Currently” refers to the past 4 weeks, up to and including the incident under investigation
Spousal Assault Includes assaults against all intimate partners (e.g., marital, common-law, dating partners)		Currently (O, N, P, Y)
1. Serious Physical/Sexual Violence <ul style="list-style-type: none"> Actual or attempted physical assault, including sexual assault and use of weapons “Serious” includes such things as life threatening violence and violence resulting in injuries that require medical attention, coded as “Y” Less serious violence coded as “P” 		In the Past (O, N, P, Y)

³ B-SAFER developed by P.R. Kropp, S.D. Hart, H. Belfrage, C.D. Webster, and D. Eaves. *Draft Version for discussion only*. Note: This form is intended for informational purposes only. Proper use of the B-SAFER requires specialized education and training. Please contact the authors for information regarding recommended education and training procedures. B-SAFER is copyright C 2004 by P. Randall Kropp, Stephen D. Hart, and Henrik Belfrage. B-SAFER is incorporated with the permission of the copyright owners. Development of B-SAFER was funded by the British Columbia Institute Against Family Violence and the Department of Justice, Government of Canada

	Currently (O, N, P, Y)	In the Past (O, N, P, Y)
2. Serious Violent Threats, Ideation, or Intent <ul style="list-style-type: none"> • Homicidal or aggressive thoughts, urges, plans, or behavior • “Serious” includes such things as threats of injury or death and threats with weapons, stalking, persistent and intrusive aggressive thoughts, and explicit plans, coded as “Y” • Less serious threats, ideation, or intent coded as “P” 		
3. Escalation of Physical/Sexual Violence or Threats/Ideation/Intent <ul style="list-style-type: none"> • Physical/sexual violence or threats/ideation/intent have increased in frequency or severity over time 		
4. Violations of Civil or Criminal Court Orders <ul style="list-style-type: none"> • Includes such things as conditions of restraining orders, parole, probation, and bail imposed because of spousal assault or to prevent spousal assault • Arrest(s) pertaining to current or previous offense(s) coded as “Y” • Violation(s) not resulting in arrest(s) coded as “P” 		
5. Negative Attitudes about Spousal Assault <ul style="list-style-type: none"> • Expresses socio-political, religious, cultural, sub-cultural, or personal beliefs and values that encourage, excuse, justify, or minimize abusive, controlling, and violent behavior • Includes sexual jealousy and possessiveness • Includes minimization/denial of many or all past acts of violence; minimization/denial of personal responsibility for many or all past acts (e.g., blames the victim or others); or minimization/denial of serious consequences of many or all past acts (e.g., says the victim did not suffer physical injuries) 		
Psychosocial Adjustment	Currently (O, N, P, Y)	In the Past (O, N, P, Y)
6. Other Serious Criminality <ul style="list-style-type: none"> • Sentenced for or suspected of other criminality NOT related to spousal assault • Includes actual or attempted physical violence or sexual assault, including use of weapons, against family members (other than intimate partners), acquaintances, and strangers • Includes property offenses, public disorder, alcohol/drug offenses, and violations of conditional release (e.g., parole, probation, bail, etc.) • Less serious criminality coded as “P” 		
7. Relationship Problems <ul style="list-style-type: none"> • Separation from partner or extreme conflict regarding relationships status • Code regardless of whether the conflict results from the index offense 		
8. Employment and/or Financial Problems <ul style="list-style-type: none"> • Chronic unemployment, unstable work pattern, or significant financial difficulties 		
9. Substance Abuse <ul style="list-style-type: none"> • Serious problems with the use of illicit drugs, alcohol, or prescription drugs that lead to impairment in social functioning (e.g., health, relationships, work, or legal problems) 		

3 – POLICE RELEASE TRAINING GUIDE

	Currently (O, N, P, Y)	In the Past (O, N, P, Y)
10. Mental Disorder <ul style="list-style-type: none"> • Irrational (e.g., strange, bizarre) beliefs or perceptions • Serious disturbance of mood • Long-standing problems with anger, impulsivity, or instability • Suicidal threats, ideation, or intent <input type="checkbox"/> Definite: Coded from current or past mental health evaluation <input type="checkbox"/> Provisional: Refer for confirmation by mental health evaluation		
Other Considerations (e.g., access to weapons, recent stress)		
1.		
2.		
Case Priority⁴	<i>Low</i>	<i>Moderate</i>
Recommend Detention	<i>Yes</i>	<i>No</i>
Discuss nature of risks and management plan		
	For information on this and related publications, contact: The British Columbia Institute Against Family Violence, Suite 551, 409 Granville Street, Vancouver, British Columbia, V6C 1T2 Tel: (604)669-7055 ❖ Fax: (604)669-7054 ❖ E-mail: publications@bcifv.org ❖ URL: www.bcifv.org	

⁴ Case priority is defined as the level of effort or intervention that will be required to prevent further spousal violence.

Risk Management Plan

The following are strategies for managing risk for spousal violence.

	EXAMPLES	PLANS
Monitoring		
<ul style="list-style-type: none"> • What is the best way to monitor warning signs that the risks posed by the perpetrator may be increasing? • What events, occurrences, or circumstances should trigger a re-assessment of risk? 	<ul style="list-style-type: none"> • Specify the kind and frequency of contacts required (e.g., weekly face-to-face visits, daily phone contacts, monthly assessments). 	
Supervision		
<ul style="list-style-type: none"> • What supervision or surveillance strategies could be implemented to manage the risks posed by the perpetrator? • What restrictions on activity, movement, association, or communication are indicated? 	<ul style="list-style-type: none"> • Detention • Peace bond • Report (e.g. to police, corrections) • No contact (e.g., with victims, others) • No go to specific areas • Weapons restrictions • Drugs/alcohol restrictions 	
Victim Safety Planning		
<ul style="list-style-type: none"> • What steps could be taken to enhance the security of the victim? • How might the victim's physical security or self-protective skills be improved? • Has there been a proactive referral to victim services? 	<ul style="list-style-type: none"> • Dynamic security: support services, counseling, treatment, information about risks and security options • Static security: improve visibility, target hardening, restricting access, installing alarms, workplace security, relocation 	
Other Considerations		
<ul style="list-style-type: none"> • What events, occurrences, or circumstances might increase or decrease risk? • What else might be done to manage risk? 		

Imposition of Protective Release Conditions

The following is intended to provide guidance regarding the imposition of protective release conditions.

Processing the accused

When dealing with violence against women cases, the likelihood of repeat violence is common and at a most times predictable. To protect the victim and witnesses, police should consider removing the accused from the situation and/or geographical area before releasing the person from police custody. While this may be problematic in remote communities, it is nevertheless critical due to the increased risk that isolation presents.

Preparing release documents

Use of standard wording

Release conditions may form the substance of future criminal charges if the accused breaches the conditions. The wording of the conditions should be clear, so that everyone, including the accused and the victim, can understand exactly what the restrictions are and so that the court can make a determination that a condition was disobeyed. Accordingly, standard wording should be used to describe the condition, the persons named, and the jurisdiction within which the condition applies.

Relationship between condition and public interest factors

Any conditions imposed should be related to public interest factors, such as ensuring the safety of victims and witnesses, the prevention of further offences, and the preservation of evidence. For example, a condition to abstain from the consumption of alcohol is not appropriate unless the accused's use of alcohol has a bearing on the likelihood the accused will commit further offences, as demonstrated by a criminal history involving alcohol abuse or by the facts of the present case.

It is unlikely that charges for breach of a condition would proceed if based on a condition that does not arise from facts of the case or the history of the accused and that therefore would appear arbitrary to a court.

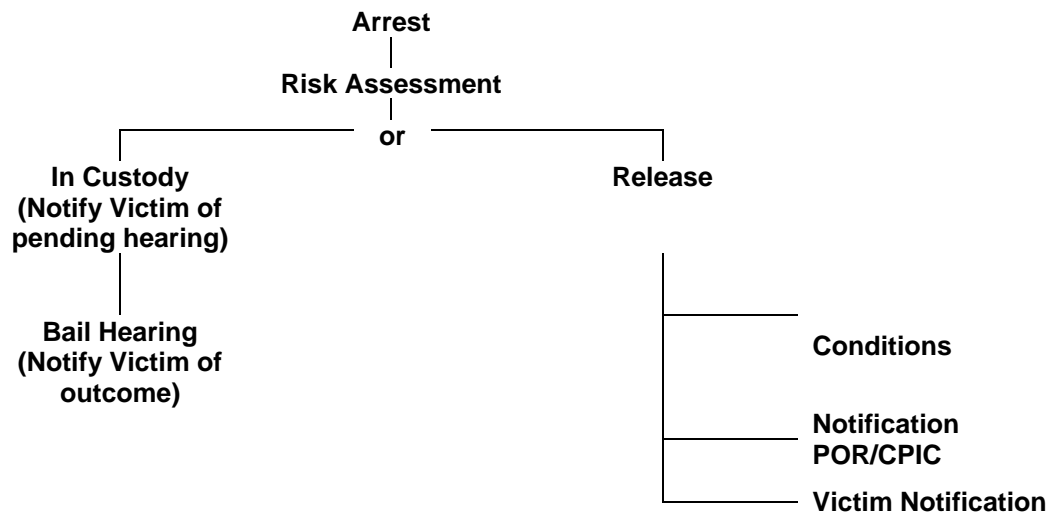
Correct completion of documents

Release documents must be completed correctly, otherwise they will be cancelled. Correctly prepared documents will help ensure that charges are approved and processed, the accused is compelled to court, the victim(s) and any witnesses are protected, and the accused is bound by restrictive conditions pending trial. When completing the document, police officers should do the following:

1. If you have made an error on a document, prepare a new one. If you decide to correct the error on the document, both you and the accused must initial the correction.
2. Use Adult forms for adults and Youth forms for youth.
3. Ensure that the document is legible.
4. Use the correct format for each of the following:
 - Address: Write all addresses in full. Include the street, city name, and province. When writing the courthouse address, include the city or municipality. Do not abbreviate.
 - Date: Write the dates in the following format: January 15, 2003 (not 03-01-15).
 - Time: Make sure to indicate whether a.m. or p.m.
 - Offence: State the legislation, section number, and name of the offence, for example, CCC 266, Assault. Ensure that this information appears on the RCC.
5. Check off the condition boxes and write any additional conditions in full or append them to the document.
6. Ensure that the return date is a correct court date for a first appearance, and that the date of the first appearance provides enough time for the document to be processed through Crown counsel and the court registry. Best practice requires that the investigating officer complete the Report to Crown Counsel (RCC) before the end of the officer's tour of duty. If an extension is required, a maximum 14-day extension is recommended.
7. Complete and sign the affidavit of service on the back of the form.
8. Attach the original PTA/UTA to the RCC.
9. On completing the UTA (Form 11.1), fax it immediately to the Protection Order Registry [250-356-2185] and submit it for entry into CPIC. You are responsible for notifying the Protection Order Registry immediately upon the release of an accused on whom No Contact conditions have been imposed. (See POR Police Officers Training Guide.)

Linking risk assessment to release conditions and the Report to Crown Counsel

Release conditions are imposed on judicial or police releases. Police officers have the authority to impose conditions that ensure victim safety. These conditions may form part of the police release or, if police are recommending judicial release on conditions or detention, police concerns should be included in the Report to Crown counsel narrative, together with the risk assessment findings, to provide information for the bail hearing.



Suggested wording for conditions on a PTA/UTA

The current form 11.1 Undertaking Given To A Peace Officer Of Officer In Charge uses specific wording for the conditions. Where this is not sufficient the following suggested wording can either complement the wording on the form or be added to the undertaking as the last condition(s). (Undertaking to comply with the following):

CONDITION	SPECIFIED WORDING
All releases	Keep the peace and be of good behaviour.
Reporting	<p>Upon your release from custody, you must report forthwith to the [POLICE DEPARTMENT] at [ADDRESS] and thereafter as directed but not less than [TIME/DAY(S)] per calendar week.</p> <p>Report to a Bail Supervisor at [ADDRESS] forthwith upon your release from custody and thereafter as and when directed by a Bail Supervisor.</p> <p>Report to a Bail Supervisor at [ADDRESS] before [TIME] am/pm on [DATE] and thereafter as and when directed by a Bail Supervisor.</p>
Communication	<p>Have no direct or indirect communication with [NAME(S)].</p> <p>Note: The No Communication/Contact provision must specifically name the victim(s), family, friends, children, and business associates who are connected with the charged incident and require protection.</p>
No go	<p>Not to be within a [NUMBER]-meter radius of the [NUMBER]-block [STREET] in the city of [CITY NAME(S)] in the Province of British Columbia.</p> <p>Not to be in the area bounded by [STREET] on the north, [STREET] on the south, [STREET] on the east, [STREET] on the west, in the City of [CITY NAME], Province of British Columbia</p>
No go (cont.)	<p>Not to be in the area bounded by [STREET] on the north, [STREET] on the south, [STREET] on the east, [STREET] on the west, in the City of [CITY NAME], Province of British Columbia, except for the purpose of going directly to or from the courthouse at [ADDRESS] and/or the Bail Supervisor's office.</p> <p>Not to be within a [NUMBER]-block radius of the [NUMBER]-block [STREET] in the city of [CITY NAME(S)], in the Province of British Columbia, except on one occasion in the company of a police officer to collect your personal belongings.</p> <p>Not to be found within an 80-km radius of [HWY NO.] between and including (e.g.) Prince George on the east and Prince Rupert on the west and including the Queen Charlotte Islands, all in the Province of British Columbia, except for the purposes of (as above).</p>

CONDITION	SPECIFIED WORDING
Residence	To reside at [ADDRESS] and not change that address without prior written notification to the Bail Supervisor and/or Police Department/Detachment. Remain within [JURISDICTION NAME]. To provide your current residential address [ADDRESS] to the Bail Supervisor and not change that address without prior written notification to the Bail Supervisor and/or Police Department/Detachment.
Weapons/tools	Not to possess any weapons as defined in the CCC, including knives, except for the sole purpose of preparing or consuming food within a dwelling house or [OTHER LOCATION]. Abstain from possessing any firearms and surrender any firearms, and certificates authorizing your ability to possess and/or acquire firearms, in your possession to [NAME] at [ADDRESS] by [DATE AND TIME]. Not to possess any weapons as defined in the CCC, including any firearms, explosive substances or ammunition, or any knives, except for the sole purpose of preparing or consuming food.
Drugs, Alcohol, and Substance Use	Abstain from the consumption of alcohol or other intoxicating substances.
Passport	To deposit all passports used by you with the peace officer or other person mentioned in the undertaking or to [ADDRESS] by [DATE].

NOTE: Any protective condition to protect victims or witnesses relevant to the offence may be included

Notifying the victim

1. Inform the victim of the protection conditions imposed on the accused.
2. The Information and Privacy Commissioner has ruled that any person named in a protection order has the right to receive a copy of the order and should be provided with one upon request.
3. Advise victims to contact 9-1-1 or the local Police Emergency number immediately if the accused is in the process of breaching a condition or presents a threat to the victim's safety. If the situation is not an emergency, victims may report the breach by calling 9-1-1, the local Police Emergency number, the non-emergency line, or the police investigator.
4. Advise victims to make notes on any breach of conditions so that the information can be included in their statement.

5. In some cases, a charge of criminal harassment may be more appropriate than a breach charge.

Making referrals

Victim services programs are available to provide advice to victims of crime and to refer them to community resources. Police officers can significantly reduce the number of calls for assistance from victims by promptly referring them to victim services agencies.

Refer victims to community-based victim services if available, for specific K-file resources that can help them develop and implement a safety plan for themselves and their children.

Respectful and dignified treatment of victims with special needs related to culture, language, religion, sexual orientation, age, physical or mental disability is especially critical.

Checklist for Preparing the PTA/UTA

A PTA/UTA with errors will be cancelled. Without release conditions imposed on the accused, the victim's risk increases. Therefore, when preparing the PTA/UTA:

- Make sure the completed forms are legible and include date of birth and gender of the accused.
- Use the current forms 11.1.
- Use the correct Adult or Youth form to release offenders.
- Write the date in full: April 17, 2003, not 03-04-17.
- Apply the 'K' suffix to the file number.
- Note the legislation and offence by section and name: CCC 266, Assault.
- Make sure that the offences noted on the PTA are the same as those on the RCC.
- Ensure that corrections on the form are initialed by both the accused and the police officer. (Best practice is to write a new form.).
- Expedite the court date on PTA as pursuant to local Crown and police policy
- Allow sufficient time for the information to be sworn before the first appearance.
- Do not schedule the first appearance on a weekend or holiday.
- Use the correct Adult and Youth court dates.
- Indicate the correct time for the court appearance. Make sure to indicate whether a.m. or p.m.

4 – PRACTICE TIPS

- Write the courthouse address in full. Include the city/municipality name written in full. Do not abbreviate.
- Sign the document.
- Complete and sign the affidavit of service at the back of the form.
- Place checkmarks in the boxes for the appropriate conditions. Conditions should be appropriate for the offence and the offender. Write the conditions in full or append them to the document.
- Indicate the surety or bail amount on the Recognizance form.
- Attach the original PTA/UTA to the RCC for Crown counsel to forward to the court registry.
- Fax a copy to the Protection Order Registry at 250-356-2185.
- Confirm that the victim has been advised of the release conditions and referred to VictimLINK at 1-800-563-0808.

Supervisory K-File Review

- B-SAFER risk assessment completed
- Victim and witness information completed
- PTA/UTA correctly completed and sworn
- Correct and timely return date assigned
- History checks completed (CPIC, PIRS, PRIME, JUSTIN and POR)
- Copy of PTA/UTA faxed to Protection Order Registry
- Identification of Criminals Act requirements completed
- Copy of conditions to victim
- Victim service referrals made
- Copy to bail supervisor
- Out of custody: warrant requested (not appropriate to request summons)
- RCC completed (within 14 days); statement and notes submitted

5

Recommendations of the Working Group

The Police Release Working Group recommends that the Director of Police Services:

Police Chiefs

1. Recommend to the British Columbia Association of Chiefs of Police that they develop methods to implement the recommendations made in this report.
2. Recommend to the British Columbia Association of Chiefs of Police that they approve the Police Release Training Guide and endorse a training schedule for all police officers throughout the province.

Police Services

3. Provide the resources necessary to issue a laminated copy of the Practice Tips document to police supervisors across the province.
4. Consider alternatives to address the issues raised in the study regarding the lack and timeliness of referrals to Victim Services.
5. In consultation with the Director of the Victim Services Division, consider implementing consistent province-wide police training in risk assessment, police release, Protection Order Registry, and the Violence Against Women in Relationships (VAWIR) Policy.

5 – RECOMMENDATIONS OF THE WORKING GROUP

Criminal Justice Branch

6. Recommend that copies of the Police Release Guidelines on a PTA are distributed electronically and in hard copy to all Crown counsel and Criminal Justice Branch staff.

Court Services Branch

7. Recommend that the Police Release Guidelines on a PTA are sent to all Court Registries.
8. Recommend that Court Services amend Form 11.1, *Undertaking Given to a Peace Officer or an Officer in Charge*, to include the following:
 - Sufficient blank space to write additional conditions
 - Consider expanding to legal-size page if necessary to include all conditions.
 - An electronic format with a list of conditions available in a drop-down menu
 - The insertion of a line set in bold type stating, “Faxed to the Protection Order Registry by (member’s name).”
 - Elimination of the purple-shaded form as it is not reproduced properly when faxed to the Protection Order Registry
 - Inclusion of information on the accused’s gender and date of birth to achieve greater accuracy when searching the Firearms Registry database
 - Standardized wording of conditions to include the phrase “thereafter as directed”

Victim Services Division

9. Recommend that the Director of the Victim Services Division provide information on these guidelines to all victim service programs in British Columbia and include the information in training related to violence against women in relationships.
10. Recommend that the Director of the Victim Services Division inform and share these guidelines with the F/P/T Working Group on Victim Services.

Federal Department of Justice

11. Provide a copy of this document to the Solicitor General of Canada.

12. Recommend that the Solicitor General of British Columbia send a letter to the Solicitor General of Canada about the findings of this report in order to assess whether the No Contact and No Communication issues may be considered in amendments to the Criminal Code of Canada.

Joint Management Executive Committee, Criminal Justice Reform and Operations Committee (CJROC)

13. Recommend future research regarding the disparity between police and court releases as outlined in the Victoria Coordination Committee study *Violence Against Women in Relationships: A Review of Police Releases, July 1999 – June 2000* (see Appendix for the executive summary from this study).
14. Schedule a compliance review study to be conducted three years after this report is accepted, to determine whether changes recommended in the original (above) study have been addressed.
15. Table these guidelines at the Joint Ministry executive committee, CJROC.

Appendix

Executive Summary from Police Release Study, July 1999 – June 2000

Following is the executive summary from the study entitled *Violence Against Women in Relationships: A Review of Police Releases, July 1999 – June 2000*, prepared by Elaine Morton and Wendy Walsh, Spousal Assault Victim Support Program. The study was funded by a grant through the British Columbia Ministry of Public Safety and Solicitor General, Victim Services Division.

Executive Summary

This study is an analysis of cases involving violence against women in intimate relationships where an accused was released from the custody of the police after an alleged criminal offence occurred. The purpose of the study was to review the conditions on the police undertakings and the frequency in which the various police agencies were releasing on these orders. The police orders were then compared to court orders to determine if there were any differences. Other factors also examined in the study were: the time it took for cases to be completed in court, case outcomes, and referrals to specialized victim services. This was done by analyzing public documents from the police and the courts and client files from the Spousal Assault Victim Support Program. Eleven police agencies including municipal police, military police and RCMP were considered in the study.

Between July 1999 and June 2000, there were 532 cases where Crown Counsel approved charges or an application for a Peace Bond in the Greater Victoria area. Of these cases, 26% were released by the police and 74% were released by the courts. Within the 26%, there was a Promise to Appear in 22% of the cases, a Summons in 4% of the cases, and on an Appearance Notice in < 1% of the cases. The study reviewed 110 police undertakings and compared them to 112 court orders.

The findings indicate that there were a significant number of differences between the police and court documents. On 91% of the court orders, there was a reporting condition compared to 35% of the police orders, 69% of court orders had an “abstain from possessing firearms” condition compared to 32% of police orders and 85% court orders imposed additional conditions compared to 1% of the police orders. On 35% of the court orders, there was the condition “not to possess any knives” compared to 1% of the police orders. Overall, court orders more typically carried a greater number of conditions compared to police orders. There was one exception with the “remain within” condition where 35% of the police orders had it compared to only 1% of the court orders. As well, the wording on the court orders appeared to be more comprehensive than the police orders.

Dispositions were tallied and showed there was a higher rate of conditional discharges in police released cases (27%) compared to court release cases (16%). In cases where an accused was released by the police, 2% resulted in a jail term compared to 14% of the court released cases.

The time a case took from the date of an offence until it was completed in court was reviewed in terms of the first appearance and disposition. The first appearance dates ranged from an average of 1 day in court releases to 103 days in police releases. The average number of days to a disposition ranged from 105 days in court releases to 181 days in police releases.

The review included statistics on the number of victims who had contact with the Spousal Assault Victim Support Program, a specialized victim assistance service. The results indicated that in cases where an accused was held for court, a higher percent of victims (12%) had contact with the program. Additionally, the referral was made on average 20 days earlier in court released cases than when the accused was released by the police.

Statistics were taken from 1996 and compared to the years 1999, 2000, and 2001 to illustrate how cases were being processed after an arrest. The results showed that the practice of the police releasing an accused from their custody on a Promise to Appear rather than holding for court has increased from 3% in 1996 to 24% in 2001.

