

## **Appendix D**

### **Glossary of Terms**

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<b>Arrest</b>	<p>Takes place when a police officer takes physical control over an individual who is believed to have committed a criminal offence. A person who is arrested may not yet be charged with a criminal offence.</p> <p>If police are continuing an investigation, following arrest, a person may or may not be charged, depending on the outcome of the investigation.</p>
<b>Charged</b>	<p>A person becomes charged when a police officer has sworn an information that alleges that the accused committed an offence. The information is the piece of paper that says what the accused is alleged to have done (i.e. what offence was committed). It is filed with the court, and is present in court at all court appearances.</p>
<b>Conviction</b>	<p>A person is convicted when a court of law finds them guilty of an offence and imposes a sentence of anything other than a discharge.</p>
<b>Conditional sentence</b>	<p>Where an accused is sentenced to a term of custody that can be served in the community provided the accused abides by all conditions of the sentence. A conditional sentence has a set period of duration, which will not exceed two years less one day. Should the accused violate any terms of a conditional sentence he may serve the remainder of the conditional sentence in a custodial facility (jail).</p>
<b>Discharge</b>	<p>When an offender receives a discharge the offender is found guilty but no conviction is registered.</p>
<b>Detention order</b>	<p>Where an accused is detained in custody pending his trial. Bail has been denied when there is a detention order.</p>
<b>Domestic violence</b>	<p><i>In accordance with the criminal justice system, police refer to a specific legal definition of domestic violence, that they are obligated to follow. This definition varies somewhat, from the definition of woman abuse that was defined earlier in this protocol.</i></p> <p>Domestic violence is any use of physical or sexual force, actual or threatened, in an intimate relationship. Intimate relationships include those between the opposite-sex and same-sex partners. These relationships vary in duration and legal formality, and include current and former dating, common-law and married couples.</p> <p>Although both women and men can be victims of domestic violence, the overwhelming majority of this violence involves men abusing women.</p>

These crimes are often committed in a context where there is a pattern of assaulting and controlling behaviour. This violence may include physical assault, and emotional, psychological and sexual abuse. It can include threats to harm children, other family members, pets and property. The violence is used to intimidate, humiliate or frighten victims, or to make them powerless. Domestic violence may include a single act of abuse. It may also include a number of acts that may appear minor or trivial when viewed in isolation, but collectively form a pattern that amounts to abuse.

According to the Criminal Code of Canada, charges relating to domestic violence may include:

- assault
- murder
- assault with a weapon or assault causing bodily harm
- aggravated assault
- sexual assault
- sexual assault with a weapon
- aggravated sexual assault
- uttering threats
- criminal harassment (known as stalking)
- forcible confinement
- kidnapping
- hostage taking
- administer noxious substance
- strangle, choke, suffocate
- fail to comply with condition of recognizance (bail)
- being unlawfully in dwelling-house
- forcible entry
- fail to provide necessaries of life
- harassing telephone calls
- obstruction of justice
- breach of probation
- break and enter with intent
- mischief
- intimidation

In addition to Criminal Code offences there are other Provincial Act offences that may apply in a domestic violence situation. Contravention of valid court orders under the Family Law Act, and Children's Law Reform Act in connection with a domestic violence incident are also included.

Charges can also be laid in regards to trespassing, under the Trespass to Property Act. The Trespass to Property Act is a provincial statute, not a federal statute such as the Criminal Code. The penalties for provincial statutes vary from criminal statutes.

**DSM IV** Is a Diagnostic and Statistical Manual and is used by the medical profession to identify and categorize psychiatric conditions. A DSM IV diagnosis is required in order to receive OHIP funded mental health services.

**Proceed by indictment** There are three types of criminal offences: summary conviction offences, hybrid offences (where the Crown can elect to proceed by summary conviction or by indictment), and indictable offences. The charge of assault is a hybrid offence. The Crown can proceed by indictment or by summary conviction. The charge of aggravated assault is a straight indictable offence, which means it is automatically indictable.

For indictable offences (either where the Crown has elected by indictment, or offences that are automatically indictable) the accused has the option to be tried in the Ontario Court of Justice by a provincial court judge, or in the Superior Court by a superior court judge after having a preliminary inquiry, or a Superior Court judge with a jury after having a preliminary inquiry. The length of sentence is greater for offences proceeded with by indictment, than summary conviction offences.

If the crown elects to proceed by summary conviction (in those cases where the crown has an election), the accused can only be tried in the Ontario Court of Justice and there will not be any preliminary hearing, and the maximum penalty is lower than if the Crown proceeded by indictment. Where a charge is laid six months or more after the date of offence, the Crown must proceed by indictment, unless the accused consents to a summary election.

**Ontario Court of Justice/ Superior Court of Justice** There are two levels of trial court. The Ontario Court of Justice is the lower court, and the Superior Court of Justice is the higher court. Both levels of court have jurisdiction over criminal matters.

Bail hearings are heard in the OCJ, except for homicides, and all trials where the crown has elected to proceed by summary conviction are heard in the OCJ. Where the Crown has elected by indictment, the accused can choose, in most instances, to be tried in the OCJ or the SCJ. Jury trials are only held in the Superior Court of Justice.

**Recognizance** An obligation entered into before a court whereby the individual entering the recognizance acknowledges that they will abide by the terms of release (bail) as set out within the recognizance.

**Sexual assault** Sexual Assault is a criminal offence and is defined in section 276 of the Criminal Code in the *Criminal Code* as a form of sexual abuse.

Sexual assault is defined as any unwanted or non – consensual act(s) that is imposed by one person upon another. This may include, but is not limited to: kissing, fondling, fellatio, cunnilingus,

vaginal penetration and/or intercourse, anal penetration and/or intercourse, or oral intercourse. Women and men from all age groups, ethno-cultural backgrounds, sexual orientations, socio-economic classes, religions, ability levels and professions experience sexual assault.

Sexual assault of any kind is a crime, and can occur within a marriage, partnership or a dating relationship.

Sexual activity without consent is always a crime regardless of the age of the individuals.

Rape is a term often used to describe a sexual assault that consisted of unwanted forced intercourse. Rape is not defined in the Criminal Code.

The following list represents only some of the many Criminal Code sections that address sexual violence in our community:

- Sexual Assault (s. 271)
- Sexual Assault with a Weapon (s.272)
- Aggravated Sexual Assault (s.273)
- Incest (s.155)
- Anal Intercourse (s.159)
- Bestiality (s.160)
- Indecent Act (s.173)
- Nudity (174)

**Subpoena**

A document that legally requires the recipient to attend in court at the date and time specified on the subpoena. Failure to abide by a subpoena can result in a material witness warrant being ordered by the court. A material witness warrant directs the police to arrest a witness in order to bring them to court.

**Undertaking**

An agreement by an accused party to abide by certain terms of release (bail).

**Woman abuse**

The United Nations' 1993 *Declaration on the Elimination of Violence Against Women*, which was signed by Canada, provides a broad definition of woman abuse, which has been accepted by the international community:

*any act of gender-based violence that result in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.*

Woman abuse is defined within this protocol as including but not restricted to the following forms, by someone with whom the woman has or has had an intimate, familial or romantic relationship:

- Physical abuse;

- Psychological and emotional abuse;
- Stalking and harassment;
- Forced social isolation;
- Rape, sexual assault, sexual harassment and other forms of sexual violence;
- Financial abuse;
- Spiritual abuse;
- Intimidation and threats; and/or
- Threats of such abuse directed at a woman by a person known to her in an attempt to control her.