

# **Domestic Violence Position Paper**

**Probation Officers Association of Ontario**

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## **Introduction**

The Probation Officers Association of Ontario endorses a comprehensive approach in dealing with domestic violence offenders. An integral part of the offender's return to the community is the involvement of the victims. Victims are essential in the assessment process and their input should be recognized as a part of public safety. Victim involvement assists in requiring offenders to be accountable for their behaviour, which can lead to a reduction in re-victimization.

There has been a welcomed evolution in how society views domestic violence. Policies and programmes have been developed in response to the needed changes. As members of the Criminal Justice System, POAO recognizes that, with the commitment to changing the approach to domestic violence, there is need for ongoing consultation. POAO was consulted in respect to the current domestic violence protocol of the Ministry of Correctional Services.

The members of the system (Police, Courts, Crown Attorneys, Probation Services and community agencies) must work together to address issues and to ensure that the balance between the victim's rights and offender accountability exists.

## **Issues**

### **Ministry of the Attorney General:**

Domestic violence cases are rigorously prosecuted while recognizing the rights of the victims. There is a commitment by the Attorney General to expand domestic violence courts in Ontario (55 by 2004). The Association supports this endeavour; however, there is a need for ongoing consultation and the development of resources, particularly victim services which should be available consistently throughout the province.

A comprehensive approach to domestic violence cases requires that a protocol be established between the Attorney General and Probation Services. Assessment as the key element to this approach should be applied prior to sentencing and/or before diversion is ever considered.

Bail should only be granted once an assessment of the impact of the offender's release into the community is completed. Such an assessment should address risk related to victim and public safety issues. Bail is not supported for repeat domestic violence offenders or for those who have a history of violating Court orders.

In cases of repeat domestic violence offenders, imposing further probation in the absence of custody does not protect the victim nor does it hold the offender accountable for his/her behaviour. Further sentences, therefore, should reflect a history of non-compliance.

The supervising Probation Officer should be consulted in all domestic violence matters in respect to variations and/or new charges.

POAO does not support Conditional Sentences being imposed where serious or repeat partner abuse has occurred. Where a Conditional Sentence is deemed appropriate by the Court, any violation of that order should be considered a serious matter. An allegation of a Breach of a Conditional Sentence should not result in 'No Action' by the Court.

Where the enforcement of a Probation Order is required, it is unacceptable to plead out the Fail to Comply charge. The offender's criminal history should reflect non-compliance; withdrawing such charges hinders future decision-making related to sentencing, judicial and community releases.

Attendance in counselling (Partner Abuse Response programmes - PARS) should be mandatory for all domestic matters.

Diversion should only be considered for first offenders who accept full responsibility for the offence and have successfully completed programming. If the offender does not accept responsibility for his/her actions and is clearly unmotivated to change, it should be acknowledged that a community disposition alone may place the victim at greater risk and would not be appropriate.

The Attorney General contracts with the PARS service providers and it is expected that sufficient services are available to meet the needs of not only the offenders but also the victims. There is a need for culturally specific (including translation) services should the offender/victim request this; however, English-speaking individuals should not be forced to attend such programs regardless of their first language and/or nationality.

It is not acceptable for the Partner Abuse Response programmes (PARS) to refuse Ministry of Correctional Services referrals where the offender denies or minimizes the offence(s). Programming along with PPO intervention should focus on addressing minimization and moving offenders toward accepting responsibility for their behaviour.

Intermittent sentences are generally imposed with a concurrent probation order and/or with probation to follow the intermittent sentence. In domestic violence situations, it should be mandatory that the offenders report to a Probation Officer while in the community and serving the intermittent sentence. Without a reporting condition, these cases are not assessed,

monitored, and do not have PPO-victim contact until the intermittent sentence is completed.

### **Ministry of the Solicitor General:**

For continuity of service delivery and enforcement, Police and Probation Services should have the same definition of what constitutes a partner abuse case.

The Solicitor General should ensure that all police services provide a copy of the Record of Arrest/Occurrence Report to the Court to be attached to Probation and Conditional Sentence Orders. Also accompanying these Orders should be the updated victim contact information. This information is critical at the outset of a sentence for victim education, protection, assessment and the provision of services.

Where a violation of an order has occurred, the police should provide the Probation Officer with the Record of Arrest/Police Occurrence Report immediately. Where an offender is bound by a Probation/Conditional Sentence Order and violates that order, a charge or allegation should be initiated.

Orders having the "revocable consent" non-association clause require even closer contact between Police and Probation to ensure the status of consent. Enforcement errors can occur should this not be in place. Appropriate workload levels, and enhanced communication must exist to ensure that Police and Probation can manage these cases effectively.

### **Ministry of Correctional Services:**

The introduction of new legislation (Victim's Bill of Rights, etc.) recognizes the rights of the victim in the criminal justice process. The Ministry of Correctional Services has appropriately incorporated this bill into current policy and the duties of the Probation Officer.

Probation Officers commence the process by ensuring that the victim is aware of the conditions of the order pertaining to them (non-association, movement restriction, child access and support, etc). The Probation Officer then explains the implications of the conditions and how to report a violation. Probation Officers provide information and referrals in respect to victim services including safety planning. POAO supports the inclusion of these mandatory duties in domestic violence cases. These added duties, however, were introduced without any additional staffing and the impact has been a significant increase in workload.

Assessments require a comprehensive collection of data from the offender, the victim, the police and relevant others. The assessment process is time consuming, particularly when the Probation Officer is not provided with information on where to contact the victim and is delayed tracking down Police Occurrence Reports. Data collection is done to ensure thorough assessments are completed which enhance public safety. Domestic violence cases require immediate attention,

especially in cases of non-association conditions; however, current workloads do not reflect this as a priority.

Victims should be provided, where possible, the name and telephone number of the Probation Officer immediately following the offender's sentencing. The Probation Officer should be given notice that the victim was at Court, has a copy of the order and is aware of whom to contact in the event of an emergency.

In remaining consistent with the basic principles of a cognitive behavioural approach, motivational counselling should be a key element in preparing the offender for partner abuse programmes. If the client is at a pre-contemplative stage of change, Probation Officers play a vital role in helping the client prepare for the PARS programmes through cognitive behavioural approaches.

All Probation Officers should receive mandatory domestic violence training. Training should recognize the Officers' existing interviewing, assessment, and intervention skills, and how to effectively utilize those skills when working with victims. POAO supports the use of a secondary risk assessment tool provided that appropriate training and workload recognition exist.

### **Conclusion:**

POAO supports the gains that have been made to date in relation to domestic violence cases. However, we emphasize that a significant workload increase resulted as these initiatives were not accompanied by additional staffing. The Association strongly recommends that the Ministry provide appropriate staffing levels that reflect the importance of comprehensive assessment, and timely offender and victim intervention.

Communication between justice partners, particularly police and Probation and Parole, has improved in recent years. There are still considerable gaps, however, and we emphasize that these must be addressed for enhanced victim protection. There should be no time delays in obtaining documents, victim contact data, and information pertaining to new criminal activity.

POAO also recommends that justice partners involved in partner abuse participate in joint training, professional development days, or other appropriate methods of increasing comprehension of their respective roles. Victim Services, Police, Victim Witness Assistance Program, Crown, Probation and Parole and related agencies should have a solid understanding of each other's roles, and how to address emerging concerns.

Our goal is to have appropriate workload levels, training, and resources, which will result in continuity of service provision to the victim and offender. Victimization can be reduced through professional intervention, prompt response to offender behaviour, education, safety planning, and counselling