



IMPRODOVA

Factsheet

Police investigation and legal proceedings

Gender aspects in police investigations

The interaction between police officers as first responders and victims of domestic violence is influenced by gender-specific attitudes and prejudices. Since these interactions are always there, one should be aware of this. When reacting to domestic violence, the gender relationship between the victim and the first responder makes a difference. Based on gender-specific attitudes this can lead to misjudgments on both sides. Overall, about 80 per cent of victims are female.

Gender can also play a role in inter-agency cooperation between the police and other, sometimes mainly female first-aiders from other professional groups and can influence cooperation.

First contact

It is crucial that first contact with the police is perceived as supportive for victims of violence. All services must be available and easily accessible to victims. Above all, the first contact must show the victim that the judicial system and the police are committed to his/her health and safety, take his/her complaints seriously and want to ensure that he/she is supported on the way through the judicial system. The most important aspects are described below.

Availability

- Inform victims about the services available to them, regardless of their place of residence, nationality, ethnicity, social class, migration or refugee status, age, religion, language and literacy level, sexual orientation, marital status, disability or

other characteristics that should be taken into account.

- Services should be available 24 hours a day, 365 days a year.

Accessibility

- Ensure that the police services are easily accessible locally and, where this is not the case, provide a mechanism to enable victims to contact other police services in safety.
- Police services must be user friendly and meet the needs of different target groups, including disabled victims.
- Procedures and instructions must be made available in various formats to facilitate access as much as possible (e.g. in writing, electronically, orally, through media, by telephone).
- Child-friendly rooms must be provided.
- Police services must be free of charge and without further financial burdens.

Responsiveness

- Ensure that a victim can file a complaint at any time and in a safe, private and convenient place for the victim.
- Ensure that a victim has the opportunity to tell their story, be heard and have it accurately recorded.
- Ensure that child victims are able to express their views and concerns according to their abilities, age, intellectual maturity and capacity for development.
- Limit the number of people to whom a victim has to tell their story to a minimum.
- Ensure that the victim can decide of his or her own free will whether to participate in the legal process.
- Provide information to make informed decisions.

- Offer help and support to the victim in filing the complaint.
- Document all reported incidents of domestic violence, whether or not it is a crime.
- Keep all information and reports received confidential and in a safe place.
- Ensure that immediate action is taken when a victim reports a violent crime committed against him or her.
- Ensure that suspects comply with the measures taken to protect victims.

Preparation of the police investigation

- Arrange for medical treatment or a forensic examination, if necessary.
- Ensure that all available evidence that can lend credibility to the allegation is collected.
- Collect evidence in a respectful manner that respects the dignity of the victim.
- Collect, store and process evidence in a manner that satisfies the requirements of a chain of evidence.

Police Investigation

It is crucial that investigations into domestic violence offences are initiated in a timely manner, are conducted professionally, comply with legal requirements for the preservation of evidence and investigative work, and that all available means to identify and apprehend the suspect(s) are exhausted. The safety, protection and dignity of the victim is considered and maintained throughout the entire procedure.

Police investigation in cases of domestic violence

- Explain to the victim the steps of the police investigation and legal procedures, their rights and the services available to them throughout the procedure.
- Ensure that the victim's legal rights to a lawyer and a support person during the hearing are respected.

- Always bear in mind the physical and psychological trauma that victims have experienced and the possible impact that their investigation may have on them, their family and others involved.
- Record the victim's testimony immediately and in a professional, non-judgmental and victim-sensitive manner.
- Choose an interpreter carefully: Gender and ethnic or national background can have a decisive influence on how easy or difficult it is for the victim to answer questions.
- Take the statement carefully, read it to the victim and have the victim confirm it.
- Identify and interview witnesses and others who may be relevant as soon as possible.

Work with children

- When working with children, make sure that services are tailored to the specific needs of the child's age.
- Interview rooms for the survey should be child-friendly:
 - low tables and chairs
 - Set up a corner in your waiting room with age-appropriate furniture, games and toys
 - Do not dress in an intimidating way (avoid black and tie if possible).
 - For example, have a relaxed 10-minute conversation about hobbies etc. to build trust and a relationship with the child.
 - Always try to keep the child in the centre of attention.
- Make sure that the procedures are suitable for children.
- Ensure that the non-criminal parent, guardian, legal representative or child welfare authority is or will be involved in any action planned or taken.
- Ensure that medical, psychosocial and other victim support services are age-appropriate.

- Ensure that confidentiality is maintained and that the disclosure of information about the child is restricted.

Dealing with the perpetrator

Identification, questioning and, where appropriate, arrest of the suspect

- Ensuring that a precise and well-documented report detailing the investigations carried out and measures taken is provided
- Maintaining accountability throughout the investigation process

Role of the managerial level

The role of first responders is essential in police forces. However, domestic violence affects not only first responders but also managers. They should have an overview of procedures and existing partnerships in order to improve the situation for the first responder if necessary.

- Managers should support emergency services in their investigations.
- Leaders should ensure that frontline responders receive psychological support and do not lose sight of the risks of physical and psychological impact on investigators and first responders from domestic violence.
- Leaders should ensure that cases are followed up by other professions. This is essential for the proper allocation of resources.
- Leaders should provide sufficient education and training to improve the skills and knowledge of the intervention team, including local partnerships.
- Leaders should be adequately trained on these issues (awareness raising, tools, advice, etc.) during their initial and lifelong training.

Procedures in the police investigation

Below you will find the summarized information for the police. As many unlawful acts of the offender should be recorded as possible:

- General description of the victim's relationship
- Description of the changes in the relationship
- First violent event
- Typical violent event
- Most severe violent event
- Last violent event

Together with the victim, try to determine for each event as best as possible when it took place. Try to get the best possible description of the individual acts of violence from the victim. When describing psychological violence, pay particular attention to:

- why, from the victim's point of view, a certain action took place
- what words the perpetrator used
- what his or her behavior was
- present all the evidence: SMS, e-mails, time and place of the incident; tracking devices, etc.
- the victim should point out people who know something about the violence
- the way in which violence is committed should be specified; this is in addition to the description of the forms of violence (such as physical and sexual violence, psychological violence, stalking, control and social isolation of the victim, manipulation of children and external institutions, content of economic violence)
- if the claimant or injured party brings documents and personal records with him/her, write them down in the minutes or official note
- the victim's representative(s) may be present at the interview, their presence and role must be recorded (they may offer assistance but may not give evidence in the victim's place)
- describe conspicuous behaviour (crying, shaking, laughing, etc.), in addition to the

facts and circumstances of the crime, in the official police report

Preliminary process

Criminal, civil, family and administrative investigation/hearing procedures that are impartial and sensitive to the specific needs of victims and survivors of domestic violence are essential to ensure the right of victims to justice. Essential services of pre-trial criminal justice reflect the international obligation of the state and its judicial service providers to assume primary responsibility for the investigation and initiation of prosecution, while balancing the importance of enabling victims and survivors to make informed decisions regarding their interactions with the criminal justice system.

Although the pre-trial process is only part of a police officer's job description, the following key aspects should be considered in order to know what happens after the job is done.

- The primary responsibility for initiating criminal proceedings should lie with the prosecution and not with the victim.
- The victim must be informed of all decisions regarding the prosecution, unless he or she indicates that he or she does not wish to be informed.
- A decision not to proceed with the case should not be based solely on the fact that there is no medical-legal report or that the report is inconclusive.

All relevant information must be collected. This may include the psychosocial context of the violence, medical, forensic and other relevant reports and information.

Court proceedings

Victims and survivors of domestic violence who are involved in criminal and civil proceedings may feel vulnerable and overwhelmed by the judicial system or may become victims again as a result of the proceedings themselves. International guidelines and standards for victims call for measures to prevent further

stress and trauma that may result from participation in the process itself, and to ensure that survivors cooperate as fully as possible in the judicial process and are able to act during the proceedings. At the same time, it must be ensured that in criminal cases, the burden or duty to seek justice lies with the state. The judicial services that are considered essential during the judicial process should reflect internationally agreed best practice, including:

- Friendly court environments in which the survivors feel safe and comfortable when they report what they have experienced
- Procedures to minimize re-victimization and the presentation of chains of evidence in a non-discriminatory manner.

If possible, a social worker can accompany the survivor through the various stages of the legal process.

Non-governmental organisations (NGOs) can also play an important role in supporting survivors at this stage of the process. In addition to providing a lawyer, they have the resources and skills to facilitate this period of stress and uncertainty for the survivor regarding housing, safe housing, financial assistance, children, psychological support, etc.

After the court proceedings

The judicial system can play an important role in preventing future violence, both by sending a strong message to the community that domestic violence will not be tolerated and by its role in ensuring accountability and rehabilitation of the offender and in reducing recidivism. International norms and standards urge States to develop and evaluate treatment and reintegration/rehabilitation programmes for perpetrators that give priority to the safety of victims, and to ensure that compliance with these programmes is monitored. These norms also urge States to ensure that appropriate measures are in place to eliminate domestic violence. Post-trial tasks include:

- Corrections concerning the protection of victims/survivors
- the minimisation of the risk of recidivism by the offender and the rehabilitation of the offender
- prevention and support services for victims incarcerated in prisons and for victims in custody who have suffered domestic violence

Sources

http://www.ncdsv.org/images/she_hit_me.pdf

<http://www.thurston domestic violencesataskforce.com/home/domestic violencesadocuments/PrimaryAggressor2016.pdf>

<https://protasis-project.eu/protasis-training-manual/>