

## **Key Legal Terms: When Charges are Laid in a Domestic Dispute**

### **Assault**

Assault is when one person intentionally applies force to another person, or attempts or threatens to apply force to another person, without their permission. Assault is a crime, even if you are not physically hurt.

### **Domestic Assault**

This term is used to describe an assault that takes place between intimate partners. The partners do not have to be legally married or living together, as long as they are or were in an intimate relationship.

### **Criminal Charge**

If the police believe a person has committed a crime, they will lay a charge, which is a formal accusation that the person is believed to have broken the law.

## Mandatory Charging

In Ontario, police are required to lay charges in cases of domestic assault if they believe there is evidence (proof) that an assault took place. This is called a Mandatory Charging Policy. When police arrive at the scene of a domestic dispute, they should evaluate the situation in order to decide who was the main aggressor, or attacker. The police will charge that person with assault even if the other partner does not want them to.

## Dual Charging

When responding to a domestic dispute call, if there is evidence that both partners were assaulted, but it is not clear to the police who the main aggressor was, both partners may be charged. This is called dual charging. In Ontario, this can only happen if the police officer gets permission from her or his supervisor.

## Accused

The person who has been charged with, or accused of committing a crime (also called a criminal offence). If the case goes to trial, in court the accused is commonly referred to as the "**defendant.**"

## **Complainant**

The person who says she or he was the victim of a crime and who makes a formal statement to the police (often called "laying a complaint").

## **Crown Counsel**

Crown Counsels are lawyers who represent the government. A Crown Counsel prosecutes criminal cases and represents the interests of society as a whole. They do not represent the complainant who says that she or he is the victim of the crime.

## **Defence Counsel**

The Defence Counsel is the lawyer who represents the accused person in a criminal trial.

## **Bail**

Bail is the temporary release of the accused before trial. When an accused is released on bail, there are usually conditions. In a domestic assault case, the conditions of bail typically require that the accused stays away from and does not have any contact with the complainant.

## Bail Hearing

A bail hearing is when the accused appears in court and a judge or justice of the peace decides if the accused should be released before the trial or kept in jail until the trial ends. The accused has the right to a bail hearing within 24 hours of arrest. If the complainant is afraid of the accused, she should tell the police or Crown Counsel so they can recommend to the court that the accused be kept in jail.

**Release on Conditions** - Usually, the accused person is released or "granted bail" with conditions put on his or her behaviour. This means that the accused must follow strict rules about what he or she can do while out on bail. If an accused is released, there is almost always a condition that he or she cannot have any contact or communication with the complainant. Other common conditions of release may say that the accused:

- must be home by a certain time;
- is not allowed to use alcohol or drugs;
- is not allowed to own or have firearms;
- must live in a certain place;
- must report regularly to the police;
- may visit his or her children only through a court order.

## **No Contact Order**

A No Contact Order (also called a Protection Order) is a decision by a court to restrict or put conditions on someone's behaviour. Often, in domestic assault cases, the court will make an order that says the accused person is not allowed to have any contact or communication with the complainant. Other kinds of protection orders include Peace Bonds and family court Restraining Orders.

## **Peace Bond**

A Peace Bond is a type of protection order used when someone has a reasonable fear for her or his personal safety, her or his child's safety, or is afraid of damage to personal property. A Peace Bond is a court order that tells a person to keep the peace and be on good behaviour. It puts specific restrictions on the things that a person can do. The restrictions can include such things as having no contact with certain people, not going within a certain distance of someone's home or work, or not owning and using firearms.

Peace Bonds are available against anyone if the court believes they pose a reasonable threat to another person's safety. You can ask for a Peace Bond in criminal court, with or without a criminal charge against the person you fear. A Peace Bond can last for a maximum of one year. If the person who is the subject of a Peace

Bond breaks the conditions, the person can be arrested and charged with a criminal offence.

## **Probation**

Being on probation means a person is released from custody into the community, but must follow certain conditions and be on good behaviour, or he or she will go to jail. Probation applies to people who have been found guilty of a crime (also called being convicted of a crime). In many domestic assault cases where the incident was minor, the accused is convicted but does not go to jail, and instead, is released on probation. In other cases, an accused may be released on probation after serving time in jail.

## **Probation Order**

A Probation Order is the court order that puts conditions or restrictions on the behaviour of a person who is on probation. Probation Orders can last up to three years and usually require a person to have no contact with the complainant in a domestic assault, and to regularly report to a probation officer and attend certain support programs.

## **Convicted Person**

Is someone who has been found guilty or convicted of having committed a crime by the court. A convicted person is also sometimes called the “offender”. The court decides whether and how to sentence the convicted person, based on the law and facts of the case.

## **Victim Impact Statement**

A Victim Impact Statement is a written statement that a victim of a crime can prepare after the accused has been found guilty, but before the accused is sentenced. The victim can use the statement to tell the court about the physical, emotional, psychological and financial impacts of the crime on her or his life. The victim can read the statement in court, or have someone else read it, and won't have to answer any questions about what the statement says about the impact of the crime on the victim's life.

## **Partner Assault Response Program (PAR)**

The Partner Assault Response Program is an educational counseling program to help abusive partners manage anger and change their behaviour. PAR programs try to enhance victim safety and hold offenders accountable for their behaviour. Offenders convicted of domestic assault are ordered to attend the PAR by the court.



The views expressed in these materials are the views of FLEW and do not necessarily reflect those of the Province.



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*There is a greater risk of violence when an intimate relationship is ending. If you are in immediate danger, call 911. If you or someone you know is at risk, visit the FLEW website for information on getting support.*

*If you are a francophone woman living in Ontario, you have the right to access French language services in family law court proceedings. For more information regarding your rights, contact a lawyer, a community legal clinic, or the support line Femaide at*

*1-877-336-2433, TTY 1-866-860-7082.*

*You can find more information on how to access services in French on our website at [www.onefamilylaw.ca](http://www.onefamilylaw.ca) or [www.undroitdefamille.ca](http://www.undroitdefamille.ca).*